

Kansas Register

Ron Thornburgh, Secretary of State

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State of Kansas

Legislature

Interim Committee Schedule

The following committee meetings have been scheduled during the period of August 9 through August 22:

Date	Room	Time	Committee	Agenda
August 9	123-S	10:00 a.m.	Special Committee on Judiciary	9th Hearings on Topic #3— Consolidation of Field Services, and Topic #8—Jury Duty. 10th Hearings on Topic #2— Ignition Interlock, and Topic #5— Mechanic Liens.
August 10	123-S	9:00 a.m.		
August 16	519-S	10:00 a.m.	SRS Transition Oversight Committee	Agenda not available.
August 17	519-S	10:00 a.m.	SRS Transition/Joint Committee on Children's Issues	
August 18	519-S	10:00 a.m.	Joint Committee on Children's Issues	
August 18	123-S	10:00 a.m.	Legislative Budget Committee	Agenda not available.
August 19	123-S	9:00 a.m.		
August 19	519-S	10:00 a.m.	Task Force on the Providers of Mental Health Services	Agenda not available.
August 20	519-S	9:00 a.m.		

Jeff Russell
Director of Legislative
Administrative Services

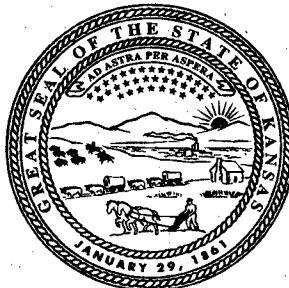
Doc. No. 024137

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State of Kansas

Secretary of State

Usury Rate for August

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 August 1, 1999 through August 31, 1999, is 9.55 percent.

Ron Thornburgh
Secretary of State

Doc. No. 024125

State of Kansas

Secretary of State

Notice of Code Mortgage Rate

Pursuant to the provisions of the 1999 Session Laws of Kansas, Chapter 107, Section 8(11), the code mortgage rate during the period of August 1, 1999 through August 31, 1999, is 13.05 percent.

Ron Thornburgh
Secretary of State

Doc. No. 024126

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. Midwest Grain Products, Inc. has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to install a wheat starch drum dryer. Emissions of particulate matter (PM) and particulate matter less than 10 microns in diameter (PM-10) were evaluated during the permit review process.

Midwest Grain Products, Inc., Atchison, owns and operates the stationary source located at 1200 Main St., Atchison, at which the wheat starch drum dryer is to be installed.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during review of the permit application is available for public inspection during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE Northeast District Office, 800 W. 24th, Lawrence. To obtain or review the proposed permit and supporting documentation, contact Donald J. Law, (785) 291-3271, at the KDHE central office, or Pat Simpson, (785) 842-4600, at the KDHE Northeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Donald J. Law, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business September 7.

A person may request a public hearing be held 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, not later than the close of business September 7 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024135

State of Kansas

State Conservation Commission

Notice to Contractors

Sealed bids for the construction of a 56,857 cubic yard detention dam, Site 103 in Osage County, will be received by the Salt Creek Watershed Joint District No. 104 at P.O. Box 11, Osage City, 66523. Bids must be postmarked on or before August 20, or may be hand delivered to the Bank of Osage City on the day of the bid opening prior to 1:30 p.m. Bid opening will be at 1:30 p.m. August 24 at the Bank of Osage City, 9th and Market Streets, Osage City, (785) 528-5040. A copy of the invitation for bids and the plans and specifications can be obtained from Marian Massoth, contracting officer, Carbondale, (785) 665-7226.

Tracy D. Streeter
Executive Director

Doc. No. 024141

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 8-2-99 through 8-8-99	
Term	Rate
1-89 days	5.04%
3 months	4.85%
6 months	5.03%
9 months	5.13%
12 months	5.31%
18 months	5.50%
24 months	5.62%

Derl S. Treff
Director of Investments

Doc. No. 024116

State of Kansas

Department of Health and Environment

Public Notice

The Kansas Department of Health and Environment announces the intention to submit an application for authorization from the U.S. Environmental Protection Agency to administer and enforce provisions of Subpart L, Section 402(a) of the Toxic Substance Control Act. Subpart L defines licensure of business entities and public agencies, certification of individuals, accreditation of training programs, on-site inspections and requirements, notification and record keeping, procedures and work practice standards relating to lead-based paint activities.

