

# Kansas Register

Ron Thornburgh, Secretary of State

Vol. 18, No. 18    May 6, 1999    Pages 533-572

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## State of Kansas

## Commission on Veterans' Affairs

## Notice of Meeting

The Kansas Commission on Veterans' Affairs will meet at 1 p.m. Friday, May 21, in the Timbercreek Building, Kansas Veterans' Home, Winfield. The public is invited to attend.

Don A. Myer  
Executive Director

Doc. No. 023773

## State of Kansas

## Social and Rehabilitation Services

## Notice of Hearing

(Editor's Note: The following notice, first published in the April 22, 1999 Kansas Register, is being republished to reflect a new date and place of the hearing.)

A public hearing on the FFY 2000 Social Service Block Grant (SSBG) State Plan and the Low Income Energy Assistance Program (LIEAP) Block Grant Plan has been scheduled for Wednesday, May 12, at the Kansas History Center, 6425 S.W. 6th Ave., Topeka, and by teleconference at the SRS area offices located in Chanute, Emporia, Garden City, Hays, Hutchinson, Kansas City, Lawrence, Manhattan, Olathe, Salina, Topeka and Wichita. Registration will begin at 9:30 a.m., with a participant brainstorming session on the SRS budget for FY 2001 from 10 a.m. to noon. The formal public hearing and testimony will start at 1 p.m. Any organization or individual wishing to participate at the meeting or obtain a copy of the block grant summaries should contact Jackie Aubert at (785) 296-6216.

Rochelle Chronister  
Secretary of Social and  
Rehabilitation Services

Doc. No. 023762

## State of Kansas

## Secretary of State

## Usury Rate for May

Pursuant to the provisions of K.S.A. 16-207, the maximum effective rate of interest per annum for notes secured by all real estate mortgages and contracts for deed for real estate (except where the note or contract for deed permits adjustment of the interest rate, the term of the loan or the amortization schedule) executed during the period of May 1, 1999 through May 31, 1999, is 8.62 percent.

Ron Thornburgh  
Secretary of State

Doc. No. 023761

## State of Kansas

## Kansas Water Authority

## Notice of Meeting

The Kansas Water Authority will conduct a conference call meeting at 11:30 a.m. Tuesday, May 18, to review two proposed Marion Reservoir surplus water contracts with Jost Farms for the purpose of irrigation. Jost Farms has requested 160 acre-feet of water to irrigate during the months of June through September. The contract is for 120 days and would not be automatically renewed.

An agenda and other details of the meeting are available from the Kansas Water Office, 109 S.W. 9th, Topeka, 66612-1249, (888) KAN-WATER. If accommodations are needed for persons with disabilities, please notify the Kansas Water Office at the above address at least two days prior to the meeting.

Kent Lamb  
Chairman

Doc. No. 023774

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State of Kansas

Secretary of State

Certificate of the State Board of Canvassers

Constitutional Amendment Ballot Question General Election, April 6, 1999

We the undersigned, constituting the State Board of Canvassers of the State of Kansas, do hereby certify that we have examined the certified abstracts of votes on file in the office of the Secretary of State, as prescribed by law, and we find the statement given therein of the whole numbers of votes cast for the special question submitted constitutional amendment are true and correct as shown by the abstract.

We further certify and declare that a majority of the electors casting their ballots at the General Election held on the sixth day of April, A.D. 1999, were in opposition to the special question and that the constitutional amendment is not adopted.

State-wide totals: Yes 112,938 No 155,967

In testimony whereof, we have hereunto subscribed our names this 26th day of April, A.D. 1999.

Bill Graves Governor Ron Thornburgh Secretary of State Carla J. Stovall Attorney General

Doc. No. 023767

State of Kansas

Department of Administration Division of Purchases

Notice to Bidders

Sealed bids for the following items will be received by the Director of Purchases, Landon State Office Building, 900 S.W. Jackson, Room 102, Topeka, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 296-2377 for additional information:

Monday, May 17, 1999

- 33630 Kansas Correctional Industries—Chemicals 33631 Kansas Correctional Industries—Polymer emulsion 33674 University of Kansas Medical Center—Natural gas services 33675 Kansas State University—Natural gas services 33676 Statewide—Packaging items 8976 Department of Transportation—Wood signposts, various locations

Tuesday, May 18, 1999

- 33670 Statewide—2000 calendars 33671 Kansas Highway Patrol—Badges and insignias, Salina

Wednesday, May 19, 1999

- 88 University of Kansas Medical Center—Security, surveillance and detection 8980 Kansas State University—Boiler feed water pumps

Thursday, May 20, 1999

- 85 Kansas State University—Chairs

Friday, May 21, 1999

- 33677 University of Kansas Medical Center—Lumber/wood products

Wednesday, May 26, 1999

- A-8741-R Kansas School for the Deaf—Reroof superintendent's residence and Scout Cabin

Thursday, May 27, 1999

- A-8544 Kansas State University—Student Union roof replacement, designated areas A-8547 Department of Human Resources—Raze house and construct parking lot

A-8770

- Kansas Neurological Institute—Steam pipe and tunnel corrections, main storm tunnels

A-8784

- University of Kansas—Upgrade animal care cage wash areas, Malott Hall

\*\*\*\*\*

Request for Proposals

Wednesday, June 2, 1999

8987

- Workflow imaging project facilitator/integrator consultant for the Kansas Public Employees Retirement System

Thursday, June 3, 1999

33633

- Building(s) condition assessment survey (CAS) for the Department of Administration, Division of Facilities Management

33176 Rebid

- Computerized maintenance management system (CMMS) for the Department of Administration, Division of Facilities Management

John T. Houlihan Director of Purchases

Doc. No. 023776

## State of Kansas

## Pooled Money Investment Board

## Notice of Investment Rates

The following rates are published in accordance with K.S.A. 75-4210. These rates and their uses are defined in K.S.A. 1998 Supp. 12-1675(b)(c)(d), and K.S.A. 75-4201(l) and 75-4209(a)(1)(B).

Effective 5-3-99 through 5-9-99	
Term	Rate
1-89 days	4.96%
3 months	4.53%
6 months	4.72%
9 months	4.79%
12 months	4.88%
18 months	5.04%
24 months	5.08%

Derl S. Treff  
Director of Investments

Doc. No. 023759

## State of Kansas

## Department of Transportation

## Notice to Contractors

Sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the Bureau of Construction and Maintenance, KDOT, Topeka, or at the Capitol Plaza Hotel, Topeka, until 2 p.m. May 19, and then publicly opened:

## District One—Northeast

**Atchison**—59-3 K-6023-01—U.S. 59 in Atchison County, guard fence. (State Funds)

**Douglas**—56-23 K-5486-01—U.S. 56, 9th Street east to 3rd Street in Baldwin City, 0.5 mile (0.8 kilometer), grading and surfacing. (State Funds)

**Douglas-Jefferson-Shawnee**—106 K-6024-01—Various locations on K-4 in Jefferson and Shawnee counties and K-10 in Douglas County, guard fence. (State Funds)

**Harvey-Marion**—50-106 K-7368-01—U.S. 50 from the north city limits of Newton northeast to 1.7 miles (2.7 kilometers) east of U.S. 77 Junction, 28.2 miles (45.3 kilometers), pavement marking. (State Funds)

**Jackson**—C-3299-01—County road 5.6 miles (9 kilometers) south of Denison, 0.15 mile (0.24 kilometer), grading and bridge. (Federal Funds)

**Johnson**—435-46 K-7329-01—I-435 Bridge 221, east-bound K-10 ramp to northbound I-435, bridge repair. (State Funds)

**Leavenworth**—52 U-1605-01—Gilman Road from U.S. 73 west to Willow in Lansing, 0.2 mile (0.4 kilometer), grading and surfacing. (Federal Funds)

**Osage**—276-70 K-7486-01—K-276 from the east city limits of Olivet east to the junction of U.S. 75, 1.1 miles (1.7 kilometers), overlay. (State Funds)

**Osage**—75-70 K-5764-01—U.S. 75 from the Coffey-Osage county line north to 0.8 mile (1.3 kilometers) south

of the junction of K-278, 7.1 miles (11.4 kilometers), surfacing and bridge. (Federal Funds)

**Shawnee**—470-89 K-7105-01—I-470 bridge (east lane) over I-70, bridge overlay. (State Funds)

**Shawnee**—89 U-1743-01—10th and Mulvane in Topeka, intersection improvement. (Federal Funds)

**Wyandotte**—635-105 K-6472-01—I-635 from the north end of the bridge over Swartz Road north to the Missouri River bridge, 4.6 miles (7.4 kilometers), overlay. (State Funds)

**Wyandotte**—32-105 K-7152-01—K-32 culvert 8.8 miles (14.2 kilometers) east of the Leavenworth-Wyandotte county line, culvert replacement. (State Funds)

**Statewide**—106-0099-01—Rehabilitate and update historical markers throughout the state, signing. (Federal Funds)

## District Two—Northcentral

**Cloud**—9-15 K-7117-01—K-9 bridge over Plum Creek, 4.5 miles (7.2 kilometers) east of U.S. 81, bridge overlay. (State Funds)

**Lincoln**—18-53 K-7109-01—K-18 Beaver Creek bridge, 3 miles (4.8 kilometers) east of K-14, bridge overlay. (State Funds)

**Mitchell**—14-62 K-7110-01—K-14 Leban Creek bridge 3.4 miles (5.4 kilometers) south of U.S. 24, bridge overlay. (State Funds)

**Republic**—79 C-3454-01—County road 3 miles (4.8 kilometers) south and 2.7 miles (4.3 kilometers) east of Courtland, 0.3 mile (0.48 kilometer), grading and bridge. (Federal Funds)

**Republic**—79 C-3570-01—County road 2 miles (3.2 kilometers) north and 0.5 mile (0.8 kilometer) east of Wayne, 0.19 mile (0.3 kilometer), grading and bridge. (Federal Funds)

## District Three—Northwest

**Decatur**—83-20 K-7123-01—U.S. 83 bridges over Sappa Creek drainage and Oberlin Lake, bridge overlay. (State Funds)

**Decatur**—20 C-3573-01—County road from U.S. 36 north 0.4 mile (0.7 kilometer), surfacing. (Federal Funds)

**Ellis**—26 C-3216-01—County road 0.2 mile (0.3 kilometer) west of Victoria, grading and bridge. (Federal Funds)

**Phillips**—36-74 K-7124-01—U.S. 36 bridges over Big Creek and Plum Creek, bridge overlay. (State Funds)

**Rawlins**—77 C-3552-01—County road 3 miles (4.8 kilometers) east of Atwood then northeast 4.2 miles (6.8 kilometers), grading and bridge. (Federal Funds)

**Russell**—232-84 K-7122-01—K-232 bridges over Wolf Creek and Wolf Creek drainage south of K-18, bridge overlay. (State Funds)

**Sherman**—91 C-3574-01—County road 4.6 miles west of Goodland, 0.1 mile (0.2 kilometer), grading, bridge and surfacing. (Federal Funds)

**Sherman**—70-91 M-1875-01—I-70 Ruleton Safety Rest Area, rest area improvements. (State Funds)

**Smith**—36-92 K-7125-01—U.S. 36 bridges over Cedar drainage and Cedar Creek, bridge overlay. (State Funds)

**Smith**—36-92 K-7120-01—U.S. 36 bridges over Middle Oak Creek and U.S. 281/K-181, bridge overlay. (State Funds)

**Thomas**—97 C-2941-01—County road 4. miles (6.4 kilometers) south of Levant, then south 3 miles (4.9 kilometers), surfacing. (Federal Funds)

**Wallace**—100 C-3406-01—County road 3 miles (4.8 kilometers) west and 12.9 miles (20.7 kilometers) north of Weskan, 0.25 mile (0.402 kilometer), grading and bridge. (Federal Funds)

#### District Four—Southeast

**Anderson**—31-2 K-7133-01—K-31 bridge over the Pottawatomie Creek, bridge overlay. (State Funds)

**Coffey**—75-16 K-5763-01—U.S. 75 1 mile (1.6 kilometers) south of the Coffey-Osage county line, north 1 mile (1.6 kilometers), surfacing. (Federal Funds)

**Crawford**—57-19 K-7730-01—K-57 from the Crawford-Neosho county line east to the west city limits of Girard, 12.5 miles (20.1 kilometers), overlay. (State Funds)

**Districtwide**—106 K-6254-99—Various locations in District 4, 119.4 miles (192.3 kilometers), signing. (State Funds)

**Franklin**—30 C-3407-01—County road 3.4 miles (5.5 kilometers) west of Le Loup at east fork Taup Creek, 0.15 mile (0.24 kilometer), grading, bridge and surfacing. (Federal Funds)

**Greenwood**—37 C-3389-01—County road 1.7 miles (2.7 kilometers) east and 2.2 miles (3.5 kilometers) north of Climax, 0.08 mile (0.136 kilometer), grading, bridge and surfacing. (Federal Funds)

**Labette**—96-50 K-7130-01—K-96 bridge over the Neosho River drainage 1 mile (1.6 kilometers) east of U.S. 59, bridge overlay. (State Funds)

**Woodson**—105-104 K-7131-01—K-105 bridge over Cedar Creek 1.4 miles (2.2 kilometers) southeast of U.S. 54, bridge repair. (State Funds)

#### District Five—Southcentral

**Cowley**—160-18 K-7308-01—U.S. 160 Walnut River Bridge 024, bridge repair. (State Funds)

**Cowley**—77-18 K-7711-01—U.S. 77 Ark City bypass, from U.S. 166 north 3.9 miles (6.3 kilometers), grading and surfacing. (State Funds)

**Districtwide**—106 K-5928-99—Various locations in District 5, 441.7 miles (711 kilometers), signing. (State Funds)

**Rice**—14-80 K-7137-01—K-14 bridge over Little Cow Creek, bridge repair. (State Funds)

**Stafford**—93 C-3413-01—County road 5.5 miles (8.9 kilometers) north and 5.5 miles (8.9 kilometers) east of Stafford, 0.5 mile (0.8 kilometer), grading, bridge and surfacing. (Federal Funds)

**Harvey**—135-40 K-5634-03—I-135 south of First Street and south of Broadway, culverts. (Federal Funds)

#### District Six—Southwest

**Clark**—283-13 K-7147-01—U.S. 283 bridge over Bullard Creek 1.2 miles (1.9 kilometers) north of the

Oklahoma-Kansas state line, bridge overlay. (State Funds)

**Districtwide**—106 K-5929-99—Various locations in District 6, 265.3 miles (426.9 kilometers), signing. (State Funds)

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against anyone because of race, age, religion, color, sex, handicap or national origin in the award of contracts.

Each bidder shall file a sworn statement executed by or on behalf of the person, firm association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of the affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid approval package will make the bid nonresponsive and not eligible for award consideration.

Plans and specifications for the projects may be examined at the office of the respective county clerk or at the KDOT district office responsible for the work.

E. Dean Carlson  
Secretary of Transportation

Doc. No. 023755

#### State of Kansas

#### Office of Judicial Administration

#### Notice of Available Grants

Applications for grants from the state's Access to Justice Fund, administered by the Office of Judicial Administration, are being accepted through June 15. The Access to Justice Fund is established through collections from court docket fees to provide legal services for persons who may not otherwise be able to afford them. A total of not more than \$1,000,000 will be awarded this year.

Any tax exempt organization that provides legal assistance to persons who do not have an attorney, legal counsel for civil or domestic matters, or other legal dispute resolution services may apply. Persons receiving the legal services must be at or below 150 percent of the federally established poverty level.

Grant application packets may be requested from the Office of Judicial Administration, 301 S.W. 10th Ave., Room 337, Topeka. Inquiries should be directed to Amy Bertrand at (785) 296-3530.

Ron Keefover  
Education-Information Officer

Doc. No. 023771

## State of Kansas

## Department of Transportation

## Request for Comments

The Kansas Department of Transportation requests comments on the amendment of the Statewide Transportation Improvement Program (STIP) FY 99-01 by adding the following projects:

**Project C-3634-01**, Preliminary engineering, from Kechi Road to K-254 on Hunter Road in Towanda, Butler County

**Project X-2061-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of RS-61 and Union Pacific Railroad west of Hamlin, Brown County

**Project X-2062-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of RS-63 and the Union Pacific Railroad east of Morrill, Brown County

**Project X-2064-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of RS-687 and the Union Pacific Railroad east of Oneida, Nemaha County

**Project X-2069-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of Main Street and the Union Pacific Railroad east in Baileyville, Nemaha County

**Project X-2070-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of First Street and the Union Pacific Railroad in Axtell, Marshall County

**Project X-2071-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of 5th Street and the Union Pacific Railroad in Axtell, Marshall County

**Project X-2072-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of Prairie Street and the Union Pacific Railroad in Axtell, Marshall County

**Project X-2076-01**, Railroad crossing signal flashing lights cantilever type with gates, crossing of T-132 and the Union Pacific Railroad east at Home City, Marshall County

**Project X-2078-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of 4th Street and the Union Pacific Railroad in Sabetha, Nemaha County

**Project X-2079-01**, Railroad crossing signal flashing lights cantilever type with gates, crossing of 9th Street and the Union Pacific Railroad in Sabetha, Nemaha County

**Project X-2080-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of 3rd Street and the Union Pacific Railroad in Seneca, Nemaha County

**Project X-2081-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of 9th Street and the Union Pacific Railroad in Seneca, Nemaha County

**Project X-2082-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of 14th Street and the Union Pacific Railroad in Seneca, Nemaha County

**Project X-2083-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of T-80 and the Union Pacific Railroad west of Sabetha, Nemaha County

**Project X-2084-01**, Railroad crossing signal flashing lights straight post type with gates, crossing of T-119 and the Union Pacific Railroad west of Sabetha, Nemaha County

The amendment of the STIP requires a 30-day public comment period. To receive more information on any of these projects or to make comments on the STIP amendment, contact the Kansas Department of Transportation, Office of Engineering Support, 7th Floor, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612-1568, (785) 296-7916, fax (785) 296-0723.

This information is available in alternative accessible formats. To obtain an alternative format, contact the KDOT Office of Transportation Information, (785) 296-3585 (Voice/TTY).

The comment period regarding the STIP amendment will conclude June 7.

E. Dean Carlson  
Secretary of Transportation

Doc. No. 023766

## State of Kansas

## Department of Transportation

## Notice to Consulting Engineers

The Kansas Department of Transportation is seeking qualified consulting engineering firms to perform plan reviews as needed, statewide, for the Bureau of Local Projects and the Bureau of Design. Two to four firms will be selected. Responses must be received by 5 p.m. May 19 for the consulting engineering firm to be considered. Seven signed copies of the response should be mailed to Neil Rusch, P.E., Assistant to the Director, Division of Engineering and Design, KDOT, Room 1084-West, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612-1568. Responses shall be limited to four pages.

From the firms expressing interest, the Consultant Selection Committee will select a list of the most highly qualified (not less than three, not more than five) and invite them to attend an individual interview conference. At this time, the consulting firms can more thoroughly discuss their experience related to the type of project at hand and will be expected to discuss, in some detail, their approach to this project and the personnel to be assigned to the project. Firms not selected to be short listed will be notified by letter.

The Consultant Negotiating Committee, appointed by the Secretary of Transportation, will conduct the discussions with the firms invited to the individual interview conferences. The committee will select the firm to perform the professional services required for completing the advertised project. After the selection of this firm, the remaining firms will be notified by letter of the outcome.

It is KDOT's policy to use the following criteria as the basis for selection of the consulting engineering firms:

1. Size and professional qualifications;
2. Experience of staff;
3. Location of firm with respect to proposed project;
4. Work load of firm; and
5. Firm's performance record.

E. Dean Carlson  
Secretary of Transportation

Doc. No. 023754



(Published in the Kansas Register May 6, 1999.)

**Summary Notice of Bond Sale  
City of Baxter Springs, Kansas  
\$285,000**

**General Obligation Sewer Bonds, Series 1999  
(General obligation bonds payable from  
unlimited ad valorem taxes)**

**Sealed Bids**

Subject to a notice of bond sale dated April 27, 1999, sealed bids will be received by the clerk of the City of Baxter Springs, Kansas (the issuer), on behalf of the governing body at City Hall, 1445 Military, Baxter Springs, KS 66713, until 6 p.m. Tuesday, May 25, for the purchase of \$285,000 principal amount of General Obligation Sewer Bonds, Series 1999. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered.

**Bond Details**

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated April 15, 1999, and will become due on October 1 in the years as follows:

Maturity October 1	Principal Amount
2000	\$10,000
2001	15,000
2002	15,000
2003	15,000
2004	15,000
2005	15,000
2006	20,000
2007	20,000
2008	20,000
2009	20,000
2010	20,000
2011	25,000
2012	25,000
2013	25,000
2014	25,000

The bonds will bear interest from their dated date at rates to be determined when the bonds are sold, which interest will be payable semiannually on April 1 and October 1 in each year, beginning April 1, 2000.

**Paying Agent and Bond Registrar**

Kansas State Treasurer, Topeka, Kansas.

**Security**

The bonds and the interest thereon constitute general obligations of the city, and the full faith, credit and resources of the city will be pledged to the payment thereof. (Reference is made to the official notice of bond sale and the city's preliminary official statement for a further discussion of the security for the bonds.)

**Redemption**

Certain of the bonds are subject to redemption as set forth in the official notice of bond sale.

**Good Faith Deposit**

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States

or a qualified financial surety bond in a form that complies with the requirements set forth in the notice of sale in the amount of \$5,700 (2 percent of the principal amount of the bonds).

**Delivery**

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder within 30 days of the sale of the bonds at such bank or trust company in the contiguous United States as may be specified by the successful bidder.

**Assessed Valuation and Indebtedness**

The equalized assessed tangible valuation for computation of bonded debt limitations is \$20,428,056. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$285,000.

**Official Statement**

The city has prepared a preliminary official statement relating to the bonds, copies of which may be obtained from the city. The preliminary official statement is in a form "deemed final" by the city for the purpose of Securities and Exchange Commission Rule 15c2-12(b)(1), but is subject to revision, amendment and completion in the final official statement. Upon the sale of the bonds, the city shall furnish the successful bidder with a reasonable number of copies of the final official statement without additional cost, upon request. Copies of the final official statement in excess of a reasonable number may be ordered by the successful bidder at its expense.

**Continuing Disclosure**

Securities and Exchange Commission Rule 15c2-12, as amended effective July 3, 1995, provides that brokers, dealers and municipal securities dealers must comply with certain requirements before acting as an underwriter in a primary offering of municipal securities with an aggregate principal amount of \$1,000,000 or more.

The bonds described herein will be offered in a primary offering with an aggregate principal amount of less than \$1,000,000. Accordingly, in the opinion of bond counsel, the offering and sale of the bonds described herein does not constitute an offering as defined by the rule, and the requirements of the rule do not apply to brokers, dealers and municipal securities dealers acting as underwriters in connection with the bonds described herein.

**Approval of Bonds**

The bonds will be sold subject to the legal opinion of Cosgrove, Webb & Oman, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the issuer, printed on the bonds and delivered to the successful bidder when the bonds are delivered.

**Additional Information**

Additional information regarding the bonds may be obtained from Darla Snook, city clerk of the issuer, (316) 856-2114; or from the financial advisor, Cooper Malone McClain, Incorporated, 7701 E. Kellogg, Suite 700, Wichita, KS 67207, Attention: Dave Malone, (316) 657-5730.

(continued)

Dated April 27, 1999.

City of Baxter Springs, Kansas  
By Darla Snook  
City Clerk  
1445 Military  
Baxter Springs, KS 66713

Doc. No. 023768

(Published in the Kansas Register May 6, 1999.)

**Summary Notice of Bond Sale  
Kearny County, Kansas  
\$2,995,900**

**General Obligation Healthcare Improvement Bonds  
Series 1999**

(General obligation bonds payable from  
unlimited ad valorem taxes)

**Sealed Bids**

Subject to the notice of bond sale dated April 19, 1999, sealed bids will be received by the clerk of Kearny County, Kansas (the issuer), on behalf of the governing body at the Kearny County Courthouse, P.O. Box 86, Lakin, KS 67860, until 1:30 p.m. May 17, 1999, for the purchase of \$2,995,900 principal amount of General Obligation Healthcare Improvement Bonds, Series 1999. No bid of less than 100 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

**Bond Details**

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof, except one bond in the denomination of \$5,900. The bonds will be dated May 1, 1999, and will become due on September 1 in the years as follows:

Year	Principal Amount
2000	\$515,900
2001	575,000
2002	610,000
2003	635,000
2004	660,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on March 1 and September 1 in each year, beginning March 1, 2000.

**Optional Book-Entry-Only System**

The successful bidder may elect to have the bonds registered under a book-entry-only system administered through DTC.

**Paying Agent and Bond Registrar**

Kansas State Treasurer, Topeka, Kansas.

**Good Faith Deposit**

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$59,918 (2 percent of the principal amount of the bonds).

**Delivery**

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about June 9, 1999, at DTC for the account of the successful bidder or at such bank or trust company in the contiguous United States as may be specified by the successful bidder.

**Assessed Valuation and Indebtedness**

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1998 is \$235,759,067. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, is \$2,995,900.

**Approval of Bonds**

The bonds will be sold subject to the legal opinion of Gilmore & Bell, P.C., Wichita, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the issuer, printed on the bonds and delivered to the successful bidder when the bonds are delivered.

**Additional Information**

Additional information regarding the bonds may be obtained from the clerk, (316) 355-6422, or from the financial advisor, Ranson & Associates, Inc., 250 N. Rock Road, Suite 150, Wichita, KS 67206-2241, Attention: Stephen E. Shogren, (316) 681-3123.

Dated April 19, 1999.

Kearny County, Kansas

Doc. No. 023769

(Published in the Kansas Register May 6, 1999.)

**Summary Notice of Bond Sale  
City of Caldwell, Kansas  
Sumner County, Kansas  
\$280,000**

**General Obligation Internal Improvement Bonds  
Series 1999**

(General obligation bonds payable from  
unlimited ad valorem taxes)

**Details of Sale**

Subject to the terms and conditions of the official notice of bond sale dated as of May 5, 1999, and the preliminary official statement dated May 5, 1999, in connection with the bonds hereinafter described, sealed, written bids for the purchase of the General Obligation Internal Improvement Bonds, Series 1999, of the city shall be received by the governing body of the City of Caldwell, Sumner County, Kansas, at the office of the city clerk at City Hall, 14 W. Central, Caldwell, KS 67022-1406, until 7:30 p.m. Monday, May 17, 1999, on which date and at which time all bids shall be presented to the governing body of the city at its regular meeting place at City Hall. All bids shall be publicly opened, read aloud and considered on said date and at said time and shall be immediately thereafter acted upon by the governing body of the city.

The bonds to be sold are in the aggregate principal amount of \$280,000. No oral or auction bid for the bonds



shall be considered, and no bid for less than the entire amount of the bonds shall be considered.

Bids shall be accepted only on the official bid form that has been prepared for the public bidding on these bonds, which may be obtained from the city clerk. Bids may be submitted by mail or delivered in person, and must be received at the place and not later than the date and time hereinbefore specified. Each bid shall be accompanied by a good faith deposit in the form of a certified or cashier's check drawn on a bank located within the United States, shall be made payable to the order of the city, and shall be in an amount equal to 2 percent of the principal amount of the bonds.

**Details of the Bonds**

The bonds will consist of fully registered bonds in the denomination of \$5,000, or any integral multiple thereof, not exceeding the principal amount of bonds maturing in any year. The bonds shall bear a dated date of June 1, 1999. The bonds shall bear interest, payable as hereinafter set forth, at the rates specified by the successful bidder for the bonds.

Interest on the bonds shall be payable semiannually on May 1 and November 1 of each year, commencing May 1, 2000, and the bonds shall mature serially on November 1 in each of the years and principal amounts as follows:

Principal Amount	Maturity Date
\$35,000	11/01/2000
\$35,000	11/01/2001
\$40,000	11/01/2002
\$40,000	11/01/2003
\$40,000	11/01/2004
\$45,000	11/01/2005
\$45,000	11/01/2006

**Redemption**

Certain of the bonds are subject to redemption as set forth in the official notice of bond sale.

**Payment of Principal and Interest**

The Kansas State Treasurer shall serve as the bond registrar and paying agent for the bonds, and the principal of the bonds shall be payable upon surrender at the paying agent's principal offices in the City of Topeka, Kansas. Interest shall be paid by the mailing of a check or draft of the paying agent to the registered owners of the bonds.

**Security for the Bonds**

The bonds and the interest thereon shall constitute general obligations of the city, and the full faith, credit and resources of the city shall be pledged to the payment thereof. The city shall be obligated to levy ad valorem taxes without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the city for the purpose of paying the bonds and the interest thereon.

**Delivery of the Bonds**

The bonds, duly printed, executed and registered, shall be furnished and delivered at the expense of the city to the successful bidder, or at its direction, on or about June 8, 1999, at such bank or trust company in the State of Kansas or Kansas City, Missouri, as may be specified by

the successful bidder. Delivery elsewhere shall be made at the expense of the successful bidder.

**Legal Opinion**

The bonds will be sold subject to the legal opinion of Bonwell, Foster, Borniger & Ellis, Wichita, Kansas, bond counsel, whose fees will be paid by the city. Bond counsel's approving legal opinion as to the validity of the bonds will be printed on the bonds and delivered to the successful bidder upon delivery of the bonds. (Reference is made to the official notice of bond sale for a discussion of tax exemption and other legal matters.)

**Financial Matters**

The equalized assessed valuation of the city for computation of bonded debt limitations for the year 1998 is \$5,922,493. The total general obligation indebtedness of the city as of the date of the bonds, including the bonds being sold, is \$595,000.

**Official Statement**

The city has prepared a preliminary official statement, dated as of May 5, 1999, relating to the bonds. The preliminary official statement is in a form "deemed final" by the city for the purpose of Securities and Exchange Commission Rule 15c2-12(b)(1), but is subject to revision, amendment and completion in the final official statement. Upon the sale of the bonds, the city shall furnish the successful bidder with a reasonable number of copies of the final official statement, without additional cost, upon request. Copies of the final official statement in excess of a reasonable number may be ordered at the successful bidder's expense.

**Continuing Disclosure**

Securities and Exchange Commission Rule 15c2-12, as amended effective July 3, 1995, provides that brokers, dealers and municipal securities dealers must comply with certain requirements before acting as an underwriter in a primary offering of municipal securities with an aggregate principal amount of \$1,000,000 or more.

The bonds described herein will be offered in a primary offering with an aggregate principal amount of less than \$1,000,000. Accordingly, in the opinion of bond counsel, the offering and sale of the bonds described herein does not constitute an offering as defined by the rule, and the requirements of the rule do not apply to brokers, dealers and municipal securities dealers acting as underwriters in connection with the bonds described herein.

**Additional Information**

For additional information regarding the city, the bonds and the sale, interested parties are invited to request copies of the complete official notice of bond sale and official bid form and the city's preliminary official statement for the bonds, all of which may be obtained from the City Clerk, 14 W. Central, Caldwell, KS 67022-1406, (316) 845-6524; or from the city's financial advisors, Cooper Malone McClain, 7701 E. Kellogg, Suite 700, Wichita, KS 67207, Attention: Dave Malone, (800) 675-5730 or (316) 685-5777.

City of Caldwell  
Sumner County, Kansas

Doc. No. 023778

(Published in the Kansas Register May 6, 1999.)

**Summary Notice of Bond Sale  
City of Cherryvale, Kansas  
\$203,000**

**General Obligation Bonds, Series 1999  
(General obligation bonds payable from  
unlimited ad valorem taxes)**

**Sealed Bids**

Subject to the notice of bond sale dated May 3, 1999, sealed bids will be received by the clerk of the City of Cherryvale, Kansas (the issuer), on behalf of the governing body at City Hall, 123 W. Main, Cherryvale, KS 67335, until 10 a.m. May 17, 1999, for the purchase of \$203,000 principal amount of General Obligation Bonds, Series 1999. No bid of less than 100 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

**Bond Details**

The bonds will consist of fully registered bonds in the denomination of \$203,000. The bonds will be dated May 15, 1999, and principal thereof will be amortized, with payments on November 1 of each year according to the following schedule:

Year	Principal Amount
1999	\$23,000
2000	45,000
2001	45,000
2002	45,000
2003	45,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on the amortization dates set forth above (the interest payment dates).

**Anticipated Zero Interest Bid**

Notice should be taken that the issuer has received a commitment from Radiant Electric Cooperative, Inc., to bid for and purchase the bonds at no interest pursuant to the Rural Economic Development Loan and Grant Program.

**Paying Agent and Bond Registrar**

Kansas State Treasurer, Topeka, Kansas.

**Good Faith Deposit**

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$4,060 (2 percent of the principal amount of the bonds).

**Delivery**

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about May 27, 1999, at such bank, trust company or other place in the contiguous United States as may be specified by the successful bidder.

**Assessed Valuation and Indebtedness**

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1998 is

\$6,854,604. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, is \$710,000.

**Approval of Bonds**

The bonds will be sold subject to the legal opinion of Gilmore & Bell, P.C., Wichita, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the issuer, printed on the bonds and delivered to the successful bidder when the bonds are delivered.

**Additional Information**

Additional information regarding the bonds may be obtained from the clerk, (316) 336-2776.

Dated May 3, 1999.

City of Cherryvale, Kansas

Doc. No. 023779

**State of Kansas**

**Attorney General**

**Opinion 99-17**

**State Departments; Public Officers and Employees—Kansas Tort Claims Act—Liability of Governmental Entities for Employee Acts; Court Services Officers' Use of Private Motor Vehicles Within Scope of Employment. Terry L. Bullock, Administrative Judge, Shawnee County, Division No. 6, Topeka, April 5, 1999.**

Depending on the circumstances and availability of exceptions from liability, the state may not be immune under the Kansas Tort Claims Act for claims arising out of a Court Services officer's use of his or her motor vehicle while acting within the scope of employment. Reimbursement for the payment of any additional insurance premiums by a Court Services officer (CSO) who uses his or her motor vehicle to conduct work-related duties is an expense for the operation of the district court for which the county is responsible. However, if a county is already reimbursing CSOs for private vehicle mileage, that reimbursement may be sufficient to cover any increased insurance premium that may result from a CSO using his or her vehicle for work-related purposes. Cited herein: K.S.A. 20-345, as amended by 1999 HB 2206; 20-346a; 20-348; 20-349, as amended by 1999 HB 2206; K.S.A. 1998 Supp. 21-4603d; 21-4610; K.S.A. 22-2814; 22-2816; 22-3716; 75-6102; 75-6103; K.S.A. 1998 Supp. 75-6104. MF

**Opinion 99-18**

**Counties and County Officers—County Commissioners; Powers and Duties—Allowance of Claims; Audits and Reports of County Expenditures; Representative Robert Grant, 2nd District, Cherokee, April 5, 1999.**

The board of county commissioners, assisted by the county clerk and county treasurer, is responsible for keeping an ongoing account of the county budget and for developing an annual budget report at the end of the fiscal year. Some counties may have a county administrator, auditor or controller who are statutorily required to perform certain duties concerning the county budget. Al-

though the duties of the county clerk, treasurer, administrator, auditor and controller are set forth in statutes, the board of county commissioners is given exclusive control over all county expenditures and discretion to require additional duties of those county officials who oversee the county budget. Cited herein: K.S.A. 19-208; 19-212; 19-226; 19-227; 19-228; 19-229; 19-305; 19-306; 19-311; 19-506; 19-507; 19-511; 19-520; 19-524; 19-531; 19-601; 19-605; 19-608; 19-612; 19-616; 19-617; 19-620; 19-622; 19-623; 19-624; 19-625; L. 1996, Ch. 68, §§ 3 through 5. DMV

#### Opinion 99-19

**Public Health—Maternity Centers and Child Care Facilities—License or Temporary Permit Required; Licenses; Contents; Limitations; Posting; Inspections; Temporary Permits, Access to Premises; Temporary Licenses; Denial or Revocation of Licenses; Procedure.**

**Statutes; Administrative Rules and Regulations and Procedure—Administrative Procedure Act—Time Limits for Processing Application for an Order or a Request for a Hearing; Expiration of License, When.** Clyde D. Graeber, Acting Secretary, Kansas Department of Health and Environment, Topeka, April 5, 1999.

A child care provider operating under a temporary permit or temporary license may not continue to provide child care after the temporary permit or temporary license expires unless and until a permanent license is approved. A temporary permit expires within 90 days. A temporary license expires on the date the Secretary of Social and Rehabilitation Services approves or disapproves the child care facility. Neither a temporary permit nor a temporary license may be renewed. Cited herein: K.S.A. 1998 Supp. 65-501; 65-504; 65-516; K.S.A. 77-511; K.A.R. 28-4-114. DMV

#### Opinion 99-20

**State Departments; Public Officers and Employees—Juvenile Justice Authority—Juvenile Intake and Assessment System; Urinalysis Drug Screening.** Representative Marti Crow, 41st District, Leavenworth, April 5, 1999.

In the absence of adverse consequences from refusing to submit to a urinalysis, a juvenile will not have standing to raise a Fourth Amendment challenge to a request for a urinalysis that is part of the intake and assessment process. Cited herein: K.S.A. 75-7023; K.S.A. 1998 Supp. 75-7024; U.S. Const., Amend IV. MF

#### Opinion 99-21

**Constitution of the State of Kansas—Finance and Taxation—System of Taxation; Classification; Definition of Public Utility; Exclusion of Property Used in the Generation, Marketing and Sale of Electricity.**

**Taxation—Public Utilities—Definition; Constitutionality of Excluding Property of Certain Independent Power Producers.** Representative Carl Dean Holmes, 125th District, Liberal, April 6, 1999.