Written comments may be directed to Barry Brooks, Department of Health and Environment, Suite 604, Mills Building, 109 S.W. 9th, Topeka, 66612-1274. Comments must be received by the close of business August 30 in order to be considered in the application process.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024149

State of Kansas

Kansas Arts Commission

Notice of Deadline Extension

The Kansas Arts Commission has extended the deadline for performing artists to apply for appointment to the Kansas Touring Program roster.

The original deadline was Monday, August 2. It has been extended for three weeks, until Monday, August 23.

The Kansas Touring Program roster of solo and ensemble artists generally includes—but is not limited to—storytelling, mime, dance, theater for adults and children, and classical, folk, ethnic, blues, jazz and gospel music.

Completed applications with required support materials must bear an official U.S. Postal Service postmark not later than the deadline date. Applications hand-carried or sent by express mail or overnight delivery must be received in the commission office not later than 5 p.m. on the deadline date or they will not be accepted.

To request a copy of the guidelines and application booklet, contact the Kansas Arts Commission, 700 S.W. Jackson, Suite 1004, Topeka, 66603-3761, (785) 296-3335, e-mail KAC@arts.state.ks.us. Persons with special communication needs may use the Kansas Relay Service, (800) 766-3777.

David M. Wilson
Executive Director

Doc. No. 024147

State of Kansas

Department of Commerce and Housing

Notice of Hearing

In accordance with the federal Community Services Block Grant Act (P.L. 97-35, as amended), the Community Services Block Grant Program will conduct a public hearing at 10 a.m. Friday, August 20, at the Department of Commerce and Housing, 700 S.W. Harrison, 13th floor, Topeka, to receive comments on the 1999 Community Services Block Grant State Plan.

A draft copy of the state plan may be obtained prior to the hearing by calling (785) 296-5865 or (785) 296-3487 (V/TTY). Reasonable accommodations are available for persons needing assistance. Requests for accommodation should be submitted to Scott Anglemyer by August 13 at the Department of Commerce and Housing.

All comments are to be followed in writing and submitted for incorporation into the minutes of the hearing. Written comments should be mailed to Scott Anglemyer, Housing Development Division, Department of Commerce and Housing, 700 S.W. Harrison, Suite 1300, Topeka, 66603-3712.

Gary Sherrer
Secretary of Commerce and Housing

Doc. No. 024127

State of Kansas

Kansas Insurance Department

Notice of Change in Pharmacy Network

Pursuant to K.S.A. 40-2,153, the Kansas Commissioner of Insurance is publishing notice that a change has occurred in a pharmacy network in the State of Kansas. United HealthCare of the Midwest, Inc. Pharmacy Network has notified the Insurance Department of the following additions to its pharmacy network:

Pharmacy Name	City	Effective Date
Walgreen Pharmacy #04981	Topeka	June 1999
Hen House Pharmacy #33	Overland Park	June 1999
Bowen Prescriptions	Parsons	June 1999
Leekers Family Pharmacy #2	Haysville	June 1999
Mercy Medical Plaza Pharmacy	Independence	June 1999

United HealthCare of the Midwest, Inc. Pharmacy Network also has notified the department that the following pharmacies were incorrectly reported as additions to its network last month:

Pharmacy Name	City	Date Published
Candlewood Health Mart	Manhattan	July 1, 1999
Countryside Pharmacy	Meriden	July 1, 1999

Questions should be directed to Rebecca Sanders at the Kansas Insurance Department, (785) 296-3071.

Kathleen Sebelius
Kansas Insurance Commissioner

Doc. No. 024119

State of Kansas

Department of Transportation

Public Notice

The Kansas Department of Transportation will designate 10 percent of all federal funds from October 1, 1999 to September 30, 2000, for participation of certified disadvantaged businesses with work involving KDOT, its consultants and contractors.

KDOT's Office of Engineering Support will accept comments on this policy prior to October 1. Comments must be written and may be mailed, faxed or e-mailed to Sandra Greenwell, KDOT Office of Engineering Support, Room 761, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612-1568, fax (785) 296-0723, e-mail Sandra@ksdot.org.

Any business may apply for certification. To be eligible, a firm must meet the criteria of 49 Code of Federal Regulation, Part 26, Subpart D. For more information or an application, call (785) 296-7940.

The proposal to designate funds is available for inspection from 9 a.m. to 4 p.m. weekdays until August 27 at the Office of Engineering Support.

E. Dean Carlson
Secretary of Transportation

Doc. No. 024123

State of Kansas

Department of Transportation

Public Notice

The Kansas Department of Transportation, Office of Public Transportation, announces it is accepting funding requests under 49 U.S.C. 5310 and 49 U.S.C. 5311 of the Federal Transportation Equity Act for the 21st Century (TEA-21) for transportation services.

KDOT also is accepting requests for state funding made available under the new Comprehensive Transportation Program (CTP) for rural transportation providers.

Under 49 U.S.C. 5310, funding is made available for the purchase of vehicles and equipment for services to the elderly and persons with disabilities. 49 U.S.C. 5311 provides operating assistance and/or vehicles for transportation services to the elderly, persons with disabilities and the general public.

Eligible applicants for 49 U.S.C. 5310 Federal Transit Administration grant funds must be private, nonprofit organizations that have been incorporated and registered with the Kansas Secretary of State to do business in Kansas. Applicants for a 49 U.S.C. 5311 grant must be local units of government, Indian tribes, private nonprofit organizations or private operators contracting through any of these parties.

Applicants also must be registered with the Secretary of State to do business in Kansas. All applicants must be an active member of their Coordinated Transit District (CDT) in order to receive federal and/or state transit funding.

A total of approximately \$791,900 in 49 U.S.C. 5310 and \$3.05 million in 49 U.S.C. 5311 funds will be available. The federal share of eligible capital cost will not exceed

80 percent of the net cost of each project, and the grant applicant share shall be 20 percent of the net cost. The federal share of operating cost will not exceed 50 percent of the net cost of each project. The grant applicant share will be no less than 50 percent of the net cost.

State funds in the amount of \$2.46 million for rural transit providers is available for those who are currently in the 49 U.S.C. 5310 or 49 U.S.C. 5311 program or are eligible to be in either of those programs.

Application requests must be received by the KDOT Office of Public Transportation on or before August 20. Requests after that date will not be accepted. Persons interested in applying should write the Kansas Department of Transportation, Office of Public Transportation, 217 S.E. 4th, Topeka, 66603-3504.

Interested individuals also may contact KDOT by calling Kathy Marion at (785) 296-3058 if you are in the northern half of the state. Contact Bret Rowe at (785) 296-4907 if you are in the southern half of the state.

E. Dean Carlson
Secretary of Transportation

Doc. No. 024145

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. August 18 and then publicly opened:

District One—Northeast

Douglas—10-23 K-7744-01—K-10 from Wakarusa Drive east 0.4 mile (0.7 kilometer), overlay. (State Funds)

Johnson—7-46 K-7823-01—K-7 north of the junction of K-10 north to the Kansas River bridge, 6.8 miles (11 kilometers), overlay. (State Funds)

Johnson—10-46 K-7325-01—K-10 bridges 236 and 237 over Mill Creek and the Atchison, Topeka and Santa Fe Railroad, bridge repair. (State Funds)

Johnson—46 C-3463-01—175th Street and 179th Street between Lackman Road and Switzer Road, 3.3 miles (5.3 kilometers), grading and surfacing. (Federal Funds)

Leavenworth—52 C-3327-02—County road 1.1 miles (1.7 kilometers) south and 1 mile (1.6 kilometers) west of Lansing, 0.4 mile (0.2 kilometer), grading and bridge. (Federal Funds)

Marshall—77-58 K-7100-01—U.S. 77 bridge 013, 6.2 miles (10 kilometers) east of the west junction of K-9, bridge repair (State Funds)

Pottawatomie—63-75 K-7108-01—K-63 bridges 041 and 042, Bartlett Creek and Union Pacific Railroad, bridge repair. (State Funds)