The Legislature may, under Article 11, Section 1 of the Kansas Constitution, define the term "public utility" for

purposes of property tax classification, as long as the legislative definition remains consistent with the commonly understood meaning of the term. Common definitions of the term "public utility" in 1985 and 1986, the years the Classification Amendment was framed and adopted, generally included characteristics such as provision of an essential service or commodity to the public on a nondiscriminatory basis and having a franchise, eminent domain powers or other ability to acquire and use private property for a public purpose. Cited herein: K.S.A. 1998 Supp. 66-104; K.S.A. 79-5a01; Kan. Const., Art. 11, § 1; 1999 H.B. 2400, § 13; L. 1986, Ch. 371, § 1; L. 1983, Ch. 314; § 1; L. 1969, Ch. 434, § 1. JLM

#### Opinion 99-22

**State Departments; Public Officers and Employees—State Historical Society—Delegation of Duties to Cities, Counties or State Board of Regents or Institutions.**

**State Departments; Public Officers and Employees—Public Officers and Employees; Open Public Meetings—Application to Local Historic Preservation Committees.** Dr. Ramon Powers, Executive Director, Topeka, April 16, 1999.

Local historic preservation committees to which the State Historic Preservation Officer has delegated authority may only review projects within their boundaries. Local historic preservation committees are subject to the Kansas Open Meetings Act. Cited herein: Kan. Const., Art. 6, § 2; K.S.A. 75-2721; 75-2724, as amended by 1999 SB 338; 75-4318; 76-712; L. 1963, Ch. 27; L. 1864, Ch. 105. SP

#### Opinion 99-23

**Elections—Independent and Other Nomination Certificates; Terms of Office; Filling Vacancies—Validity of Nominations; Objections.** David L. Hiebert, Belle Plaine City Attorney, Wichita, April 16, 1999.

K.S.A. 1998 Supp. 25-308 does not limit primary election objections to candidates. Cited herein: K.S.A. 1998 Supp. 25-308; K.S.A. 25-1435; 25-1436. JLM

#### Opinion 99-24

**Schools—Purchase of Insurance—Boiler Insurance; Fire and Extended Coverage Insurance; Motor Vehicle Liability Insurance and Medical Payments Insurance; Group Insurance; Student Insurance; Insurance Board; Liability.** Daniel Creitz, Attorney, Consolidated Unified School District No. 101, Erie, April 26, 1999.

Consolidated Unified School District No. 101 may consider the recommendations of the Consolidated Unified School District No. 101 Insurance Board concerning insurance coverage but is not legally required to accept its recommendations. Cited herein: K.S.A. 72-8401; 72-8402; 72-8404; 72-8414; 72-8416; 72-8417. MF

Carla J. Stovall  
Attorney General

Doc. No. 023772

State of Kansas

Department on Aging

Permanent Administrative Regulations

Article 1.—GENERAL PROVISIONS

26-1-4. State needs hearing. (a) Notice of the periodic state needs public hearing and the state plan on aging or amendments public hearing, including the date, time, location, and purpose, shall be published in the Kansas register, and in the largest newspapers of general circulation within the state. The notices shall also be distributed to area agencies on aging.

(b) The public may submit written comments to the department before, during, and up to 10 days following the public hearing. All comments received shall be compiled by the department, and these comments shall be used by the department to determine the needs, issues, and concerns of older persons. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-34, Oct. 23, 1985; amended May 1, 1986; amended May 21, 1999.)

26-1-6. Operating policies and procedures of area agencies. (a) Each area agency receiving funding under an area plan shall have written policies and procedures to govern the conduct of its operations and functions. These policies and procedures shall meet the following criteria:

(1) Describe the administrative and policy structure of the area agency; and

(2) describe the policies and procedures that are applicable to recipients of funds from the department, and include any policies and procedures mandated by the department.

(b) Each area agency's written policies and procedures that are applicable to recipients of funds from the department shall be officially adopted by action of the entity's governing body. Before adoption, the area agency shall provide an opportunity for comment on the proposed operating policies and procedures by units of local government, local advisory councils, potential service providers, and older persons. Notice of the opportunity for comment shall be published in a newspaper or newspapers of general circulation within the planning and service area at least 14 days before the policies and procedures are adopted by the area agency.

(c) Each area agency shall submit the procedures to the department for review before final adoption of the agency's policies and procedures.

(d) Each area agency shall provide without cost copies of the written policies and procedures to each recipient of funds from the department with whom it has a subgrant or contract and to the department. Other parties may obtain a copy of the written policies and procedures upon compliance with the Kansas open records act, K.S.A. 45-215 through 45-223, and amendments thereto. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985; amended May 1, 1986; amended May 21, 1999.)

Thelma Hunter Gordon Secretary of Aging

Doc. No. 023770

State of Kansas

Office of Judicial Administration Court of Appeals Docket

(Note: Dates and times of arguments are subject to change.)

Kansas Court of Appeals Labette County Courthouse 201 S. Central St. Parsons, Kansas

Before Brazil, C.J.; Knudson, J.; and Fred S. Jackson, D.J., assigned.

Tuesday, May 18, 1999

1:30 p.m.

Table with 4 columns: Case No., Case Name, Attorneys, and County. It lists three cases: Beulah Olsen vs. City of Independence and Klars Jewelers, Inc.; Jerry F. Dean vs. Amco Insurance Company; and Tractor 1110, Inc. vs. John Raymond Johnson and Cherrie Lynn Johnson.

Wednesday, May 19, 1999

9:00 a.m.

Case No.	Case Name	Attorneys	County
80,313	Rodney Hodgson, by and through his Natural Parents, Natural Guardians, and Next Friends, Jim and Denise Hodgson, and Jim Hodgson, Individually, and Denise Hodgson, Individually, Appellees, v. Bremen Farmers' Mutual Insurance Company, Appellant.	Patrick C. Smith Michael W. Murphy	Cherokee
80,431	Tremo Corporation, Appellee, v. Patsy J. Hanrahan, a/k/a Patsy J. Nordmeyer Hanrahan, <i>et al.</i> , Appellants.	Patrick T. Forbes Stephen J. Smith Elwaine F. Pomeroy	Woodson
80,581	Davis Incorporated, a Kansas Corporation, Appellant, v. The Atchison, Topeka and Santa Fe Railway Co., a Delaware Corporation, and Gerald Azember and Janet Azember, Husband and Wife, Appellees.	Richard D. Loffswold, Jr. Vernon D. Grassie	Crawford
80,752	Mark Loar, Appellant, v. Diana E. Roletto and Joe S. Hinton, Appellee.	Charles Gentry Zackery E. Reynolds	Bourbon

1:30 p.m.

79,292	State of Kansas, Appellee, v. Mark C. Metzger, Appellant.	Attorney General Jennifer Brunetti, Asst. C.A. William Rork	Crawford
79,957	State of Kansas, Appellee, v. Robert Earl Barber, a/k/a Robert Hickles, Appellant.	Attorney General Kenley J. Thompson, Asst. C.A. Jessica R. Kunen, Chief A.D. Joseph P. Leon, Asst. A.D.	Labette

## Summary Calendar—No Oral Argument

80,403	Alex McCullough, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General County Attorney	Seward
81,095	State of Kansas, Appellee, v. James J. Jones, Appellant.	Attorney General Elaine M. Esparza, C.A. Jessica R. Kunen, Chief A.D.	Harper
81,146 81,147	State of Kansas, Appellee, v. Abraham G. Cedillo, Appellant.	Attorney General Edmond Brancart, Deputy C.A. Jessica R. Kunen, Chief A.D.	Ford
78,149	State of Kansas, Appellee, v. James M. Purinton, Jr., Appellant.	Attorney General Steven J. Obermeier, Asst. D.A. Kevin C. Harris	Johnson
81,151	State of Kansas, Appellee, v. Keith A. Wainwright, Appellant.	Attorney General Joe E. Lee, C.A. Jessica R. Kunen, Chief A.D.	Lyon
81,290	State of Kansas, Appellee, v. Craig Lewis Berry, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick

(continued)

80,360	State of Kansas, Appellee,	Attorney General	Greenwood
80,361	v.	Mary Ann Shirley, C.A.	
80,708	Randall Scott Spicer, Appellant.	Jessica R. Kunen, Chief A.D.	
80,709			
80,550	State of Kansas, Appellee,	Attorney General	Sedgwick
	v.	Debra S. Peterson, Asst. D.A.	
	Eugene E. Favart, Appellant.	Jessica R. Kunen, Chief A.D.	

**Kansas Court of Appeals  
Old Sedgwick County Courthouse  
510 N. Main, 3rd Floor  
Wichita, Kansas**

Before Marquardt, P.J.; Pierron, J.; and Glenn D. Schiffner, D.J., assigned.

Tuesday, May 18, 1999

9:00 a.m.

Case No.	Case Name	Attorneys	County
79,484	David Royse Pratt, Appellant, v. State of Kansas, Appellee.	Thomas E. Foster Attorney General Debra S. Peterson, Asst. D.A. Doyle Baker, Asst. D.A.	Sedgwick
80,359	In the Matter of the Marriage of Becky J. Green, Appellee, and Michael R. Green, Appellant.	Nancy L. Moore Lisa V. Studtmann	Chautauqua
79,721	Charles E. Hill, Appellant, v. Neil Aldoroty, M.D., Appellee.	John W. Johnson Cecilia T. Mariani Jay F. Fowler Stephen M. Kerwick	Sedgwick
1:30 p.m.			
79,391	State of Kansas, Appellee, v. Roger A. Anderson, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Charles R. Reimer, Asst. D.A. Jessica R. Kunen, Chief A.D. Hazel Haupt, Asst. A.D.	Sedgwick
79,331	State of Kansas, Appellee, v. Roger C. Davison, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Charles R. Reimer, Asst. D.A. Jessica R. Kunen, Chief A.D. Ezra Ginzburg, Asst. A.D.	Sedgwick
79,435	State of Kansas, Appellee, v. Cheryl A. Tidwell, Appellant.	Attorney General Keith E. Schroeder, Asst. C.A. Kerry J. Granger	Reno

Wednesday, May 19, 1999

9:00 a.m.

Case No.	Case Name	Attorneys	County
80,194	Mid-West Painting, Inc., Appellee, v. State of Kansas Employment Security Board of Review; and Donald A. Pierce, Appellant, and Mid-West Painting, Inc., Appellee, v. State of Kansas Employment Security Board of Review; and Larry G. Ross, Appellant.	Boyd A. Byers Mark A. Kistler Joseph W. Moreland	Sedgwick



78,315	State of Kansas, Appellee, v. Gary Washburn, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. David Lowden, Asst. D.A. Geary N. Gorup	Sedgwick
80,312	Gary L. Lofland, Debra S. Lofland, Lieuana L. Mahaney, Clayton Thurman, and Jan Thurman, Appellants, v. Sedgwick County, Appellee.	Derek S. Casey Eric B. Metz	Sedgwick
<b>Summary Calendar—No Oral Argument</b>			
80,268	In the Matter of the Marriage of James Thomas Etzler, Appellee, and Dianne J. Rollins, formerly Dianne J. Etzler, Appellant.	David E. (Rick) Roberts Stanley R. Juhnke	Reno
80,723	State of Kansas, Appellee, v. Richard F. Justice, Appellant.	Attorney General Richard N. Raleigh, C.A. Jessica R. Kunen, Chief A.D.	Barber
80,876	State of Kansas, Appellee, v. Ronald R. Kern, Appellant.	Attorney General Stacy Lynn Cunning, Asst. C.A. Jessica R. Kunen, Chief A.D.	Reno
81,049	In the Matter of the Applications of Kinnet for Relief from a Tax Grievance in Numerous Counties in Kansas, and In the Matter of the Applications of Liberty Cellular for Relief from a Tax Grievance in Numerous Counties in Kansas.	Robert J. O'Connor Stephanie N. Scheck Michael A. Montoya	Saline
81,098	State of Kansas, Appellee, v. Penny K. Rosas, Appellant.	Attorney General Keith E. Schroeder, Asst. C.A. Jessica R. Kunen, Chief A.D.	Reno
81,140	State of Kansas, Appellee, v. Clyde A. Smith, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
80,503	State of Kansas, Appellee, v. Robert G. Dietz, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Robert G. Dietz, pro se	Sedgwick
80,907	State of Kansas, Appellee, v. Daniel Lobdell, Appellant.	Attorney General Christina Trocheck, Asst. C.A. Jessica R. Kunen, Chief A.D.	Saline

Kansas Court of Appeals  
Douglas County Commission Meeting Room  
2nd Floor, Old Douglas County Courthouse  
1100 Massachusetts  
Lawrence, Kansas

Before Elliott, P.J.; Rulon and Green, JJ.

Tuesday, May 18, 1999

9:30 a.m.

Case No.	Case Name	Attorneys	County
78,777	State of Kansas, Appellee, v. Andrew C. Welsh, Appellant.	Attorney General District Attorney Jessica R. Kunen, Chief A.D. Janine Cox, Asst. A.D.	Johnson

(continued)

79,178	State of Kansas, Appellee, v. Richard Price, Appellant.	Attorney General District Attorney Jessica R. Kunen, Chief A.D. Elizabeth Seale Cateforis, Asst. A.D.	Wyandotte
79,700	State of Kansas, Appellee, v. Frank D. Fiette, Appellant.	Attorney General Steven J. Obermeier, Asst. D.A. Jessica R. Kunen, Chief A.D. Michael J. Helvey, Asst. A.D.	Johnson
1:30 p.m.			
79,439	Richard L. Steward, Jr., Appellee, v. Helen E. Kerby, Appellant, and the City of Lawrence, KS, a Municipal Corporation, Appellee, and Earl R. Silvers, Defendant and Cross-Claimant, Appellee.	Rodney H. Busey John M. Cooley Gerald L. Cooley Dana M. Harris Dugene C. Riling	Douglas
80,340	Trinity A.M.E. Church, Inc., Appellee, v. Hughes Development Company, et al., Appellants.	Elmer C. Jackson, Jr. Keith A. Cutler	Wyandotte
79,897	Randy J. Kriesel and Cynthia A. Kriesel, et al., Appellees, v. Board of Zoning Appeals, City of Olathe, KS, et al., Appellants.	Brian L. Smith Valerie G. Krueger Allan E. Coon James R. Hubbard David D. Burkhead	Johnson

Wednesday, May 19, 1999

9:30 a.m.

Case No.	Case Name	Attorneys	County
79,565	Gerald J. Crutcher, Appellant, v. State of Kansas, Appellee.	Michael D. Reed Attorney General Steven J. Obermeier, Asst. D.A.	Johnson
79,771	Arley Tash, Appellant, v. Manila Cordage Company; True Value of Baxter Springs, Inc; and Intrend Ropes and Twine, Inc., f/k/a Intrend Technolo- gys, Inc.; The Rope Company, Inc., Appellees.	Daniel F. Church Douglas G. Ott	Cherokee
79,815	Delbert Kimbrough, Appellee, v. John or Jane Doe, and Farmers Insurance Company, Appellant.	John M. Duma Jeffrey S. Southard	Wyandotte

Summary Calendar—No Oral Argument

80,450	State of Kansas, Appellee, v. Michael W. Hamilton, a/k/a Michael Hand, Appellant.	Attorney General Steven J. Obermeier, Asst. D.A. Jessica R. Kunen, Chief A.D.	Johnson
81,063	State of Kansas, Appellee, v. Jeffrey Houck, Appellant.	Attorney General Matthew J. Bock, Asst. D.A. Jessica R. Kunen, Chief A.D.	Wyandotte
81,234	Philip V. Servos, Appellant, v. Thomas J. Corbett, Appellee.	Nathan C. Harbur Jeffrey S. Southard John G. Mazurek	Johnson
80,024	State of Kansas, Appellee, v. Gary Richardson, Appellant.	Attorney General Sheryl L. Lidtke, Asst. D.A. Jessica R. Kunen, Chief A.D.	Wyandotte

81,090	Janet Norris Horn, Appellant, v. The Board of County Commissioners of Wyandotte County, Kansas, and State of Kansas, Appellee.	R. Bruce Kips John R. Dowell	Wyandotte
81,248	State of Kansas, Appellee, v. Darren Cleveland, Appellant.	Attorney General Jacqueline J. Spradling, Asst. D.A. William F. Dunn	Johnson
80,788	State of Kansas, Appellee, v. Scott Kingsolver, Appellant.	Attorney General Steven J. Obermeier, Asst. D.A. Jessica R. Kunen, Chief A.D.	Johnson
80,848	Kenneth Kincaid, Appellant, v. Charles E. Simmons, et al., Appellees.	Kenneth Kincaid, pro se Jeffrey L. Cowger	Leavenworth
81,139	C.C. Coverley Painting Co., Appellant, v. Hartford Fire Insurance Company, et al., Appellees.	James F. Freeman III Jeffrey M. Hensley	Johnson

**Kansas Court of Appeals  
Kansas Judicial Center  
Court of Appeals Courtroom, 2nd Floor  
301 W. 10th Ave.  
Topeka, Kansas  
Before Lewis, P.J.; Gernon and Royse, JJ.  
Tuesday, May 18, 1999**

9:00 a.m.

Case No.	Case Name	Attorneys	County
79,198	State of Kansas, Appellee, v. Jody A. Gumfory, Appellant.	Attorney General Joe E. Lee, C.A. Jessica R. Kunen, Chief A.D. Mary D. Prewitt, Asst. A.D.	Lyon
79,295	State of Kansas, Appellee, v. Irone M. Revely, Appellant.	Attorney General Athena E. Andaya, Asst. D.A. Jessica R. Kunen, Chief A.D. Mary D. Prewitt, Asst. A.D.	Shawnee
79,918 79,919 79,931 79,932	State of Kansas, Appellee, v. Shaun T. Goodwyn, Appellant.	Attorney General Edward M. Collazo, Asst. D.A. Jessica R. Kunen, Chief A.D. James Brent Getty, Asst. A.D.	Shawnee

1:30 p.m.

80,548	Peter Schumacher, Heir, Administrator and Son of Lavone L. Schumacher, Appellant, v. Loews Corporation, a Parent Company of Lorillard Tobacco Company, Manufac- turers of Kent Cigarettes, Appellee.	E.J. Schumacher Scott C. Nehrbass J. Eugene Balloun	Shawnee
80,219	Tyrone Lamont Baker, Appellant, v. State of Kansas, Appellee.	Stephen W. Kessler Attorney General Tony W. Rues, Asst. D.A.	Shawnee
79,645	Ana Moldovan, Appellant, v. Martin L. Maddox and Ronald Burns Trucking, Appellees.	W. Irving Shaw James P. Nordstrom	Lyon

(continued)

Wednesday, May 19, 1999

9:00 a.m.

Case No.	Case Name	Attorneys	County
79,293	State of Kansas, Appellee, v. Tammy L. Meyers, Appellant.	Attorney General Kevin M. Hill, C.A. Jessica R. Kunen, Chief A.D. Debra J. Wilson, Asst. A.D.	Brown
80,946	Terry Zeferjohn, Appellant, v. Sheriff's Department and Shawnee County Treasurer, Appellees.	Mark W. Works Sandra Jacquot David Harder	Shawnee
80,442	Jamie Lee McCammon, a Minor, by and through Her Next Friend, William H. McCammon, Appellant, v. Michael J. Fanning and Shawna McCormick, Defendants, and Progressive Casualty Insurance Co., Intervenor, Appellees.	Michael C. Helbert Kevin M. McMaster	Lyon
<b>Summary Calendar—No Oral Argument</b>			
80,389	State of Kansas, Appellee, v. John L. Underwood, Appellant.	Attorney General County Attorney Jessica R. Kunen, Chief A.D.	Jackson
80,454	Christopher Gray and Brian Gray, Appellants, v. E. Dean Carlson, Secretary of Transportation, State of Kansas, Appellee.	Mike Broemmel Gelene Savage Russell K. Ash	Jackson
80,693	In the Matter of the Marriage of Robert L. George, Appellee, and Betty G. George, Appellant.	William R. McQuillan Randy M. Barker	Jefferson
79,883	Fredricka Ann-Marie Hooper, Appellant, v. State of Kansas, Appellee.	Allen B. Angst Attorney General County Attorney	Geary
80,676	State of Kansas, Appellee, v. Zachary D. Plante, Appellant.	Attorney General Leonard J. Dix, C.A. Jessica R. Kunen, Chief A.D.	Rooks
81,487	In the Matter of the Marriage of Theresa J. Gose, Appellee, and William L. Gose, Appellant.	C. Thomas Kier Troy V. Huser	Marshall
79,906	Johnny G. Holle, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General County Attorney	Riley
81,177	Michael Dorsey, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Robert A. Walsh, C.A.	Cloud
81,261	Latta-Whitlow, Appellee, v. Marcia Lessenden, Appellant.	Jeffrey W. Jones Marcia Lessenden, pro se	Shawnee

Carol G. Green  
Clerk of the Appellate Courts

Doc. No. 023760

State of Kansas

Office of Judicial Administration  
Supreme Court Docket

(Note: Dates and times of arguments are subject to change.)

Monday, May 24, 1999

9:00 a.m.

Case No.	Case Name	Attorneys	County
82,148	Shirley Graff, Appellant, v. Trans World Airlines, Appellee.	Michael L. Hodges	Work Comp
77,835	State of Kansas, Appellee, v. Ronnie V. Tiffany, Appellant.	Thomas V. Clinkenbeard Carla J. Stovall, Attorney General Debra S. Peterson, Assistant District Attorney	Sedgwick
		Petition for Review Elizabeth Seale Cateforis, Assistant Appellate Defender	
80,952	State of Kansas, Appellee, v. Terral Breedlove, Appellant.	Carla J. Stovall, Attorney General Debra S. Peterson, Assistant District Attorney Michael C. Brown	Sedgwick
80,352 81,814	State of Kansas, Appellee, v. Antonio Perez, Jr., Appellant.	Carla J. Stovall, Attorney General John P. Wheeler, Jr., County Attorney Debra J. Wilson, Assistant Appellate Defender	Finney

1:30 p.m.

81,691 81,692	Manuel Rivera, Appellant, v. Cimarron Dairy, <i>et al.</i> , Appellees.	Stanley R. Ausemus	Work Comp
81,047	Margaret Eckman McTaggart, Appellant, v. Liberty Mutual Ins. Co. and Transam Trucking, Inc., Appellees.	D. Shane Bangerter James M. Crabtree Paul Hasty, Jr.	Johnson
79,323 79,324 79,325 79,327 79,328 79,475 79,535 79,733 79,744 79,859	Charles Pool, Appellant, v. David McKune and Charles Simmons, Appellees.	Charles J. Cavenee Timothy G. Madden	Leavenworth
82,134	State of Kansas, Appellant, v. Walter William Schulze, Appellee.	Carla J. Stovall, Attorney General Linus A. Thuston, County Attorney Shane Adamson	Neosho

Tuesday, May 25, 1999

9:00 a.m.

Case No.	Case Name	Attorneys	County
81,978	Robert A. Sokol, Appellant, v. Kansas Dept. of SRS, Appellee.	Ronald W. Nelson James F. Savage	Johnson
78,444	State of Kansas, Appellee, v. Alfred Jerome Williams, Appellant.	Carla J. Stovall, Attorney General Paul J. Morrison, District Attorney Bradley P. Sylvester	Johnson

(continued)

78,073	State of Kansas, Appellee, v. Bobby G. Rose, Appellant.	Carla J. Stovall, Attorney General Paul J. Morrison, District Attorney Petition for Review Craig Durham, Assistant Appellate Defender	Johnson
82,345	Robert Pitts, D.D.S., Appellant, v. The Kansas Dental Board, Appellee.	Jeffrey Griffith Christina Collins	Shawnee
1:30 p.m.			
81,243	State of Kansas, Appellee, v. Sabine M. Davidson, Appellant.	Carla J. Stovall, Attorney General Chris E. Biggs, County Attorney Keith C. Sevedge	Geary
81,342	Michael Lindsey, Appellant, v. Miami County National Bank and Leonard Paxton, Appellees.	Michael E. Riling Debra J. Arnett	Douglas
82,217	State of Kansas, Appellant, v. Jose Ramon Martinez, Appellee.	Carla J. Stovall, Attorney General E. Leigh Hood, County Attorney Leslie Phelps Hess	Ford
80,962	State of Kansas, Appellee, v. Lorenzo M. Jones, Appellant.	Carla J. Stovall, Attorney General Nels P. Noel, County Attorney Craig Durham, Assistant Appellate Defender	Haskell

**Wednesday, May 26, 1999**

Case No.	Case Name	9:00 a.m. Attorneys	County
81,117	Barbara Bishop, Appellant, v. City of Winona, Appellee.	Stephen P. Weir Thomas R. Powell	Logan
82,200	Loyola F. Bain, Appellee, v. Cormack Enterprises, Inc. and Continental Western Ins., Appellants.	Paul D. Post Jeffery R. Brewer	Work Comp
81,512	Andy Moon and Michelle Moon, Appellants, v. 81,513 81,514 81,515 81,516 City of Lawrence, Appellee.	James L. Wisler Gerald L. Cooley	Douglas
81,733	State of Kansas, Appellant, v. Christopher Robinson, Appellee.	Carla J. Stovall, Attorney General Timothy J. Chambers, County Attorney Karen Eager, Assistant Appellate Defender	Reno
1:30 p.m.			
81,218	State of Kansas, Appellee, v. Paul J. Kimberlin, Appellant.	Carla J. Stovall, Attorney General Mike E. Ward, County Attorney Kiehl Rathbun	Butler
81,464	State of Kansas, Appellee, v. Tracy W. Thrash, Appellant.	Carla J. Stovall, Attorney General Mike E. Ward, County Attorney Darren K. Patterson	Butler



80,764	State of Kansas, Appellee, v. Levi Love, Jr., Appellant.	Carla J. Stovall, Attorney General Joan M. Hamilton, District Attorney Janine Cox, Assistant Appellate Defender	Shawnee
80,657 80,658	State of Kansas, Appellee, v. Steven Wilson and Gloria Wilson, Appellants.	Carla J. Stovall, Attorney General Nick A. Tomasic, District Attorney Martin K. Wells Judy L. Simon	Wyandotte

Thursday, May 27, 1999

9:00 a.m.

Case No.	Case Name	Attorneys	County
80,804	Investcorp, et al., Appellants, v. Simpson Investment Co., Appellee.	Mick W. Lerner John L. Vratil	Johnson
82,952	In the Matter of David M. Druten, Respondent.	Stanton A. Hazlett, Disciplinary Administrator William P. Coates, Jr. David M. Druten, pro se	Original
82,848	In the Matter of Darril L. Holden, Sr., Respondent.	Stanton A. Hazlett, Disciplinary Administrator Darril L. Holden, Sr., pro se	Original
82,703	In the Matter of David L. Nelson, Respondent.	Edwin A. Van Petten, Deputy Disciplinary Administrator David L. Nelson, pro se	Original
82,681	In the Matter of Richard W. Parker, Respondent.	Marty M. Snyder, Deputy Disciplinary Administrator David W. Boal Richard W. Parker, pro se	Original

Friday, May 28, 1999

Summary Calendar—No Oral Argument  
(Pursuant to Supreme Court Rule 7.01(c))

81,380 State v. Steve Kesterson

Summary Disposition of Sentencing Appeals—No Oral Argument  
(Pursuant to Supreme Court Rule 7.041(a))

81,201 State v. Craig Dillon	81,749 State v. Brian McKinzie	81,988 State v. Jimmy C. Flannigan, Jr.
81,313 State v. Jason Randall Smith	81,750 Terry Lynn Reagans v. State	81,998 State v. Robert Anderson III
81,390 State v. Roger Kost	81,751 State v. Clifford E. Samilton	82,006 State v. Aaron D. Trout
81,391	81,772 State v. William C. McGee, Jr.	82,022 State v. Michael Roberts
81,402 State v. Ricky J. Steele	81,795 State v. Ronald L. Spear	82,025 State v. William D. Cott
81,443 State v. Dawn M. Amos	81,805 State v. Frank E. Burns	82,066 Steven G. Heuson v. State
81,543 State v. Ernestor S. Martinez	81,810 State v. Ronald Dale Smith	82,124 State v. Oscar M. Garcia
81,575 Lesli Joan Silvers v. State	81,811 State v. Terry W. Wilson	82,127 State v. Paul Scheina
81,585 State v. Chad L. Clayton	81,817 State v. Tyrone Charles Chavez	82,130 Arthur Wyatt v. State
81,598 State v. Robin Campbell	81,936 State v. David Cox	82,179 State v. Raymond Michael Wheelock
81,609 State v. John H. Harris	81,947 State v. David Sherrill	82,205 State v. Heath Frydendall
81,610 State v. Jeffery L. Jones	81,949 State v. William D. Cott	82,209 Shannon R. Moeller v. State
81,643 Charles T. Cunningham v. State	81,950 State v. William D. Cott	82,325 State v. Zebulan Eric Hall
81,716 State v. Tremaine E. Simpson	81,951 State v. William D. Cott	

Carol G. Green  
Clerk of the Appellate Courts

## State of Kansas

Department of Health  
and EnvironmentNotice Concerning Kansas  
Water Pollution Control Permits

In accordance with Kansas Administrative Regulations 28-16-57 through 63, 28-18-1 through 15, 28-18a-1 through 32, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared and/or permit applications have been received for discharges to the waters of the United States and the State of Kansas for the class of discharges described below. The determinations for permit content are based on staff review, applying the appropriate standards, regulations and effluent limitations of the State of Kansas and the EPA, and when issued will, result in a state water pollution control permit and national pollutant discharge elimination system authorization subject to certain conditions.

All Kansas Department of Health and Environment district office addresses and telephone numbers are listed below.

## Public Notice No. KS-AG-99-45/46

## Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Lyons Trailer Wash, Inc. P.O. Box 413 Lyons, KS 67554	NW/4 of Section 30, T19S, R7W	Arkansas River

Kansas Permit No. A-ARRC-T001

This is a renewal of an existing permit for 40 trucks per week.

**Wastewater Control Facilities:** Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity will be provided which meets or exceeds KDHE minimum requirements.

**Compliance Schedule:** The wastewater management plan shall be adhered to as a condition of this permit. Lagoon percolation test information or alternate approved engineering soil analysis shall be provided to the department within 90 days of permit issuance. A run-on and run-off control berm shall be installed around the sludge and manure storage area within 90 days of permit issuance. Information signs posted at the facility shall be modified within 90 days of permit issuance to indicate the washing requirements.

Name and Address of Applicant	Legal Description	Receiving Water
Thomas M. Shute Route 1, Box 117 Esbon, KS 66941	NW/4 of Section 7, T1S, R10W	Republican River

Kansas Permit No. A-LR JW-S012

This is a renewal of an existing permit for 607 head (188.8 animal units) of swine.

**Wastewater Control Facilities:** Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity will be provided which meets or exceeds KDHE minimum requirements.

**Compliance Schedule:** A livestock waste management plan for the facility shall be developed.

Persons wishing to comment on or object to the draft permits and/or permit applications must submit their comments in writing to the Kansas Department of Health

and Environment if they wish to have the comments or objections considered in the decision making process. Comments or objections should be submitted to the attention of Dena Endsley for agricultural permits or applications, or to the permit clerk for all other permits, at the Kansas Department of Health and Environment, Division of Environment, Bureau of Water, J Street and 2 North, Forbes Field, Building 283, Topeka, 66620.

All comments regarding the draft permit or application notice postmarked or received on or before June 5 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number and name of applicant/application as listed when preparing comments.

If no objections are received during the public notice period regarding any proposed permit, the Secretary of Health and Environment will issue the final determination regarding issuance or denial of the proposed permit. If response to this notice indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC). Media coordination for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

For agricultural permits and applications, a copy of the permit application, supporting documentation, and a KDHE-developed fact sheet checklist is available for review at the appropriate district office:

Northwest District Office, 2301 E. 13th, Hays,  
67601-2651, (785) 625-5664

North Central District Office, 2501 Market Place,  
Salina, 67401-7699, (785) 827-9639

Northeast District Office, 800 W. 24th, Lawrence,  
66046-4417, (785) 842-4600

Southwest District Office, 302 W. McArtor Road,  
Dodge City, 67801-6098, (316) 225-0596

South Central District Office, 130 S. Market, 6th Floor,  
Wichita, 67202-3802, (316) 337-6020

Southeast District Office, 1500 W. 7th, Chanute, 66720,  
(316) 431-2390

Plans and documents for all new facilities and expansions of existing swine facilities also may be reviewed on the Internet at [www.kdhe.state.ks.us](http://www.kdhe.state.ks.us).

For all other proposed permits, the draft permits, including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Division of Environment offices from 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. These documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

Clyde D. Graeber  
Acting Secretary Health  
and Environment

Doc. No. 023775

State of Kansas

**Department of Health and Environment**

**Notice of Meetings**

The Kansas Department of Health and Environment has scheduled four technical committee meetings to review the credentialing application submitted by the Kansas Society of Radiologic Technologists. The meeting dates and times are: June 3, from 1 to 4 p.m.; July 1, from 1 to 4 p.m.; August 5, from 10 a.m. to 4 p.m.; and September 2, from 1 to 4 p.m. The August 5 meeting is a public hearing. Each meeting is open to the public and will be in Room 106, Landon State Office Building, 900 S.W. Jackson, Topeka.

For more information, contact Marla Rhoden, Health Program Analyst, Health Occupations Credentialing, (785) 296-6647.

Clyde D. Graeber  
Acting Secretary of Health and Environment

Doc. No. 023737

State of Kansas

**Department of Health and Environment**

**Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Ash Grove Materials Corporation has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300. Emissions of particulate matter (PM) and particulate matter with a diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>) were evaluated during the permit review process.

Ash Grove Materials Corporation plans to operate a portable ready mix concrete batch plant at 1501 N. 110th St., Kansas City, Kansas.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the Unified Government of Wyandotte County - Kansas City, Kansas Health Department, Department of Air Quality, 619 Ann Ave., Kansas City. To obtain or review the proposed permit and supporting documentation, contact William P. Stevenson, (913) 573-6700, at the Unified Government of Wyandotte County - Kansas City, Kansas Health Department, or Connie Carreno, (785) 296-6422, at the KDHE. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to William P. Stevenson, Unified Government of Wyandotte County - Kansas City, Kansas Health Department, Department of Air Quality, 619 Ann Ave., Kansas City, KS 66101. Written comments must be

received by the close of business June 7 in order to be considered in formulating a final permit decision.

A person may request a public hearing be conducted on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620, not later than the close of business June 7 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber  
Acting Secretary of Health and Environment

Doc. No. 023777

State of Kansas

**Secretary of State**

I, Ron Thornburgh, Secretary of State of the State of Kansas, do hereby certify that each of the following bills is a correct copy of the original enrolled bill now on file in my office.

In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal.

Ron Thornburgh  
Secretary of State

(Published in the Kansas Register May 6, 1999.)

**HOUSE SUBSTITUTE FOR SENATE BILL No. 287**

AN ACT concerning water; relating to review of certain decisions of the chief engineer of the division of water resources of the department of agriculture; relating to issuance of certificates of appropriation; providing for the secretary of agriculture to review and make recommendations relating to certain rules and regulations; providing for the Kansas water office to study and make recommendations regarding certain matters; amending K.S.A. 42-703, 42-722, 42-722a, 82a-708b, 82a-711, 82a-714, 82a-718, 82a-724 and 82a-1038 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. On and after July 1, 1999, K.S.A. 42-703 is hereby amended to read as follows: 42-703. Upon receipt of the application of the proposed irrigation district by the chief engineer, the chief engineer shall cause to be published at applicant's expense, once each week for three consecutive weeks, in a newspaper or newspapers of general circulation in the vicinity of the watercourse or source of supply from which water is sought for the land to be included in the proposed irrigation district, a notice of hearing upon such application. The published notice shall be directed to all persons concerned, without specifically naming any person. Such notice shall contain among other matters a general description of boundaries of the district as proposed; the purpose of the district as proposed; the source of the water supply sought for use and the approximate point of diversion proposed; and the date and place of hearing. Incorporated cities shall be excluded from such district. Any person interested, at any time after first publication of such notice and prior to the expiration of 60 days after the first publication of such notice, may file in duplicate with the chief engineer, a verified written protest against the approval of such application, stating therein all reasons relied upon in objection thereto, which objections shall be duly considered by the chief engineer.

A person who signs a petition and application for the organization and incorporation of a proposed irrigation district shall be permitted to withdraw such person's name as a signer only if the chief engineer determines that the signature was obtained by fraud, undue influence or mutual mistake of fact. All applications for withdrawal of a signature from the petition must be filed with the chief engineer, within 30 days after the first publication of the notice of hearing. The chief engineer may hear and determine any such application for withdrawal of a signature in advance of the

(continued)

hearing for approval of the petition for establishment and organization of the proposed irrigation district.