Riley—70-81 K-1143-03—I-70 from the Geary-Riley county line east of the Riley-Wabaunsee county line, 6 miles (9.6 kilometers), surfacing. (Federal Funds)

(continued)

Wabaunsee—70-99 K-5633-02—I-70 from K-138 east to 0.3 mile (0.5 kilometer) east of the junction of K-30, 8.7 miles (14 kilometers), surfacing. (Federal Funds)

Wyandotte—69-105 K-7743-01—U.S. 69 bridge 142, 18th Street over railroad, bridge repair. (State Funds)

District Two—Northcentral

Chase—50-9 K-7837-01—U.S. 50 from the Marion-Chase county line east to the Lyon-Chase county line, 30.3 miles (48.7 kilometers), grading. (State Funds)

Cloud—81-15 K-4956-04—U.S. 81 from county route 145 north to the Cloud-Republic county line, 3 miles (4.8 kilometers), grading and bridge. (Federal Funds)

McPherson—56-59 K-7830-01—U.S. 56 from the Rice-McPherson county line east to the junction of K-153, 13.2 miles (21.2 kilometers), overlay. (State Funds)

Morris—64 C-3569-01—County road 0.5 mile (0.8 kilometer) east and 1.2 miles (1.9 kilometers) south of Parkerville, 0.09 mile (0.14 kilometer), grading and bridge. (Federal Funds)

Republic—81-79 K-5021-03—U.S. 81 from the Cloud-Republic county line north to the Belleville Inspection Station, 9.4 miles (15.1 kilometers), grading and bridge. (Federal Funds)

Chase-Morris-Butler—177-106 K-6441-01—K-177 various locations in Chase, Morris and Butler counties, scenic highways. (Federal Funds)

District Three—Northwest

Norton—69 C-3546-01—County road 2.2 miles (3.5 kilometers) west and 1 mile (1.6 kilometers) south of Edmond, 0.10 mile (.16 kilometer), grading, bridge and surfacing. (Federal Funds)

Norton—383-69 K-5393-01—K-383 from the Decatur-Norton county line northeast to the west junction of U.S. 36, 13.6 miles (21.9 kilometers), grading, bridge and surfacing. (Federal Funds)

Osborne—71 C-3487-01—County road 4.3 miles (6.9 kilometers) west and 1.3 miles (2.1 kilometers) south of Alton, 0.25 mile (0.4 kilometer), grading and bridge. (Federal Funds)

District Four—Southeast

Anderson—59-2 K-7831-01—U.S. 59 from the Anderson-Allen county line north to the Anderson-Franklin county line, 24.4 miles (39.3 kilometers), crack repair. (State Funds)

Bourbon—69-6 K-7669-01—U.S. 69/K-7 and 12th Street in the city of Fort Scott, traffic signals. (Federal Funds)

Cherokee—96-11 K-7128-01—K-96 bridge 060, Shawnee Creek 0.4 mile (0.6 kilometer) east of the east junction of U.S. 69, bridge overlay. (Federal Funds)

Coffey—75-16 K-7832-01—U.S. 75 from the north city limits of Burlington to 0.6 mile (0.9 kilometer) south of I-35, 16.9 miles (27.2 kilometers), crack repair. (State Funds)

Greenwood—96-37 K-3292-06—K-96 Otter Creek and Otter Creek drainage bridges, bridge repair. (State Funds)

Miami—61 C-3504-01—County road 2.4 miles (3.9 kilometers) north and 0.2 mile (0.3 kilometer) west of Paola 0.25 mile (0.4 kilometer), grading, bridge and surfacing. (Federal Funds)

Miami—69-61 K-7670-01 U.S. 69 and K-68, southbound ramp terminal, traffic signals. (State Funds)

District—400-106 K-7835-01—U.S. 400 from the Butler-Greenwood county line southeast 77.7 miles (125.2 kilometers), pavement marking. (State Funds)

District Five—Southcentral

Barber—4 C-3359-01—County road 11 miles (17.7 kilometers) south and 3 miles (4.8 kilometers) west of Medicine Lodge, 0.24 mile (0.4 kilometer), grading, bridge and surfacing. (State Funds)