Any action of the chief engineer upon an application of a proposed irrigation district is subject to review in accordance with the provisions of section 10 and amendments thereto. Any action upon such review is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 2. On and after July 1, 1999, K.S.A. 42-722 is hereby amended to read as follows: 42-722. Except as provided by K.S.A. 42-722a and amendments thereto, whenever a petition signed by a majority of the members of the board of directors of an irrigation district, or by a majority of the qualified owners of irrigable land within a district as defined in K.S.A. 42-701, and amendments thereto, organized or existing under provisions of this act, is presented to the chief engineer praying for the dissolution of the district, and it shall appear from the petition that the district has no real property; that the board of directors has not held a meeting, other than those meetings held for the purpose of considering any aspect of the election of members of the board of directors, for more than one year prior to the date resulting in signing and presentation of the petition; and that the district is not functioning, had ceased to function and will probably continue inoperative and that all indebtedness and obligations of the district have been satisfied, the chief engineer, after such finding, shall issue a certificate in duplicate, declaring the irrigation district dissolved. The chief engineer shall forward the original of the certificate to the secretary of state and the duplicate to the secretary of the board of directors of the irrigation district. The certificate shall: (a) Direct the secretary of the district to file all minutes and records of the district with the county clerk of the county wherein the registered office of the irrigation district is located; (b) direct the officer of such district having custody of any personal property other than moneys to make such disposition as the chief engineer deems proper; and (c) direct the treasurer of such district to transfer to the county treasurers of the counties within such district, moneys held in the name of the district, to be distributed by such treasurer in proportion to the number of acres of each county within the district. The county treasurer shall deposit such moneys into the county general fund. The irrigation district shall be dissolved and cease to exist upon expiration of 30 days after the date of the issuance of such certificate, or upon expiration of 30 days after a final order pursuant to section 10 and amendments thereto or a final judicial determination affirming the findings of the chief engineer, as set out in the certificate, in event that an appeal is taken to the court therefrom.

Sec. 3. On and after July 1, 1999, K.S.A. 42-722a is hereby amended to read as follows: 42-722a. The board of directors of Cedar Bluff irrigation district No. 6 may present a petition, adopted by a majority of the directors, to the chief engineer requesting the dissolution of such district. The petition shall state the district has no real property; and that the district is not functioning, had ceased to function and probably will continue inoperative; and that all indebtedness and obligations of the district have been satisfied. Upon finding that the petition is true, the chief engineer shall issue a certificate in duplicate, declaring the irrigation district dissolved, and shall forward the original of the certificate to the secretary of state and the duplicate to the secretary of the board of directors of the irrigation district. The certificate shall: (a) Direct the secretary of the district to file all minutes and records of the district with the county clerk of the county wherein the registered office of the irrigation district is located; (b) direct the officer of such district having custody of any personal property other than moneys to make such disposition as the chief engineer deems proper; and (c) direct the treasurer of such district to distribute moneys held in the name of the district to the owners of property within the irrigation district. Such moneys shall be apportioned to each property owner in the district in the same proportion that the number of irrigable acres owned by a property owner, and located in such district, bears to the total number of irrigable acres in the district. The irrigation district shall be dissolved and cease to exist upon expiration of 30 days after the date of the issuance of such certificate, or upon expiration of 30 days after a final order pursuant to section 10 and amendments thereto or final judicial determination affirming the findings of the chief engineer, as set out in the certificate, in event that an appeal is taken to the court therefrom.

Sec. 4. On and after July 1, 1999, K.S.A. 82a-708b is hereby amended to read as follows: 82a-708b. (a) Any owner of a water right may change the place of use, the point of diversion or the use made of the water, without losing priority of right, provided such owner shall: (1) Apply in

writing to the chief engineer for approval of any proposed change; (2) demonstrate to the chief engineer that any proposed change is reasonable and will not impair existing rights; (3) demonstrate to the chief engineer that any proposed change relates to the same local source of supply as that to which the water right relates; and (4) receive the approval of the chief engineer with respect to any proposed change. The chief engineer shall approve or reject the application for change in accordance with the provisions and procedures prescribed for processing original applications for permission to appropriate water. If the chief engineer disapproves the application for change, the rights, priorities and duties of the applicant shall remain unchanged. Any person aggrieved by an order or decision by the chief engineer relating to an application for change may appeal to the district court in the manner prescribed by K.S.A. 82a-724 and amendments thereto petition for review thereof in accordance with the provisions of section 10 and amendments thereto.

(b) Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

(1)	Application to change a point of diversion 300 feet or less	.....	\$50
(2)	Application to change a point of diversion more than 300 feet	.....	100
(3)	Application to change the place of use	.....	100
(4)	Application to change the use made of the water	.....	150

Any application submitted which requests two of the types of changes set forth above shall be accompanied by a fee of \$150. Any application which requests three types of changes shall be accompanied by a fee of \$250.

(c) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731 and amendments thereto.

Sec. 5. On and after July 1, 1999, K.S.A. 82a-711 is hereby amended to read as follows: 82a-711. (a) If a proposed use neither impairs a use under an existing water right nor prejudicially and unreasonably affects the public interest, the chief engineer shall approve all applications for such use made in good faith in proper form which contemplate the utilization of water for beneficial purpose, within reasonable limitations except that the chief engineer shall not approve any application submitted for the proposed use of fresh water in any case where other waters are available for such proposed use and the use thereof is technologically and economically feasible. Otherwise, the chief engineer shall make an order rejecting such application or requiring its modification to conform to the public interest to the end that the highest public benefit and maximum economical development may result from the use of such water.

(b) In ascertaining whether a proposed use will prejudicially and unreasonably affect the public interest, the chief engineer shall take into consideration:

- (1) Established minimum desirable streamflow requirements;
- (2) the area, safe yield and recharge rate of the appropriate water supply;
- (3) the priority of existing claims of all persons to use the water of the appropriate water supply;
- (4) the amount of each claim to use water from the appropriate water supply; and
- (5) all other matters pertaining to such question.

(c) With regard to whether a proposed use will impair a use under an existing water right, impairment shall include the unreasonable raising or lowering of the static water level or the unreasonable increase or decrease of the streamflow or the unreasonable deterioration of the water quality at the water user's point of diversion beyond a reasonable economic limit. Any person aggrieved by any order or decision by the chief engineer relating to that person's application for a permit to appropriate water may appeal to the district court in the manner prescribed by K.S.A. 82a-724, and amendments thereto petition for review thereof in accordance with the provisions of section 10 and amendments thereto.

Sec. 6. On and after July 1, 1999, K.S.A. 82a-714 is hereby amended to read as follows: 82a-714. (a) Upon the completion of the construction of the works and the actual application of water to the proposed beneficial use within the time allowed, the applicant shall notify the chief engineer to that effect. The chief engineer or the chief engineer's duly authorized representative shall then examine and inspect the appropriation diversion works and, if it is determined that the appropriation diversion works have been completed and the appropriation right perfected in conformity with the approved application and plans, the chief engineer shall issue a certificate of appropriation in duplicate. The original of such certificate shall be sent to the owner and shall be recorded with the register of deeds in the county or counties wherein the point of diversion is located, as are

other instruments affecting real estate, and the duplicate shall be made a matter of record in the office of the chief engineer.

(b) *Not later than 60 days before the expiration of the time allowed in the permit to complete the construction of the appropriation diversion works or the time allowed in the permit to actually apply water to the proposed beneficial use, the chief engineer shall notify the permit holder by certified mail that any request for extension of such time must be filed with the chief engineer before the expiration of the time allowed in the permit.*

(c) *Unless the applicant requests an extension or the certificate has not been issued due to the applicant's failure to comply with reasonable requests for information or to allow the opportunity to examine and inspect the appropriation diversion works, as necessary for certification, the chief engineer shall certify an appropriation:*

(1) *Before July 1, 2004, if the time allowed in the permit to perfect the water right expired before July 1, 1999; or*

(2) *not later than five years after the date the applicant notifies the chief engineer of the completion of construction of the works and the actual application of water to the proposed beneficial use within the time allowed, in all other cases.*

*If the chief engineer fails to issue a certificate within the time provided by this subsection, the applicant may request review, pursuant to section 10 and amendments thereto, of the chief engineer's failure to act.*

(b) (d) *Except for works constructed to appropriate water for domestic use, each notification to the chief engineer under subsection (a) shall be accompanied by a field inspection fee of \$200. Failure to pay the field inspection fee, after reasonable notice by the chief engineer of such failure, shall result in the permit to appropriate water being revoked, forfeiture of the priority date and revocation of any appropriation right that may exist. All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731 and amendments thereto.*

(e) (e) *A request for an extension of time to: (1) Complete the diversion works; or (2) perfect the water right, shall be accompanied by a fee of \$50.*

(d) (f) *A request to reinstate a water right or a permit to appropriate water which has been dismissed shall be filed with the chief engineer within 60 days of the date dismissed and shall be accompanied by a fee of \$100.*

Sec. 7. On and after July 1, 1999, K.S.A. 82a-718 is hereby amended to read as follows: 82a-718. All appropriations of water must be for some beneficial purpose. Every water right of every kind shall be deemed abandoned and shall terminate when without due and sufficient cause no lawful, beneficial use is henceforth made of water under such right for three successive years. Before any water right shall be declared abandoned and terminated the chief engineer shall conduct a hearing thereon in accordance with the provisions of the Kansas administrative procedure act. Notice shall be served on the user at least 30 days before the date of the hearing. *The determination of the chief engineer pursuant to this section shall be subject to review in accordance with the provisions of section 10 and amendments thereto.*

The verified report of the chief engineer or such engineer's authorized representative shall be prima facie evidence of the abandonment and termination of any water right.

Sec. 8. On and after July 1, 1999, K.S.A. 82a-724 is hereby amended to read as follows: 82a-724. *Any order pursuant to section 10 and amendments thereto upon review of any action of the chief engineer pursuant to K.S.A. 82a-704a, 82a-708b, 82a-711 or 82a-718, and amendments thereto, is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.*

Sec. 9. On and after July 1, 1999, K.S.A. 82a-1038 is hereby amended to read as follows: 82a-1038. (a) In any case where the chief engineer finds that any one or more of the circumstances set forth in K.S.A. 82a-1036 and amendments thereto exist and that the public interest requires that any one or more corrective controls be adopted, the chief engineer shall designate, by order, the area in question, or any part thereof, as an intensive groundwater use control area.

(b) The order of the chief engineer shall define specifically the boundaries of the intensive groundwater use control area and shall indicate the circumstances upon which the findings of the chief engineer are made. The order of the chief engineer may include any one or more of the following corrective control provisions: (1) A provision closing the

intensive groundwater use control area to any further appropriation of groundwater in which event the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area; (2) a provision determining the permissible total withdrawal of groundwater in the intensive groundwater use control area each day, month or year, and, insofar as may be reasonably done, the chief engineer shall apportion such permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights; (3) a provision reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the intensive groundwater use control area; (4) a provision requiring and specifying a system of rotation of groundwater use in the intensive groundwater use control area; (5) any one or more other provisions making such additional requirements as are necessary to protect the public interest. The chief engineer is hereby authorized to delegate the enforcement of any corrective control provisions ordered for an intensive groundwater use control area to groundwater management district number 4 or to any city, if such district or city is located within or partially within the boundaries of such area.

(c) *Except as provided by subsection (d), the order of designation of an intensive groundwater use control area shall be in full force and effect from the date of its entry in the records of the chief engineer's office unless and until its operation shall be stayed by an appeal therefrom from an order entered on review of the chief engineer's order pursuant to section 10 and amendments thereto in accordance with the provisions of the act for judicial review and civil enforcement of agency actions. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order, and shall file a copy of the same with the register of deeds of any county within which such designated control area lies.*

(d) *If the holder of a groundwater right within the area designated as an intensive groundwater use control area applies for review of the order of designation pursuant to section 10 and amendments thereto, the provisions of the order with respect to the inclusion of the holder's right within the area may be stayed in accordance with the Kansas administrative procedure act.*

New Sec. 10. (a) Orders of the chief engineer of the division of water resources of the department of agriculture pursuant to K.S.A. 42-703, 42-722, 42-722a, 82a-708b, 82a-711, 82a-718 and 82a-1038, and amendments thereto, and failure of the chief engineer to act pursuant to K.S.A. 82a-714, and amendments thereto, shall be subject to review in accordance with the provisions of the Kansas administrative procedure act.

Such review shall be conducted by the secretary of agriculture or by an administrative law judge or presiding officer from the office of administrative hearings within the department of administration. The secretary of agriculture shall not have the authority otherwise to designate a presiding officer to conduct such review.

(b) The order of the secretary of agriculture or the administrative law judge or presiding officer upon review pursuant to subsection (a) shall be a final order under the Kansas administrative procedure act. Such order shall not be subject to reconsideration pursuant to K.S.A. 77-529 and amendments thereto and shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(c) This act shall not affect any administrative proceeding pending before the chief engineer of the division of water resources of the department of agriculture, the secretary of agriculture or any administrative hearing officer on July 1, 1999, and such matter shall proceed as though no change in the law had been made with regard to such proceeding.

(d) The provisions of this section shall take effect on and after July 1, 1999.

New Sec. 11. (a) The office of administrative hearings within the department of administration shall contract with or employ administrative law judges or presiding officers, court reporters and other support personnel as necessary to conduct proceedings required by section 10 and amendments thereto. Any administrative law judge or presiding officer contracted with or employed to conduct such proceedings shall be admitted to practice law in this state and shall be knowledgeable by training and experience in water policies and administrative procedure. For the purposes of this section, the office may employ regular part-time personnel. Persons employed by the office of administrative hearings pursuant to this section shall be under the classified civil service.

(b) The office of administrative hearings within the department of

(continued)



administration may establish and collect reasonable amounts for services provided pursuant to this section.

New Sec. 12. (a) (1) On or before November 15, 1999, the chief engineer of the division of water resources of the department of agriculture, in accordance with K.S.A. 77-420 and amendments thereto, shall submit to the secretary of administration and the attorney general proposed rules and regulations containing all current standards, statements of policy and general orders that: (A) Have been issued or adopted by the chief engineer; (B) are of general application and have the effect of law; and (C) are not contained in current rules and regulations adopted by the chief engineer.

(2) If any standard, statement of policy or general order described in subsection (a) (1) is not submitted as required by subsection (a), such standard, statement of policy or general order shall be void and of no effect after November 15, 1999, until adopted by rules and regulations:

(b) (1) On or before March 1, 2000, each groundwater management district shall submit to the chief engineer of the division of water resources of the department of agriculture recommended rules and regulations containing all current standards, statements of policy and general orders that: (A) Have been issued or adopted by such district; (B) are of general application within the district and have the effect of law; and (C) are not contained in current rules and regulations adopted by the chief engineer.

(2) If any standard, statement of policy or general order described in subsection (b)(1) is not submitted as required by that subsection, such standard, statement of policy or general order shall be void and of no effect after March 1, 2000, until adopted by rules and regulations.

New Sec. 13. The chief engineer of the division of water resources of the department of agriculture, for good cause shown, may grant an exemption from or waiver of a rule and regulation adopted by the chief engineer if the chief engineer determines that the exemption or waiver will not prejudicially or unreasonably affect the public interest and will not impair any existing water right. The exemption or waiver shall be in writing and shall include the reason for the exemption or waiver.

New Sec. 14. Before any proposed rules and regulations of the chief engineer of the division of water resources of the department of agriculture are submitted to the secretary of administration or the attorney general pursuant to K.S.A. 77-420, and amendments thereto:

(a) The chief engineer shall submit such rules and regulations to the secretary of agriculture; and

(b) the secretary of agriculture shall review and make recommendations to the chief engineer regarding such proposed rules and regulations.

New Sec. 15. (a) The Kansas water authority shall study and develop recommendations related to:

(1) The appropriateness of the procedures and the time required for perfection of water rights and other provisions of and procedures under the Kansas water appropriation act;

(2) siltation rates of public water supply impoundments and reservoirs and the impacts of such siltation on public water supply storage, flood control and recreational opportunities;

(3) aquifer resources, recharge rates, availability of surface water resources and the long-term prospects related to any necessary transition to dryland farming in areas of the state to maintain sustainable yield and minimum streamflow levels;

(4) water conservation plans and programs and means to improve the effectiveness of such plans and programs; and

(5) the potential for competing water needs for at least the next 20 years and means of addressing the competition.

(b) On or before January 8, 2001, the Kansas water authority shall submit to the house standing committee on environment, the senate standing committee on energy and natural resources and the house and senate standing committees on agriculture a report of the authority's findings and recommendations regarding matters studied pursuant to this section.

Sec. 16. On and after July 1, 1999, K.S.A. 42-703, 42-722, 72-722a, 82a-708b, 82a-711, 82a-714, 82a-718, 82a-724 and 82a-1038 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 6, 1999.)

### SENATE BILL No. 108

AN ACT regarding insurance, relating to coverage for off-label use of prescription drugs; amending K.S.A. 1998 Supp. 40-2,103 and 40-19c09 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. As used in section 1 through 4, and amendments thereto, unless the context clearly indicates otherwise:

(a) "Peer-reviewed medical literature" means a published scientific study in a journal or other publication in which original manuscripts have been published only after having been critically reviewed for scientific accuracy, validity and reliability by unbiased independent experts, and that has been determined by the international committee of medical journal editors to have met the uniform requirements for manuscripts submitted to biomedical journals. Peer-reviewed medical literature does not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

(b) "Off-label use of drugs" means prescribing prescription drugs for treatments other than those stated in the labeling approved by the federal food and drug administration.

(c) "Standard reference compendia" means the United States pharmacopeia drug information, the American hospital formulary service drug information or the American Medical Association drug evaluation.

New Sec. 2. An insurance company, nonprofit health service corporation, nonprofit medical and hospital service corporation or health maintenance organization that provides coverage for prescription drugs may not issue, deliver, execute or renew any health insurance policy or health service contract on an individual, group, blanket, franchise or association basis which excludes coverage of a prescription drug for cancer treatment on the grounds the prescription drug has not been approved by the federal food and drug administration for that covered indication if the prescription drug is recognized for treatment of the indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature. The prescribing physician shall submit to the insurer documentation supporting the proposed off-label use or uses if requested by the insurer.

New Sec. 3. The commissioner of insurance may direct an insurer or contractor regulated by this act to make payments as required by this act.

New Sec. 4. This act shall not be construed to affect the prescribing and coverage of off-label use of drugs for any indication not specified in new section 2, nor does this act alter existing law regarding provisions limiting the coverage of prescription drugs that have not been approved by the federal food and drug administration; does not require coverage for any prescription drug when the federal food and drug administration has determined its use to be contraindicated; and does not require coverage for experimental drugs not otherwise approved for any indication by the federal food and drug administration.

Sec. 5. K.S.A. 1998 Supp. 40-2,103 is hereby amended to read as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102, 40-2,104, 40-2,105, 40-2,114 and 40-2,250, and amendments thereto and K.S.A. 1998 Supp. 40-2,160 and sections 1 through 4 of this act, and amendments thereto, shall apply to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed or issued for delivery within or outside of this state or used within this state by or for an individual who resides or is employed in this state.

Sec. 6. K.S.A. 1998 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. (a) Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes Annotated, applicable to nonprofit corporations; to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 1998 Supp. 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 and 40-2,164 and sections 1 through 4 of this act, and amendments thereto, except as the context otherwise requires, and shall



not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

(c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

Sec. 7. K.S.A. 1998 Supp. 40-2,103 and 40-19c09 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 6, 1999.)

#### SENATE BILL No. 51

AN ACT relating to motor vehicles; amending K.S.A. 8-132, 8-161, 8-162, 8-1,139 and 8-235d and K.S.A. 1998 Supp. 8-133, 8-177a, 8-177c, 8-1,140, 8-1,141, 8-1,142, 8-1,145, 8-1,146, 8-237, 8-239, 8-296, 8-1014, 8-1567a and 74-2012 and repealing the existing sections; also repealing K.S.A. 1998 Supp. 8-1,141, as amended by section 1 of 1999 House Bill No. 2094.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. (a) On and after July 1, 1999, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of not more than 20,000 pounds who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one children's trust fund license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The advisory committee on children and families established in K.S.A. 38-1901, and amendments thereto, may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment to such committee derived from this section shall be credited to the family and children trust account of the family and children investment fund, established in K.S.A. 38-1808, and amendments thereto, and shall be used in accordance with the provisions of paragraph (2) of subsection (c) of K.S.A. 38-1808, and amendments thereto. Any motor vehicle owner or lessee may annually apply to the committee for the use of such logo. Upon annual application and payment to the committee in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each children's trust fund plate to be issued, the committee shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration.

(c) Any applicant for a children's trust fund license plate may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of motor vehicles, and any applicant for the children's trust fund license plates shall provide the annual logo use authorization statement provided for in subsection (b). Application for registration of a passenger or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or children's trust fund license plate issued under this section shall be transferable to any other person.

(e) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides the annual logo use authorization statement provided for in subsection (b). If such logo use authorization statement is not presented at the time of registration, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the children's trust fund license plate to the county treasurer of such person's residence.

(f) The advisory committee on children and families shall:

(1) Pay the initial cost of silk-screening for such children's trust fund license plates; and

(2) provide to all county treasurers a toll-free telephone number

where applicants can call the children's trust fund for information concerning the application process or the status of their license plate application.

(g) The advisory committee on children and families, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

Sec. 2. On and after July 1, 1999, K.S.A. 8-132 is hereby amended to read as follows: 8-132. (a) Subject to the provisions of this section and K.S.A. 8-1,125, and amendments thereto, the division of vehicles shall furnish to every owner whose vehicle shall be registered one license plate for such vehicle. Such license plate shall have displayed on it the registration number assigned to the vehicle and to the owner thereof, the name of the state, which may be abbreviated, and the year or years for which it is issued. The same type of license plates shall be issued for passenger motor vehicles, rented without a driver, as are issued for private passenger vehicles.

(b) During calendar year 1975 commencing on the effective date of this act, and during every fifth calendar year thereafter, the division of vehicles, shall furnish one license plate for any type of vehicle an owner registers or has the registration thereof renewed, but during the succeeding four-year period following calendar year 1975 and during the succeeding four-year period following every fifth calendar year subsequent to 1975, the division of vehicles shall not furnish any license plate for the renewal of a vehicle's registration. During calendar year 1976 and during each calendar year thereafter in which a license plate is not issued for the renewal of registration of a vehicle, the division of vehicles shall furnish one decal for the license plate issued for a vehicle as provided in K.S.A. 8-134, and amendments thereto, for each registration and renewal of registration of such vehicle. Notwithstanding the foregoing provisions of this subsection, whenever, in the discretion of the director of vehicles, it is determined that the license plates currently being issued and displayed are not deteriorating to the extent that their replacement is warranted, the director may adopt rules and regulations to extend the five-year issuance cycle provided for in this subsection by one year at a time, and in the same manner the director may further extend such cycle by one year at a time, successively as the director determines appropriate. If the cycle is extended, at the expiration of the extended term, new license plates shall again be issued in the manner and for the term provided in such rules and regulations.

(c) Two personalized license plates may be issued to any owner or lessee of a passenger vehicle or a truck licensed for a gross weight of not more than 20,000 pounds, who makes proper application to the division of vehicles not less than 60 days prior to such owner's or lessee's renewal of registration date. Such application shall be on a form prescribed by the division and accompanied by a fee of \$40, which shall be in addition to any other fee required to renew the registration of such passenger vehicle under the laws of this state. One such personalized license plate shall be displayed on the rear of the vehicle and the other shall be displayed on the front of the vehicle. One personalized license plate may be issued to any owner of a motorcycle upon proper application in the same manner provided in this subsection (c) for passenger vehicles and trucks. Such personalized license plate shall be displayed on the rear of the motorcycle. The changed provisions of this subsection (c) shall become effective for all personalized license plates issued for the year 1995 and thereafter, and the provisions of this subsection (c) which are changed shall be deemed not to be changed for license plates issued for use prior to 1995. Such fee shall be paid only once during the registration period for which such license plates were issued, and any subsequent renewals during the registration period shall be subject only to the registration fee prescribed by K.S.A. 8-143, and amendments thereto. The division shall design distinctive, personalized license plates to be issued hereunder which shall contain not more than seven letters or numbers on truck or passenger vehicle license plates and not more than five letters or numbers on motorcycle license plates, or a combination thereof, to be designated by the applicant in lieu of the letters and numbers required by K.S.A. 8-147, and amendments thereto, other than the letters required to designate the county in which such vehicle is registered. Unless the letters or numbers designated by the applicant have been assigned to another vehicle of the same type registered in the same county, or unless the letters or numbers designated by the applicant have a profane, vulgar, lewd or indecent meaning or connotation, as determined by the director of vehicles, the division shall assign such letters or numbers to the appli-

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cant's vehicle, and the letters or numbers, or combination thereof, so assigned shall be deemed the registration number of such vehicle. Subject to the foregoing provisions, all license plates issued under this section shall be manufactured in accordance with K.S.A. 8-147, and amendments thereto. Such license plates shall be issued for a registration period of five years commencing in 1985 and each five years thereafter.

The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act, including, without limitation, rules and regulations concerning (1) the procedure for insuring that duplicate license plates are not issued in the same county, (2) the procedure for reserving distinctive license plates for the purpose of obtaining the same on each annual renewal of registration, (3) the procedure for allowing the transfer of personalized license plates from one vehicle to another for which such license plates were originally issued, when the title to the original vehicle has not been transferred and the name or names of the owner or owners listed on the titles to both vehicles are identical, and (4) procedures necessary to coordinate this act with other laws of this state governing registration of vehicles. The director of vehicles shall remit all moneys received by the division of vehicles under this section to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state highway fund.

Sec. 3. On and after July 1, 1999, K.S.A. 1998 Supp. 8-133 is hereby amended to read as follows: 8-133. The license plate assigned to the vehicle shall be attached to the rear thereof and shall be so displayed during the current registration year or years, and no Kansas registration plate for any other year shall appear on the front of the vehicle, except that the license plate issued for a truck tractor shall be attached to the front of the truck tractor and a model-year license plate may be attached to the front of an antique vehicle, in accordance with K.S.A. 8-172, and amendments thereto. Beginning in 1985 and thereafter two personalized license plates may be issued for passenger vehicles and trucks licensed for a gross weight of not more than ~~16,000~~ 20,000 pounds. One such personalized license plate shall be displayed on the rear of the vehicle and the other shall be displayed on the front of the vehicle, but no registration decal shall be issued for any plate affixed to the front of a vehicle pursuant to K.S.A. 8-134, and amendments thereto. Every license plate shall at all times be securely fastened to the vehicle to which it is assigned so as to prevent the plate from swinging, and at a height not less than 12 inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible. During any period in which the construction of license plates has been suspended pursuant to the provisions of K.S.A. 8-132, and amendments thereto, the plate, tag, token, marker or sign assigned to such vehicle shall be attached to and displayed on such vehicle in such place, position, manner and condition as shall be prescribed by the director of vehicles.

Sec. 4. On and after July 1, 1999, K.S.A. 8-161 is hereby amended to read as follows: 8-161. (a) Any disabled veteran as defined in K.S.A. 8-160, and amendments thereto, who resides in Kansas and who makes application to the director of vehicles on a form furnished by the director for registration of a motor vehicle that is a passenger vehicle or a truck with a gross weight of not more than ~~12,000~~ 20,000 pounds and is owned or leased and used by such veteran may have such motor vehicle registered, and the director shall issue a distinctive license plate for it. Such license plate shall be issued for the same period of time as other license plates are issued. Such registration shall be made and such license plates issued free of charge to the disabled veteran. The director of vehicles shall also issue to the disabled veteran an individual identification card which must be carried by the disabled veteran when the motor vehicle being operated by the disabled veteran or used for the transportation of such disabled veteran is parked in a designated accessible parking space.

(b) Any Kansas resident who owns or leases a motor vehicle and who is responsible for the transportation of a disabled veteran or any resident disabled veteran desiring a distinctive license plate for a vehicle other than a motor vehicle owned or leased by the veteran may make application to the director of vehicles for such a license plate. Such license plate shall be issued for the same period of time as other license plates are issued. There shall be no fee for such license plates in addition to the regular registration fee.

(c) The director of vehicles shall design a special license plate to be issued as provided in this act. No registration or license plates issued under this act shall be transferable to any other person. No registration

under this act shall be made until the applicant has filed with the director acceptable proof that the applicant is a disabled veteran as defined by K.S.A. 8-160, and amendments thereto, or is responsible for the transportation of such veteran. Motor vehicles displaying the distinctive license plates provided for in this act shall be permitted to park in any parking space on public or private property which is clearly marked as being reserved for the use of persons with a disability or persons responsible for the transportation of a person with a disability, except a parking space on private property which is clearly marked as being reserved for the use of a specified person with a disability, or park without charge in any metered zone and shall be exempt from any time limitation imposed on parking in any zone designated for parking, during the hours in which parking is permitted in any city.

Any person who willfully and falsely represents that such person has the qualifications to obtain the distinctive license plates provided for by this section, or who falsely utilizes the parking privilege accorded by this section, shall be guilty of an unclassified misdemeanor punishable by a fine of not more than \$250.

Sec. 5. On and after July 1, 1999, K.S.A. 8-162 is hereby amended to read as follows: 8-162. ~~Owners of private~~ Any owner or lessee of one or more passenger motor vehicles or trucks licensed for a gross weight of not more than ~~sixteen thousand (16,000)~~ 20,000 pounds who are residents of the state of Kansas, and who hold an unrevoked and unexpired official amateur radio station license issued by the federal communications commission, upon application, accompanied by proof of ownership of such amateur radio station license, complying with the state motor vehicle laws relating to registration and licensing of motor vehicles, and upon the payment of the regular license fee for plates, as prescribed under K.S.A. 8-143, ~~or any and~~ amendments thereto, and the payment of an additional fee of one dollar (~~\$1.00~~) \$1, shall be issued license plates as prescribed under K.S.A. 8-147, ~~or any and~~ amendments thereto, upon which, in lieu of the letters and numbers as prescribed by K.S.A. 8-147, ~~and amendments thereto~~, shall be inscribed the official amateur radio call letters of such applicant as assigned by the federal communications commission.

Sec. 6. On and after July 1, 1999, K.S.A. 1998 Supp. 8-177a is hereby amended to read as follows: 8-177a. (a) Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of not more than ~~16,000~~ 20,000 pounds who is a resident of the state of Kansas, and who is a regularly enlisted or retired, warrant or commissioned member of the Kansas national guard, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such motor vehicle or truck that is not required to be registered with the state corporation commission designating the owner or lessee of such vehicle as a member or retired member of the Kansas national guard. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto.

(b) Any such member or retired member of the Kansas national guard may make application for such distinctive license plates, not less than 60 days prior to such member's renewal of registration date, on a form furnished by the director of vehicles, and any applicant for such distinctive license plates shall furnish the director with such applicant's armed forces of the United States identification card as proof that the applicant is a member or a retired member of the Kansas national guard. Application for the registration of passenger vehicles or trucks and issuance of the distinctive license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

(e) The adjutant general, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a distinctive license plate for issuance to members and retired members of the Kansas national guard.

Sec. 7. On and after July 1, 1999, K.S.A. 1998 Supp. 8-177c is hereby amended to read as follows: 8-177c. (a) As used in this section, "prisoner of war" means any person who was held as a prisoner of war while serving in the army, navy, coast guard, air force or marine corps of the United States in World War I or World War II or while serving with the armed forces of the United States during the military, naval and air operations in Korea, Viet Nam Vietnam or other places under the flags of the United States and the United Nations or under the flag of the United States alone.

(b) Any owner or lessee of a passenger vehicle or truck of gross weight of ~~12,000~~ 20,000 pounds or less, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a former prisoner of war or is the surviving spouse of a former prisoner of war, may, upon compliance with the provisions of this section, be issued one distinctive license plate designating such person as a prisoner of war. The license plate shall be issued for the same period of time as other license plates are issued upon proper registration without payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto. Only one distinctive license plate may be issued to any prisoner of war or surviving spouse of a prisoner of war, to be displayed on such a vehicle owned or leased by such person.

(c) Any prisoner of war or surviving spouse of a prisoner of war may make application for the distinctive license plate, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plate shall furnish the director with such proof as the director shall require that the applicant was a prisoner of war or is the surviving spouse of a prisoner of war. Application for the registration of a passenger vehicle or truck and issuance of the distinctive license plate under the provisions of this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon the appropriate form furnished by the director.

(d) Any registration or distinctive license plate issued under the authority of this section shall not be transferable to any other person, except to the surviving spouse of a prisoner of war.

(e) Renewals of registration hereunder shall be made annually, without charge, in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until the applicant has filed with the director a form as provided in subsection (c). If the form is not filed, the applicant shall be required to register the motor vehicle as provided in K.S.A. 8-143, and amendments thereto, and return the distinctive license plate to the county treasurer.

(f) The rights of the surviving spouse of a prisoner of war under this section shall terminate upon remarriage of such person.

(g) Nothing in this section shall authorize the surviving spouse of a prisoner of war to be issued a distinctive license plate under this section, unless the deceased prisoner of war had already been issued such distinctive license plate.

Sec. 8. On and after July 1, 1999, K.S.A. 8-1,139 is hereby amended to read as follows: 8-1,139. (a) Any owner or lessee of a passenger vehicle or truck of a gross weight of ~~12,000~~ 20,000 pounds or less, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a survivor of the attack on Pearl Harbor, upon compliance with the provisions of this section, may be issued one distinctive license plate designating such person as a survivor of the attack on Pearl Harbor. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto.

(b) Any person making application for a survivor of the attack on Pearl Harbor license plate must comply with the following:

(1) Was a member of the United States armed forces on December 7, 1941;

(2) was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu or offshore at a distance not to exceed three miles therefrom;

(3) received an honorable discharge from the United States armed forces; and

(4) has been approved by the chairperson of the Kansas Pearl Harbor survivors association as being a survivor of the attack on Pearl Harbor.

(c) Any survivor of the attack on Pearl Harbor may make application for the distinctive license plate, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any application for the distinctive license plate shall furnish the director with such proof as the director shall require that the applicant was a survivor of the attack on Pearl Harbor. Application for the registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(e) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (c). If such form is not filed, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

Sec. 9. On and after July 1, 1999, K.S.A. 1998 Supp. 8-1,140 is hereby amended to read as follows: 8-1,140. (a) Any owner or lessee of one or more passenger vehicles or trucks of a gross weight of ~~12,000~~ 20,000 pounds or less, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person was awarded a purple heart medal by the United States government for wounds received in military or naval combat against an armed enemy of the United States, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle or truck designating such person as a recipient of the purple heart medal. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto.

(b) Any recipient of the purple heart medal may make application for the distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with such proof as the director shall require that the applicant was a recipient of the purple heart medal. Application for the registration of a passenger vehicle or truck and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

Sec. 10. On and after July 1, 1999, K.S.A. 1998 Supp. 8-1,141 is hereby amended to read as follows: 8-1,141. (a) Any new distinctive license plate authorized for issuance on and after July 1, 1994, shall be subject to the personalized license plate fee prescribed by subsection (c) of K.S.A. 8-132, and amendments thereto. This section shall not apply to any distinctive license plate authorized prior to July 1, 1994.

(b) The director of vehicles shall not issue any new distinctive license plate authorized for issuance on and after July 1, 1995, unless there is a guarantee of an initial issuance of at least 500 license plates.

(c) The provisions of this section shall not apply to distinctive license plates issued under the provisions of K.S.A. 1998 Supp. 8-1,145, and amendments thereto.

(d) The provisions of subsection (a), shall not apply to distinctive license plates issued under the provisions of K.S.A. 1998 Supp. 8-1,146, and amendments thereto, or section 1.

Sec. 11. On and after July 1, 1999, K.S.A. 1998 Supp. 8-1,142 is hereby amended to read as follows: 8-1,142. (a) As used in this section, "educational institution" means:

(continued)

(1) Any state educational institution under the control and supervision of the state board of regents;

(2) any qualified institution as defined in K.S.A. 72-6107, and amendments thereto;

(3) any community college organized and operating under the laws of this state; and

(4) Haskell Indian Nations university.

(b) Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of not more than ~~12,000~~ 20,000 pounds who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one educational institution license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, plus the payment of an additional fee of \$5 for each plate, and the presentation of the annual emblem use authorization statement provided for in subsection (c).

(c) Any educational institution may authorize through its officially recognized alumni association or foundation the use of such institution's official emblems to be affixed on license plates as provided by this section. Any royalty payment to such alumni association or foundation derived from this section, except reasonable administrative costs, shall be used for recognition of academic achievement or excellence subject to the approval of the chancellor or president of the educational institution. Any motor vehicle owner or lessee may annually apply to the alumni association or foundation for the use of the institution's emblems. Upon annual application and payment to the alumni association or foundation in an amount of not less than \$25 nor more than \$100 as an emblem use royalty payment for each educational institution license plate to be issued, the alumni association or foundation shall issue to the motor vehicle owner or lessee, without further charge, an emblem use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration.

(d) Any applicant for an educational institution license plate may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the educational institution license plates shall provide the annual emblem use authorization statement provided for in subsection (c). Application for registration of a passenger vehicle or truck and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(e) No registration or educational institution license plate issued under this section shall be transferable to any other person.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (b), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides the annual emblem use authorization statement provided for in subsection (c). If such emblem use authorization statement is not presented at the time of registration, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the educational institution license plates to the county treasurer of such person's residence.

(g) The director of vehicles shall not issue any educational institution license plates for any educational institution, unless such educational institution's alumni association or foundation guarantees the initial issuance of at least 500 license plates.

(h) Each educational institution's alumni association or foundation shall:

(1) Pay the initial cost of silk-screening for such educational license plates; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the alumni association or foundation for information concerning the application process or the status of their license plate application.

(i) Each educational institution's alumni association or foundation, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a license plate to be issued under the provisions of this section.

Sec. 12. On and after July 1, 1999, K.S.A. 1998 Supp. 8-1,145 is hereby amended to read as follows: 8-1,145. (a) On and after January 1, 2001, any owner or lessee of one or more passenger vehicles or trucks of

a gross weight of ~~12,000~~ 20,000 pounds or less, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue; that such person was awarded the congressional medal of honor, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle or truck designating such person as a recipient of the congressional medal of honor. Such license plates shall be issued for the same period of time as other license plates upon proper registration and without payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto.