Finney—28 K-7745-01—U.S. 50/U.S. 83 intersection north of Garden City, grading and surfacing. (State Funds)

Pawnee—56-73 K-6248-01—Intersection of U.S. 56 and K-156 at Larned, 0.12 mile (0.2 kilometer), grading and surfacing. (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. 024099

State of Kansas

Kansas Parole Board

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 9 a.m. Monday, October 4, in the main conference room of the Kansas Department of Corrections, fourth floor, Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of proposed changes in existing rules and regulations of the Kansas Parole Board, as well as proposed permanent adoption of temporary regulation K.A.R. 45-9-4, which became effective July 8, 1999.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the chairperson of the Kansas Parole Board, 4th Floor, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Terri Saiya at (785) 296-3128. Handicapped parking is located at the south end of the Landon State Office Building, and the north entrance to the building is accessible to individuals with disabilities.

These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and their economic impact follows.

K.A.R. 45-9-1. General provisions. Amendments to this regulation acknowledge the existence of the newly-available procedure for waiver of the final revocation hearing before the Parole Board for offenders accused of violation of parole or postrelease supervision conditions, as set forth in temporary K.A.R. 45-9-4, discussed later in this notice. The amendments to this regulation also recognize the existence of postrelease supervision, the term given to that portion of a felony criminal offender's sentence following incarceration that is spent in the community under supervision of a parole officer and the auspices of the Parole Board under terms of the Kansas Sentencing Guidelines Act.

There will not be any economic impact on state agencies, other governmental units or private citizens as a result of these amendments.

K.A.R. 45-9-2. Parole and postrelease supervision revocation hearings. Amendments to this regulation likewise acknowledge existence of the procedure for waiver of the final revocation hearing before the Parole Board, as well as the existence of postrelease supervision under terms of the Kansas Sentencing Guidelines Act.

There will likewise not be any economic impact on state agencies, other governmental units or private citizens as a result of these amendments.

K.A.R. 45-9-3. Computation of time. Amendments to this regulation align it with the provisions of K.S.A. 75-5217 that require a six-month period of confinement for offenders whose postrelease supervision is revoked for reasons other than conviction of a new crime, subject to a reduction of up to three months for satisfactory conduct, work and program participation while so confined. The amendments provide, in part, that the six-month period of confinement commences upon date of the revocation hearing or effective date of the waiver of the revocation hearing. The amendments also provide, in accordance with K.S.A. 75-5217, that any offender whose postrelease supervision has been revoked on account of conviction of a new crime must serve the balance remaining on the period of postrelease supervision.

Finally, the amendments also provide, in accordance with K.S.A. 1998 Supp. 22-3717, that offenders, while released on postrelease supervision, may earn good time credits of up to 12 months' time toward reduction of the term of postrelease supervision.

There will not be any economic impact on any other state agencies, other governmental units or private citizens as a result of these changes.

K.A.R. 45-9-4. Waiver of final revocation hearing. This new regulation implements a 1999 amendment of K.S.A. 75-5217 permitting offenders on postrelease supervision whose condition of supervision violations do not result from conviction of a new crime to waive their final revocation hearing before the Parole Board, thereby enabling them to receive credit toward service of the six-month incarceration penalty period effective upon date of the waiver. The regulation elaborates upon the criteria for eligibility to waive the final revocation hearing, prescribes the form and manner of waiver, provides for method of computation of the incarceration penalty period, and prescribes a procedure for rescission of the waiver under certain circumstances.

This new regulation benefits both the Kansas Parole Board and the Kansas Department of Corrections, as well as eligible offenders who choose to take advantage of the waiver of final revocation hearing procedure; however, its precise economic benefits for both said state agencies are difficult to calculate at this time. It has no effect on other state agencies, other governmental units or other private citizens. There are no anticipated costs to either state agencies or offenders as a result of this new regulation.

Copies of the regulations and their economic impact statement may be obtained from the Kansas Parole Board at the address above, (785) 296-3469.

Marilyn Scafe
Chair

Doc. No. 024122

State of Kansas

Attorney General

Opinion 99-30

Agriculture—Pest Control—Kansas Pesticide Law; Unlawful Acts. Mary Jane Stattleman, Acting Secretary, Kansas Department of Agriculture, Topeka, June 24, 1999.