(b) Any recipient of the congressional medal of honor may make application for the distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with such proof as the director shall require that the applicant was a recipient of the congressional medal of honor. Application for the registration of a passenger vehicle or truck and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, without charge, in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

Sec. 13. On and after July 1, 1999, K.S.A. 1998 Supp. 8-1,146 is hereby amended to read as follows: 8-1,146. (a) Any owner or lessee of one or more passenger vehicles or trucks of a gross weight of ~~12,000~~ 20,000 pounds or less, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person has proof of having served and is designated as a veteran, and has had an honorable discharge from the United States army, navy, air force, marine corps, coast guard or merchant marines, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle or truck designating such person as a United States military veteran. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto.

(b) Any person who is a veteran of the United States army, navy, air force, marine corps, coast guard or merchant marines may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with proof as the director shall require that the applicant is a veteran of the United States army, navy, air force, marine corps, coast guard or merchant marines. Application for the registration of a passenger vehicle or truck and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration of distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

Sec. 14. On and after July 1, 1999, K.S.A. 8-235d is hereby amended to read as follows: 8-235d. (a) Drivers' license examiners of the division shall accept original applications for drivers' licenses and instruction permits, as distinguished from applications for renewals of licenses, on forms prescribed by the division and also shall issue instruction permits. Drivers'



license examiners of the division shall examine every applicant for a driver's license who is required by the provisions of the motor vehicle drivers' license act to be examined. Such examination shall be held in the county where the applicant resides or at a place adjacent thereto reasonably convenient to the applicant or at a location established by the secretary for the issuance of a commercial driver's license. Such examination shall include a test of the applicant's eyesight, the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of the traffic laws of this state and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of motor vehicles which the class of license applied for would entitle the applicant to drive. At the conclusion of the examination the examiner shall issue a license to the applicant, if the applicant has successfully passed the examination with the class of license the applicant has applied for.

(b) *In addition to the requirements of subsection (a), any person who is under the age of 18 years and at least 16 years of age, who is applying for a driver's license for the first time, not including an instruction permit, shall submit a signed affidavit of either a parent or guardian, stating that the applicant has completed at least 50 hours of adult supervised driving with at least 10 of those hours being at night. The required adult supervised driving required in this subsection shall be conducted by an adult who is at least 21 years of age and is the holder of a valid commercial driver's license, class A, B or C driver's license.*

*Evidence of failure of any licensee who was required to complete the 50 hours of adult supervised driving under this subsection shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.*

Sec. 15. On and after July 1, 1999, K.S.A. 1998 Supp. 8-237 is hereby amended to read as follows: 8-237. The division of vehicles shall not issue any driver's license to any person:

(a) Who is under the age of 16 years, except that the division may issue a restricted class C or M license, as provided in this act, to any person who: (1) Is at least 15 years of age; (2) has successfully completed an approved course in driver training; (3) *has held an instructional permit issued under the provisions of K.S.A. 8-239, and amendments thereto, for a period of at least six months and has completed at least 25 hours of adult supervised driving; and (3) (4) upon the written application of the person's parent or guardian. The required adult supervised driving required in clause (3) above shall be conducted by an adult who is at least 21 years of age and is the holder of a valid commercial driver's license, class A, B or C driver's license.* Except as hereafter provided, the application of the parent or guardian shall be submitted to the division. The governing body of any city, by ordinance, may require the application of any person who is under 16 years of age and who resides within the city to be first submitted to the chief law enforcement officer of the city. The board of county commissioners of any county, by resolution, may require the application of any person who is under 16 years of age and who resides within the county and outside the corporate limits of any city to be first submitted to the chief law enforcement officer of the county. No ordinance or resolution authorized by this subsection shall become effective until a copy of it is transmitted to the division of vehicles. The chief law enforcement officer of any city or county which has adopted the ordinance or resolution authorized by this subsection shall make a recommendation on the application as to the necessity for the issuance of the restricted license, and the recommendation shall be transmitted, with the application, to the division of vehicles. If the division finds that it is necessary to issue the restricted license, it shall issue a driver's license to the person.

A restricted class C license issued under this subsection shall entitle the licensee, while possessing the license, to operate any motor vehicle in class C, as designated in K.S.A. 8-234b, and amendments thereto. A restricted class M license shall entitle the licensee, while possessing such license, to operate a motorcycle. The restricted license shall entitle the licensee to operate the appropriate vehicle at any time:

(1) While going to or from or in connection with any job, employment or farm-related work;

(2) On days while school is in session, over the most direct and accessible route between the licensee's residence and school of enrollment for the purposes of school attendance;

(3) When the licensee is operating a passenger car, at any time when accompanied by an adult who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver; or

(4) when the licensee is operating a motorcycle, at any time when accompanied by an adult who is the holder of a valid class M driver's license and who is operating a motorcycle in the general proximity of the licensee.

Any licensee issued a restricted license under this subsection shall not operate any motor vehicle with nonsibling minor passengers and any conviction for violating this provision shall be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

A restricted driver's license issued under this subsection is subject to suspension or revocation in the same manner as any other driver's license. In addition, the division may suspend the restricted driver's license upon receiving satisfactory evidence that: (1) The licensee has violated the restriction of the license; (2) the licensee has been involved in two or more accidents chargeable to the licensee or (3) the recommendation of the chief law enforcement officer of any city or county requiring the recommendation has been withdrawn. The suspended license shall not be reinstated for one year or until the licensee reaches the age of 16, whichever period is longer.

*Any licensee issued a restricted license under this subsection who: (1) Is under the age of 16 years and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of this subsection until the person reaches 17 years of age; or (2) fails to provide the required affidavit stating that the licensee has completed at least 50 hours of adult supervised driving with 10 of those hours being at night shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of this subsection until the person provides such affidavit to the division or the person reaches 17 years of age, whichever occurs first.*

*Any licensee issued a restricted license under this subsection on and after July 1, 1999, shall provide prior to reaching 16 years of age, a signed affidavit of either a parent or guardian, stating that the applicant has completed the required 25 hours prior to being issued a restricted license and 25 hours of additional adult supervised driving. Of the 50 hours required by this subsection, at least 10 of those hours shall be at night. The adult supervised driving shall be conducted by an adult who is at least 21 years of age and is the holder of a valid commercial driver's license, class A, B or C driver's license.*

*Evidence of failure of any licensee who was required to complete the 50 hours of adult supervised driving under this subsection shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.*

(b) Who is under the age of 18 years, except as provided in K.S.A. 1998 Supp. 8-2,147, and amendments thereto, for the purpose of driving a commercial or class A or B motor vehicle.

(c) Whose license is currently revoked, suspended or canceled in this or any other state, except as provided in K.S.A. 8-256, and amendments thereto.

(d) Who is a habitual drunkard, habitual user of narcotic drugs or habitual user of any other drug to a degree which renders the user incapable of safely driving a motor vehicle.

(e) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of making application for a driver's license, has not been restored to capacity in the manner provided by law. Application of this limitation to any person known to have suffered any seizure disorder is subject to the provisions of paragraph (7) of subsection (e) of K.S.A. 8-247, and amendments thereto.

(f) Who is required by the motor vehicle drivers' license act to take an examination, unless the person has successfully passed the examination.

(g) Who is at least 16 years of age and less than 17 years of age, who is applying for a driver's license for the first time since reaching 16 years of age and who, three times or more, has been adjudged to be a traffic offender under the Kansas juvenile code or a juvenile offender under the Kansas juvenile justice code, by reason of violation of one or more statutes regulating the movement of traffic on the roads, streets or highways of this state, except that, in the discretion of the director, the person may be issued a driver's license which is restricted in the manner the division deems to be appropriate. No person described by this subsection shall be eligible to receive a driver's license which is not restricted until the person has reached the age of 17 years.

(continued)

Sec. 16. On and after July 1, 1999, K.S.A. 1998 Supp. 8-239 is hereby amended to read as follows: 8-239. (a) Any person who is at least 14 years of age may apply to the division for an instruction permit. The division may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant while having such permit in such person's immediate possession to drive a passenger car upon the public highways for a period of one year subject to the restrictions herein contained. The division may issue an instruction or restricted instruction permit to any person who is at least 14 years of age and under the age of 16 years only upon the written application of a parent or guardian of the minor. The one having the instruction permit may operate a passenger car at any time when accompanied by an adult who is the holder of a valid commercial driver's license, class A, B or C driver's license, who has had at least one year of driving experience and who is occupying a seat beside the driver. Any person who is at least 14 years of age may apply for an instruction permit to operate a motorcycle either separate from or in conjunction with an instruction permit to operate a passenger car, and such permit shall entitle the permittee to operate a motorcycle if such person is accompanied by an adult who is the holder of a valid class M driver's license, who has had at least one year of driving experience and who is riding a motorcycle in the general proximity of the permittee.

(b) The division upon receiving proper application may issue in its discretion a restricted instruction permit effective for a school year or for a more restricted period to an applicant who is at least 14 years of age and who is enrolled in a driver-education program which includes practice driving and which is approved by the division, even though the applicant has not reached the legal age to be eligible for a driver's license. Such instruction permit shall entitle the permittee when the person has such permit in such person's immediate possession to operate a passenger car only on a designated highway or within a designated area but only when an approved instructor is occupying a seat beside the permittee or when such permit has been endorsed by an approved instructor to operate a passenger car with a parent or guardian who is the holder of a valid commercial driver's license, class A, B or C driver's license, who has had at least one year of driving experience and who is occupying a seat beside the driver.

(c) The division, in its discretion, may issue a temporary driver's permit to an applicant for a classified driver's license permitting the applicant to operate a motor vehicle within such classification while the division is completing its investigation and determination of all facts relative to such applicant's right to receive a driver's license. The division may issue such a temporary driver's permit to any applicant whose employer certifies that such permit is necessary to complete seasonal agricultural operations of the employer. Any such temporary driver's permit issued pursuant to this subsection shall be in the immediate possession of the permittee while operating a motor vehicle, and it shall be invalid on the date specified thereon, which shall not be more than 15 days after its issuance, or when the applicant's license has been issued or for good cause has been refused.

Sec. 17. On and after July 1, 1999, K.S.A. 1998 Supp. 8-296 is hereby amended to read as follows: 8-296. (a) Any person who is less than 16 years of age but is at least 14 years of age and who resides upon a farm in this state or is employed for compensation upon a farm in this state may apply to the division of vehicles for a farm permit authorizing such person, while possessing the permit, to operate any motor vehicle in class C, as designated in K.S.A. 8-234b, and amendments thereto. The farm permit shall entitle the licensee to operate such motor vehicles at any time:

- (1) While going to or from or in connection with any farm job, employment or other farm-related work;
- (2) on days while school is in session, over the most direct and accessible route between the licensee's residence and school of enrollment for the purpose of school attendance; or
- (3) when the licensee is operating a passenger car at any time when accompanied by an adult who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver.

(b) A farm permit shall be issued only if:

- (1) The applicant can prove that such applicant resides or works on a farm;

(2) the applicant has successfully completed the examination requirements in K.S.A. 8-235d, and amendments thereto; and

(3) the applicant submits the signed affidavit of either a parent or guardian, stating that the applicant lives on a farm or, if the applicant does not live on a farm but works on a farm, the applicant submits the signed affidavit of the applicant's employer and parent or guardian, attesting to such employment.

(c) Any licensee issued a farm permit under this section shall not operate any motor vehicle with nonsibling minor passengers and any conviction for violating this provision shall be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

(d) As used in this section, "farm" means any parcel of land larger than 20 acres which is used in agricultural operations.

(e) A farm permit issued under this section is subject to suspension or revocation in the same manner as any other driver's license. A person who has been issued a farm permit and who violates this section by driving beyond the scope allowed in subsection (a) shall lose the farm permit and shall be issued no other driver's license for a period of one year or until the person reaches 16 years of age, whichever period is longer.

(f) Any licensee issued a farm permit under this section on and after July 1, 1999, shall provide prior to reaching 16 years of age, a signed affidavit of either a parent or guardian, stating that the applicant has completed at least 50 hours of adult supervised driving with at least 10 of those hours being at night. The adult supervised driving required by this paragraph shall be conducted by an adult who is at least 21 years of age and is the holder of a valid commercial driver's license, class A, B or C driver's license.

Evidence of failure of any licensee who was required to complete the 50 hours of adult supervised driving under this subsection shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(g) Any licensee issued a farm permit under this section who: (1) is under the age of 16 years and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (a), until the person reaches 17 years of age; or (2) fails to provide the affidavit required under subsection (f), shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (a), until the person provides such affidavit to the division or the person reaches 17 years of age, whichever occurs first.

Sec. 18. On and after July 1, 1999, K.S.A. 1998 Supp. 8-1014 is hereby amended to read as follows: 8-1014. (a) Except as provided by subsection (d) (e) and K.S.A. 8-2,142, and amendments thereto, if a person refuses a test, the division, pursuant to K.S.A. 8-1002, and amendments thereto, shall suspend the person's driving privileges for one year.

(b) Except as provided by subsection (d) subsections (c) and (e) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state, the division shall:

(1) On the person's first occurrence, suspend the person's driving privileges for 30 days, then restrict the person's driving privileges as provided by K.S.A. 8-1015, and amendments thereto, for an additional 330 days; and

(2) on the person's second or a subsequent occurrence, suspend the person's driving privileges for one year.

(c) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person who is less than 21 years of age fails a test or has an alcohol or drug-related conviction in this state, the division shall:

- (1) Suspend the person's driving privileges for one year; or
- (2) if such person has entered a diversion agreement under K.S.A. 12-4412 et seq., and amendments thereto, or K.S.A. 22-2906 et seq., and amendments thereto, suspend the person's driving privileges for the term of such diversion agreement.

(e) (d) Whenever the division is notified by an alcohol and drug safety action program that a person has failed to complete any alcohol and drug safety action education or treatment program ordered by a court for a conviction of a violation of K.S.A. 8-1567, and amendments thereto, the division shall suspend the person's driving privileges until the division receives notice of the person's completion of such program.

(d) (e) Except as provided in K.S.A. 8-2,142, and amendments thereto, if a person's driving privileges are subject to suspension pursuant to this section for a test refusal, test failure or alcohol or drug-related conviction arising from the same arrest, the period of such suspension



shall not exceed the longest applicable period authorized by subsection (a) or (b) or (c), and such suspension periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of such suspension as authorized by subsection (a) or (b) or (c), such person shall receive credit for any period of time for which such person's driving privileges were suspended while awaiting any hearing or final order authorized by this act.

If a person's driving privileges are subject to restriction pursuant to this section for a test failure or alcohol or drug-related conviction arising from the same arrest, the restriction periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of restriction, the person shall receive credit for any period of suspension imposed for a test refusal arising from the same arrest.

(e) (f) If the division has taken action under subsection (a) for a test refusal or under subsection (b) or (c) for a test failure and such action is stayed pursuant to K.S.A. 8-259, and amendments thereto, or if temporary driving privileges are issued pursuant to subsection (k) of K.S.A. 8-1002, and amendments thereto, the stay or temporary driving privileges shall not prevent the division from taking the action required by subsection (b) or (c) for an alcohol or drug-related conviction.

(g) Upon restricting a person's driving privileges pursuant to this section, the division shall issue without charge a driver's license which shall indicate on the face of the license that restrictions have been imposed on the person's driving privileges and that a copy of the order imposing the restrictions is required to be carried by the person for whom the license was issued any time the person is operating a motor vehicle on the highways of this state.

Sec. 19. On and after July 1, 1999, K.S.A. 1998 Supp. 8-1567a is hereby amended to read as follows: 8-1567a. (a) It shall be unlawful for any person less than 21 years of age to operate or attempt to operate a vehicle in this state with a breath or blood alcohol content of .02 or greater.

(b) Whenever a law enforcement officer determines that a breath or blood alcohol test is to be required of a person less than 21 years of age pursuant to K.S.A. 8-1001 or K.S.A. 8-2,142 and amendments thereto, in addition to any other notices required by law, the law enforcement officer shall provide written and oral notice that: (1) It is unlawful for any person less than 21 years of age to operate or attempt to operate a vehicle in this state with a breath or blood alcohol content of .02 or greater; and (2) if the person is less than 21 years of age at the time of the test request and submits to and completes the test or tests and the test results show an alcohol concentration of .02 or greater, the person's driving privileges will be suspended for at least 30 days upon the first occurrence and for at least 90 days upon a second or subsequent occurrence.

(c) Any suspension and restriction of driving privileges pursuant to this section shall be in addition to any disqualification from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142 and amendments thereto.

(d) Whenever a breath or blood alcohol test is requested pursuant to K.S.A. 8-1001 and amendments thereto, from a person less than 21 years of age, and results in a test result of .02 or greater, but less than .08, a law enforcement officer's certification under this section shall be prepared. The certification required by this section shall be signed by one or more officers to certify that:

(1) (A) There existed reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128 and amendments thereto, while having alcohol or other drugs in such person's system; (B) the person had been placed under arrest, was in custody or had been involved in a vehicle accident or collision; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001 and amendments thereto, and the oral and written notice required by this section; (D) that the person was less than 21 years of age at the time of the test request; and (E) the result of the test showed that the person had an alcohol concentration of .02 or greater in such person's blood or breath.

(2) With regard to a breath test, in addition to those matters required to be certified under subsection (d)(1), that: (A) The testing equipment used was certified by the Kansas department of health and environment; (B) the testing procedures used were in accordance with the requirements set out by the Kansas department of health and environment; and (C) the person who operated the testing equipment was certified by the

Kansas department of health and environment to operate such equipment.

(e) If a hearing is requested as a result of a law enforcement officer's certification under this section, the scope of the hearing shall be limited to whether: (1) A law enforcement officer had reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128 and amendments thereto, while having alcohol or other drugs in such person's system; (2) the person was in custody or arrested for an alcohol or drug related offense or was involved in a motor vehicle accident or collision resulting in property damage, personal injury or death; (3) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001 and amendments thereto, and the oral and written notice required by this section; (4) the testing equipment used was reliable; (5) the person who operated the testing equipment was qualified; (6) the testing procedures used were reliable; (7) the test result determined that the person had an alcohol concentration of .02 or greater in such person's blood or breath; (8) the person was operating a vehicle; and (9) the person was less than 21 years of age at the time a test was requested.

(f) If a person less than 21 years of age submits to a breath or blood alcohol test requested pursuant to K.S.A. 8-1001 or K.S.A. 8-2,142 and amendments thereto, and produces a test result of .02 or greater, but less than .08, the person's driving privileges upon the first occurrence shall be suspended for 30 days and upon a second or subsequent occurrence shall be suspended for 90 days one year.

(g) Except where there is a conflict between this section and K.S.A. 8-1001 and 8-1002 and amendments thereto, the provisions of K.S.A. 8-1001 and 8-1002 and amendments thereto, shall be applicable to proceedings under this section.

(h) Any determination under this section that a person less than 21 years of age had a test result of .02 or greater, but less than .08, and any resulting administrative action upon the person's driving privileges, upon the first occurrence of such test result and administrative action, shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy or whether to cancel any such policy under the provisions of subsection (4)(a) of K.S.A. 40-277 and amendments thereto.