K.S.A. 2-2453 makes it unlawful for any person to use a pesticide in a manner inconsistent with the pesticide's label. Pesticide labels contain a reference to the Worker Protection Standard (WPS), cited as 40 C.F.R. part 170. Use of a pesticide in violation of the WPS is therefore a violation of K.S.A. 2-2453 because it is a use inconsistent with the pesticide label. However, even though the Kansas Department of Agriculture has authority to enforce provisions of the WPS referenced on the label pursuant to K.S.A. 2-2453, prosecution of violators is limited to civil penalty assessment actions against commercial applicators who work for pesticide businesses and to administrative law actions against the license of any certified applicator. Violations by certified private applicators and by those with no certification must be referred to the county or district attorney for criminal prosecution. Cited herein: K.S.A. 2-2438A; 2-242440E; 2-2449; 2-2453; 2-2461. GE

Opinion 99-31

Cities and Municipalities—Buildings, Structures and Grounds; Community Buildings; Joint City and School—Bonds by City and School District for Site, Construction and Equipping Community Building; Election; Joint Management.

Schools—School Unification Acts—General Obligation Bonds; Purpose for Issuance; When Election Required; Contest of Validity; Limitations; Temporary Notes; Tax Levy. J.T. Klaus, Mulvane Bond Counsel, Wichita, June 24, 1999.

Unified School District No. 263 may enter into a joint venture with the City of Mulvane to construct and manage a community building and, with voter approval, may issue general obligation bonds to finance the district's portion of the project, without being subject to the debt limitations set for bonds issued to finance buildings used for school district purposes. Cited herein: K.S.A. 12-1769; K.S.A. 72-6761. NLU

Opinion 99-32

Elections—Recall of Elected Officials—Grounds for Recall; County or District Attorney to Determine Sufficiency of Grounds. Mary Ann Shirley, Greenwood County Attorney, Eureka, June 24, 1999.

The grounds in the petition seeking the recall of the Greenwood County commissioner are set forth with sufficient particularity as to allow the Greenwood County commissioner an opportunity to prepare a statement in justification of his conduct in office. The veracity of the allegations contained in the recall petition is to be determined by the electorate, not the county attorney. Cited

herein: K.S.A. 25-4302, as amended by 1999 S.B. 230, § 8; 25-4320; Kan. Const., Art. 4, § 3. RDS

Opinion 99-33

District Officers and Employees—District Attorneys—Salary; Salary of the District Attorney in the 27th Judicial District. Larry R. Sharp, Chairman, Reno County Commission, Hutchinson, June 24, 1999.

While the reference to K.S.A. 1998 Supp. 22a-105 in 1999 House Bill No. 2471 creates some ambiguity concerning whether the current Reno County attorney is entitled to receive compensation commensurate with the salary of a district judge on the effective date of the bill, it is our opinion that the better interpretation is that such salary commences upon the effective date of the enactment, July 1, 1999, when the current Reno County attorney becomes the district attorney for the 27th Judicial District. Cited herein: K.S.A. 22a-101; 22a-103; K.S.A. 1998 Supp. 22a-105; K.S.A. 22a-108; 1999 HB 2471. MF

Opinion 99-34

State Boards, Commissions and Authorities—Law Enforcement Training Center; Training Commission—Qualifications of Applicant for Training Course; Requirement; Effect of Juvenile Offender Status. Ed H. Pavey, Director, Kansas Law Enforcement Training Center, Hutchinson, July 13, 1999.

An applicant for admission to the Kansas Law Enforcement Training Center may be disqualified if, while a juvenile, the applicant was prosecuted and convicted of a felony as an adult under the Kansas Juvenile Offender Code or the current Kansas Juvenile Justice Code or was prosecuted and convicted under an extended jurisdiction juvenile prosecution pursuant to K.S.A. 1998 Supp. 38-1636, as amended by L. 1999, Ch. 156, § 14. An applicant who was adjudicated a juvenile offender under either the Kansas Juvenile Offenders Code or the Kansas Juvenile Justice Code does not have a conviction and, therefore, is not disqualified from admission to the Training Center.