(i) The provisions of this section shall take effect on and after January 1, 1997.

Sec. 20. K.S.A. 1998 Supp. 74-2012 is hereby amended to read as follows: 74-2012. (a) All records of the division of vehicles shall be subject to the provisions of the open records act, except as otherwise provided under the provisions of this section and by K.S.A. 1998 Supp. 74-2022, and amendments thereto.

(a) (b) All records of the division of vehicles relating to the physical or mental condition of any person, to expungement or except as provided further, any photographs maintained by the division of vehicles in connection with the issuance of drivers' licenses shall be confidential. Photographs or digital images maintained by the division of vehicles in connection with the issuance of drivers' licenses shall be available to law enforcement agencies for use in criminal investigations. Records of the division relating to diversion agreements for the purposes of K.S.A. 8-1567, 12-4415 and 22-2908, and amendments thereto, shall be confidential and shall be disclosed by direct computer access only to:

(1) A city, county or district attorney, for the purpose of determining a person's eligibility for diversion;

(2) a municipal or district court, for the purpose of using the record in connection with any matter before the court;

(3) a law enforcement agency, for the purpose of supplying the record to a person authorized to obtain it under paragraph (1) or (2) of this subsection; or

(4) an employer when a person is required to retain a commercial driver's license due to the nature of such person's employment.

All other records of the division of vehicles shall be subject to the provisions of the open records act except as otherwise provided by K.S.A. 1998 Supp. 74-2022 and amendments thereto or this section.

(b) (c) Lists of persons' names and addresses contained in or derived from records of the division of vehicles shall not be sold, given or received for the purposes prohibited by K.S.A. 21-3914, and amendments thereto, except that:

(continued)

(1) The director of vehicles may provide to a requesting party, and a requesting party may receive, such a list and accompanying information from public records of the division upon written certification that the requesting party shall use the list solely for the purpose of:

(A) Assisting manufacturers of motor vehicles in compiling statistical reports or in notifying owners of vehicles believed to:

- (i) Have safety-related defects,
(ii) fail to comply with emission standards; or
(iii) have any defect to be remedied at the expense of the manufacturer.

(B) assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy; or

(C) assisting the selective service system in the maintenance of a list of persons 18 to 26 years of age in this state as required under the provisions of section 3 of the federal military selective service act; or

(D) assisting businesses with the verification of reporting of information derived from the title and registration records of the division to prepare and assemble vehicle history reports, except that such vehicle history reports shall not include the names or addresses of any current or previous owners.

(2) Any law enforcement agency of this state which has access to public records of the division may furnish to a requesting party, and a requesting party may receive, such a list and accompanying information from such records upon written certification that the requesting party shall use the list solely for the purpose of assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy.

(e)(d) If a law enforcement agency of this state furnishes information to a requesting party pursuant to paragraph (2) of subsection (b)(2) (c), the law enforcement agency shall charge the fee prescribed by the secretary of revenue pursuant to K.S.A. 1998 Supp. 74-2022, and amendments thereto, for any copies furnished and may charge an additional fee to be retained by the law enforcement agency to cover its cost of providing

such copies. The fee prescribed pursuant to K.S.A. 1998 Supp. 74-2022, and amendments thereto, shall be paid monthly to the secretary of revenue and upon receipt thereof shall be deposited in the state treasury to the credit of the electronic databases fee fund, except for the \$1 of the fee for each record required to be credited to the highway patrol training center fund under subsection (e) (f).

(e) (e) The secretary of revenue, the secretary's agents or employees, the director of vehicles or the director's agents or employees shall not be liable for damages caused by any negligent or wrongful act or omission of a law enforcement agency in furnishing any information obtained from records of the division of vehicles.

(e) (f) A fee in an amount fixed by the secretary of revenue pursuant to K.S.A. 1998 Supp. 74-2022, and amendments thereto, of not less than \$2 for each request for information in the public records of the division concerning any vehicle or licensed driver shall be charged by the division, except that the director may charge a lesser fee pursuant to a contract between the secretary of revenue and any person to whom the director is authorized to furnish information under paragraph (1) of subsection (b) (c), and such fee shall not be less than the cost of production or reproduction of any information requested. Except for the fees charged pursuant to a contract for title and registration records, on vehicles authorized by this subsection, \$1 shall be credited to the highway patrol training center fund for each record.

(e) (g) The secretary of revenue may adopt such rules and regulations as are necessary to implement the provisions of this section.

Sec. 21. K.S.A. 1998 Supp. 74-2012 is hereby repealed.

Sec. 22. On and after July 1, 1999, K.S.A. 8-132, 8-161, 8-162, 8-1, 139 and 8-235d and K.S.A. 1998 Supp. 8-133, 8-177a, 8-177c, 8-1, 140, 8-1, 141, as amended by section 1 of 1999 House Bill No. 2094, 8-1, 142, 8-1, 145, 8-1, 146, 8-237, 8-239, 8-296, 8-1014 and 8-1567a are hereby repealed.

Sec. 23. This act shall take effect and be in force from and after its publication in the Kansas register.

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the Kansas Register issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the index to the 1997 Volumes of the Kansas Administrative Regulations and the 1998 Supplement to the Kansas Administrative Regulations.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Table with 3 columns: Reg. No., Action, Register. Lists regulations 1-2-46 through 1-16-18a with their respective actions and register references.

Table with 3 columns: Reg. No., Action, Register. Lists regulations 1-18-1a through 1-39-4.

AGENCY 4: DEPARTMENT OF AGRICULTURE

Table with 3 columns: Reg. No., Action, Register. Lists regulations 4-7-213 through 4-21-6.

AGENCY 7: SECRETARY OF STATE

Table with 3 columns: Reg. No., Action, Register. Lists regulations 7-34-1 and 7-39-1.

AGENCY 9: ANIMAL HEALTH DEPARTMENT

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AGENCY 11: STATE CONSERVATION COMMISSION

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AGENCY 16: ATTORNEY GENERAL

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AGENCY 17: STATE BANK COMMISSIONER

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AGENCY 25: DEPARTMENT OF AGRICULTURE (KANSAS STATE GRAIN INSPECTION)

Table with 3 columns: Reg. No., Action, Register. Lists regulation 25-5-1.

AGENCY 26: DEPARTMENT ON AGING

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AGENCY 27: STATE CORPORATION COMMISSION (KANSAS ENERGY OFFICE)

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AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT

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28-19-202	Amended	V. 17, p. 122
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28-19-562	Amended	V. 17, p. 145
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28-19-650	New	V. 18, p. 50
28-29-12	Amended	V. 17, p. 1026
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30-4-52	Amended	V. 17, p. 933
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51-17-2	New	V. 17, p. 635
51-18-2	Amended	V. 17, p. 636
51-18-3 through 51-18-6	New	V. 17, p. 637
51-19-1	Amended	V. 17, p. 637
51-21-1	Amended	V. 17, p. 637
51-24-1	Amended	V. 17, p. 637
51-24-2	Revoked	V. 17, p. 637
51-24-7	Revoked	V. 17, p. 637

**AGENCY 60: BOARD OF NURSING**

Reg. No.	Action	Register
60-3-101	Amended	V. 18, p. 51
60-3-106	Amended	V. 18, p. 51
60-3-106a	Amended	V. 17, p. 357
60-3-107	Amended	V. 17, p. 357
60-3-112	New	V. 17, p. 357
60-4-101	Amended	V. 17, p. 358
60-7-101	Amended	V. 18, p. 52
60-7-109	New	V. 17, p. 358
60-7-110	New	V. 17, p. 358
60-8-101	Amended	V. 17, p. 358
60-9-105	Amended	V. 17, p. 358
60-9-106	Amended	V. 17, p. 359
60-9-107	Amended	V. 17, p. 360
60-11-119	Amended	V. 17, p. 361
60-11-120	New	V. 17, p. 361
60-11-121	New	V. 17, p. 361
60-15-101 through 60-15-104	Amended	V. 17, p. 1321-1323
60-16-101	Amended	V. 17, p. 796
60-16-102	Amended	V. 17, p. 796

**AGENCY 65: BOARD OF EXAMINERS IN OPTOMETRY**

Reg. No.	Action	Register
65-4-3	Amended	V. 17, p. 1270
65-9-1	Amended	V. 18, p. 357
65-10-2	Amended	V. 18, p. 357
65-11-3	Amended	V. 18, p. 357

**AGENCY 66: BOARD OF TECHNICAL PROFESSIONS**

Reg. No.	Action	Register
66-6-1	Amended	V. 17, p. 102
66-7-2	Amended	V. 18, p. 79

66-10-1 Amended V. 17, p. 102

AGENCY 68: BOARD OF PHARMACY

Table with 3 columns: Reg. No., Action, Register. Rows include 68-1-1b, 68-2-20, 68-2-22, 68-7-12, 68-11-1, 68-20-10a, 68-20-15a, 68-20-16, 68-20-17, 68-20-19.

AGENCY 69: BOARD OF COSMETOLOGY

Table with 3 columns: Reg. No., Action, Register. Row includes 69-11-1.

AGENCY 71: KANSAS DENTAL BOARD

Table with 3 columns: Reg. No., Action, Register. Rows include 71-3-7, 71-6-1 through 71-6-6.

AGENCY 74: BOARD OF ACCOUNTANCY

Table with 3 columns: Reg. No., Action, Register. Rows include 74-2-7, 74-4-1, 74-4-4, 74-4-7, 74-4-8, 74-4-9, 74-4-10, 74-5-2, 74-5-103, 74-5-104, 74-5-202, 74-5-203, 74-5-301, 74-5-404, 74-5-406, 74-5-407, 74-6-2, 74-11-6 through 74-11-14.

AGENCY 75: CONSUMER CREDIT COMMISSIONER

Table with 3 columns: Reg. No., Action, Register. Row includes 75-6-24.

AGENCY 82: STATE CORPORATION COMMISSION

Table with 3 columns: Reg. No., Action, Register. Rows include 82-1-221a, 82-1-221b, 82-1-228, 82-1-235, 82-3-101, 82-3-401b, 82-3-408, 82-3-800 through 82-3-804, 82-3-900 through 82-3-908, 82-4-1, 82-4-3, 82-4-6d, 82-4-20, 82-4-21, 82-4-22, 82-4-23, 82-4-24a, 82-4-26, 82-4-27, 82-4-27a, 82-4-27c, 82-4-27e, 82-4-27f, 82-4-27g.

Table with 3 columns: Reg. No., Action, Register. Rows include 82-4-28, 82-24-28a, 82-4-28b, 82-4-29a, 82-4-30a, 82-4-30b, 82-4-31, 82-4-32, 82-4-33, 82-4-35a, 82-4-37, 82-4-42, 82-4-46, 82-4-48, 82-4-48a, 82-4-49c, 82-4-53, 82-4-54, 82-4-55, 82-4-56a, 82-4-57, 82-4-58a, 82-4-58b, 82-4-58c, 82-4-58d, 82-4-59, 82-4-62, 82-4-63, 82-4-64, 82-4-65, 82-4-67, 82-4-68, 82-4-69, 82-4-85, 82-11-3, 82-11-4, 82-11-9, 82-11-10, 82-11-11, 82-12-2.

AGENCY 86: KANSAS REAL ESTATE COMMISSION

Table with 3 columns: Reg. No., Action, Register. Row includes 86-1-5.

AGENCY 88: BOARD OF REGENTS

Table with 3 columns: Reg. No., Action, Register. Rows include 88-2-1, 88-3-1, 88-3-2, 88-3-5, 88-3-9, 88-3-11, 88-3-13.

AGENCY 91: DEPARTMENT OF EDUCATION

Table with 3 columns: Reg. No., Action, Register. Rows include 91-5-1, 91-5-1a, 91-5-2, 91-5-4, 91-5-8, 91-5-9, 91-5-10, 91-5-11, 91-5-13.

AGENCY 92: DEPARTMENT OF REVENUE

Table with 3 columns: Reg. No., Action, Register. Rows include 92-19-1a, 92-19-1b, 92-19-3, 92-19-8, 92-19-13, 92-19-13a, 92-19-16, 92-19-18, 92-19-18a, 92-19-19, 92-19-25a, 92-19-25b, 92-19-27a, 92-19-30, 92-19-32.

Table with 3 columns: Reg. No., Action, Register. Rows include 92-19-34, 92-19-35, 92-19-39, 92-19-49, 92-19-49a, 92-19-66a, 92-19-66b, 92-19-66d, 92-19-66e, 92-19-68, 92-19-78, 92-21-18, 92-21-21.

AGENCY 93: DEPARTMENT OF REVENUE—DIVISION OF PROPERTY VALUATION

Table with 3 columns: Reg. No., Action, Register. Rows include 93-3-1 through 93-4-6.

AGENCY 99: DEPARTMENT OF AGRICULTURE—DIVISION OF WEIGHTS AND MEASURES

Table with 3 columns: Reg. No., Action, Register. Rows include 99-25-1, 99-25-2, 99-25-4, 99-25-8, 99-27-1 through 99-27-5, 99-30-5, 99-30-6, 99-31-5, 99-31-6, 99-40-47.

AGENCY 100: BOARD OF HEALING ARTS

Table with 3 columns: Reg. No., Action, Register. Rows include 100-11-1, 100-15-1, 100-22-1, 100-23-1, 100-24-1, 100-24-2, 100-24-3, 100-29-3a, 100-29-7, 100-49-4, 100-54-1, 100-54-2, 100-54-3, 100-54-4, 100-54-5, 100-54-6, 100-54-8, 100-54-9, 100-55-4, 100-55-10, 100-60-1, 100-69-5.

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Table with 3 columns: Reg. No., Action, Register. Rows include 102-1-1, 102-1-8, 102-1-12, 102-3-7, 102-3-7a, 102-4-7a, 102-5-7, 102-5-7a.

AGENCY 108: STATE EMPLOYEES HEALTH CARE COMMISSION

Table with 3 columns: Reg. No., Action, Register. Row includes 108-1-2.

**AGENCY 111: KANSAS LOTTERY**

A complete index listing all regulations filed by the Kansas Lottery can be found in the Vol. 17, No. 53, December 31, 1998 issue of the Kansas Register. The Kansas Lottery regulations listed below were published after December 31, 1998.

Reg. No.	Action	Register
111-1-5	Amended	V. 18, p. 451
111-2-43 through 111-2-65	Revoked	V. 18, p. 330
111-2-67 through 111-2-71	Revoked	V. 18, p. 330, 331
111-2-74	Revoked	V. 18, p. 331
111-2-75	Revoked	V. 18, p. 331
111-2-76	Revoked	V. 18, p. 331
111-2-80	New	V. 18, p. 54
111-2-81	New	V. 18, p. 14
111-2-82	New	V. 18, p. 55
111-2-83	New	V. 18, p. 55
111-2-84	New	V. 18, p. 55
111-2-85	New	V. 18, p. 125
111-2-86	New	V. 18, p. 125
111-2-87	New	V. 18, p. 331
111-2-88 through 111-2-93	New	V. 18, p. 451-453
111-3-14	Amended	V. 18, p. 331
111-3-21	Amended	V. 18, p. 332
111-3-22	Amended	V. 18, p. 332
111-4-1364 through 111-4-1380	New	V. 18, p. 14-19
111-4-1381 through 111-4-1396	New	V. 18, p. 55-59

111-4-1397 through 111-4-1412	New	V. 18, p. 125-129
111-4-1413 through 111-4-1430	New	V. 18, p. 332-336
111-4-1423	Amended	V. 18, p. 453
111-4-1431 through 111-4-1443	New	V. 18, p. 454-457
111-5-24	Amended	V. 18, p. 130
111-5-28	Amended	V. 18, p. 130
111-5-31	Amended	V. 18, p. 457
111-5-75	New	V. 18, p. 59
111-5-76	New	V. 18, p. 457
111-7-134	Amended	V. 18, p. 336
111-9-97 through 111-9-102	New	V. 18, p. 337

**AGENCY 112: KANSAS RACING AND GAMING COMMISSION**

Reg. No.	Action	Register
112-4-1	Amended	V. 17, p. 511
112-4-22	Amended	V. 17, p. 512
112-4-22a	New	V. 17, p. 512
112-4-23	Amended	V. 17, p. 590
112-7-7	Amended	V. 17, p. 512
112-10-8	Amended	V. 17, p. 1968
112-12-9	Amended	V. 17, p. 213
112-16-11	Amended	V. 17, p. 590
112-18-21	Amended	V. 17, p. 60

**AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS**

Reg. No.	Action	Register
115-2-3	Amended	V. 17, p. 462
115-2-6	New	V. 17, p. 462
115-4-1	Amended	V. 17, p. 463

115-4-7	Amended	V. 17, p. 464
115-11-2	Amended	V. 18, p. 484
115-17-1	Amended	V. 17, p. 1707
115-17-2	Amended	V. 17, p. 1707
115-17-4	Amended	V. 17, p. 1708
115-17-5	Amended	V. 17, p. 1708
115-17-6	Amended	V. 17, p. 1708
115-17-14	Amended	V. 17, p. 1709
115-18-12	Amended	V. 17, p. 1086
115-18-13	Amended	V. 17, p. 1414
115-20-2	Amended	V. 17, p. 1709
115-35-1	New	V. 17, p. 1710

**AGENCY 117: REAL ESTATE APPRAISAL BOARD**

Reg. No.	Action	Register
117-2-1	Amended	V. 18, p. 294
117-2-2	Amended	V. 18, p. 295
117-3-1	Amended	V. 18, p. 296
117-3-2	Amended	V. 18, p. 296
117-4-1	Amended	V. 18, p. 297
117-4-2	Amended	V. 18, p. 298
117-5-1	Amended	V. 17, p. 465
117-5-2	New	V. 17, p. 465
117-5-3	New	V. 17, p. 465
117-6-3	Amended	V. 17, p. 1706
117-8-1	Amended	V. 17, p. 1167
117-8-2	New	V. 17, p. 1707

**AGENCY 118: KANSAS STATE HISTORICAL SOCIETY**

Reg. No.	Action	Register
118-1-1 through 118-1-4	Amended	V. 17, p. 1547, 1548
118-3-1 through 118-3-16	New	V. 17, p. 1549-1553



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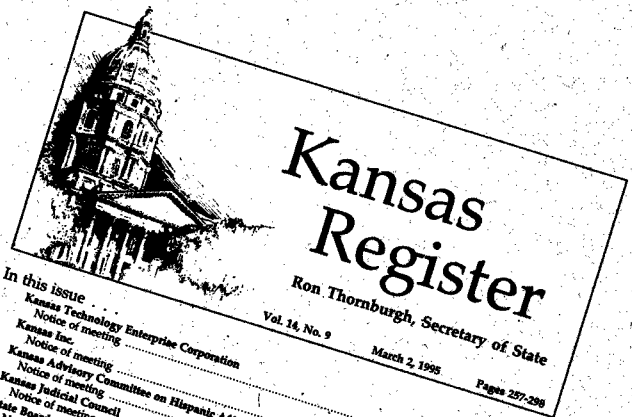
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