An applicant who has obtained an expungement pursuant to K.S.A. 1998 Supp. 21-4619 of felony convictions that were acquired while a juvenile as a result of a prosecution and conviction as an adult or in an extended jurisdiction juvenile prosecution is also disqualified from admission to the training center.

An applicant who, when a juvenile, obtained a diversion for a felony crime after July 1, 1995, is disqualified from admission to the training center. Moreover, an applicant who was placed into an immediate intervention program for a felony crime after July 1, 1997, is also disqualified if the immediate intervention program included a component that the juvenile could avoid prosecution for a felony crime after compliance with certain conditions.

If a person under the age of 18 can commit a "misdemeanor crime of domestic violence" as defined at K.S.A. 1998 Supp. 74-5602(h), an applicant to the training center may be disqualified if such applicant, while a juvenile, committed a misdemeanor crime of domestic violence after July 1, 1997, and, as a consequence, was convicted of

such offense, obtained an expungement, or was placed on diversion. Cited herein: K.S.A. 1998 Supp. 21-3412; 21-4619, 38-1602, as amended by L. 1999, Ch. 156, § 11; 38-1610; 38-1635; 38-1636, as amended by L. 1999, Ch. 156 § 14; 38-1655, as amended by L. 1999, Ch. 116, § 45; 74-5602; 74-5605. MF

Opinion 99-35

Labor and Industries—Workers Compensation—Medical Examinations; Records; Disclosure.

Public Health and Welfare—Equal Opportunity for Individuals with Disabilities—Employment Discrimination; Medical Examinations and Inquiries. Senator Alicia L. Salisbury, 20th District, Topeka, July 14, 1999.

The requirements for medical examinations and disclosure of medical records under the Americans with Disabilities Act (ADA) are more restrictive than the medical examination and records provisions of the Kansas Workers' Compensation Act. Therefore, the potential for conflict between the two acts exists. However, if an employer can demonstrate that a medical examination or inquiry is job related and consistent with business necessity, there is no conflict between the ADA and the Kansas Workers' Compensation Act. Thus, an employer is not *per se* prohibited from requiring medical examinations that are necessary to ascertain the extent of its workers' compensation liability, or as otherwise needed for a job-related purpose consistent with business necessity. Whether a required medical examination or medical record disclosure meets the business necessity requirement of the ADA depends on the specific facts of each case. In situations where conflicts arise, we believe the ADA medical examination and inquiry provisions would supercede the broader medical examination and records disclosure provisions of the Kansas Workers' Compensation Act because the ADA provides a higher standard of protection to the employee. Cited herein: K.S.A. 1998 Supp. 44-501; K.S.A. 44-514; K.A.R. 51-9-10; 42 U.S.C. §§ 12101; 12102; 12112; 12201; U.S. Const., Art VI; 29 C.F.R. §§ 1630.2; 1630.13; 1630.14. DMV

Opinion 99-36

Cities of the First Class—Municipal Universities—Tax Levies; Affect of 1999 House Bill No. 2565 on Washburn University's Ability to Receive Motor Vehicle Tax Distributions. Sandra L. Jacquot, Shawnee County Counselor, Topeka, July 15, 1999.

Section 6 of 1999 House Bill No. 2565 does not preclude Washburn University from participating in the distribution of motor vehicle tax revenues if the university opts to impose a countywide retailers' sales tax under the provisions of that bill. Cited herein: K.S.A. 12-16,102, as amended by L. 1999, Ch. 147, § 78; 13-13a18, as amended by L. 1999, Ch. 88, § 5; K.S.A. 1998 Supp. 13-13a23, as amended by L. 1999 Ch. 88, § 8; K.S.A. 79-5102; 79-5105; 79-5109; 79-5111; 1999 HB 2565. JLM

Carla J. Stovall
Attorney General

Doc. No. 024139

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, Room 102, Landon State Office Building, 900 S.W. Jackson, 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, August 16, 1999

259

Department of Administration, Division of Facilities Management—Automated teller machine

Wednesday, August 18, 1999

282

Department of Revenue—Conversion coated aluminum, Wichita

291

Statewide—Upholstery materials and foam

Thursday, August 19, 1999

242

Adjutant General's Department—Crane and hoist inspection

297

University of Kansas—Furnish and install condensate tanks

298

Kansas State University—Furnish and install roof top cooling units

Monday, August 23, 1999

286

Department of Administration, Self-Insurance Fund—Medical bill audit services

Wednesday, August 25, 1999

265

Osawatomie State Hospital—Furnish and install washer/extractors

Thursday, August 26, 1999

A-8735

Kansas State University—Seaton Court demolition

Request for Proposals

Tuesday, August 24, 1999

262

Occupant Protection Program Media Campaign for the Department of Transportation

John T. Houlihan
Director of Purchases

Doc. No. 024143

State of Kansas

Board of Education

Notice of Hearing on Proposed
Administrative Regulations

The State Board of Education will conduct a public hearing at 1:30 p.m. Tuesday, October 12, in the administration office of the DeSoto School District, 8305 Peoria, DeSoto, to consider proposed new regulations, K.A.R. 91-38-1, 91-38-2, 91-38-3, 91-38-4, 91-38-5, 91-38-6, 91-38-7, 91-39-8, 91-38-9 and 91-38-10, and revocation of former Department of Transportation regulations 36-13-20, 36-13-30, 36-13-31, 36-13-32, 36-13-33, 36-13-34, 36-13-35, 36-13-37, 36-13-38 and 36-13-39.

These regulations relate to school bus transportation. The responsibility of administering school bus transportation was previously assigned to the Department of Transportation. The Legislature, in 1994, transferred this responsibility to the State Board of Education. A summary of the substantive provisions of each regulation and its economic impact is provided below.

K.A.R. 91-38-1. This regulation provides definitions for terms used throughout this article of regulations.

There should be no economic impact upon the State Board of Education, other governmental agencies, private businesses or individuals.

K.A.R. 91-38-2. This regulation provides general limitations and requirements for buses and other vehicles used to provide transportation to Kansas school students. It sets forth general limitations for the age of school buses used to transport school-aged children and for use of non-school bus vehicles for students' transportation. It also provides for use of passenger restraining systems by all passengers in a school passenger vehicle and for use of size and age-appropriate child passenger restraining systems in accordance with K.S.A. 1998 Supp. 8-1344.

There should be no economic impact upon the State Board of Education, other governmental agencies, private businesses or individuals.

K.A.R. 91-38-3. This regulation requires the appointment of a transportation supervisor and sets forth the duties of that supervisor.

There should be no economic impact upon the State Board of Education, other governmental agencies, private businesses or individuals.

K.A.R. 91-38-4. This regulation provides for certification by school bus dealers that any school bus sold or leased to a school district subsequent to the adoption of these regulations meets all federal motor vehicle safety standards and national standards for school buses.

There should be no economic impact upon the State Board of Education, other governmental agencies, private businesses or individuals.

K.A.R. 91-38-5. This regulation provides for an annual inspection of school buses by the Kansas Highway Patrol.

There should be no economic impact upon the State Board of Education, other governmental agencies, private businesses or individuals.

K.A.R. 91-38-6. This regulation sets forth the qualifications and training requirements for drivers transporting Kansas school children. This requirement increases

the required number of hours of driver training from two hours for small buses and six hours for large buses to 12 hours for all buses. Current provisions requiring first aid/CPR and defensive driver programs are retained.

There should be no economic impact upon the State Board of Education, other governmental agencies, private businesses or individuals.

K.A.R. 91-38-7. This regulation sets forth driver's responsibilities when providing transportation to school children. With only editorial changes, it carries forward requirements previously imposed in KDOT regulations.

There should be no economic impact upon the State Board of Education, other governmental agencies, private businesses or individuals.

K.A.R. 91-38-8. This regulation provides requirements for the loading and unloading of school students along regularly traveled school bus routes and during activity trips. The regulation carries forward requirements in current KDOT regulations.

There should be no economic impact upon the State Board of Education, other governmental agencies, private businesses or individuals.

K.A.R. 91-38-9. This regulation requires each school district to adopt a policy concerning emergency situations and providing for semiannual emergency evacuation drills for students. This regulation carries forward existing KDOT requirements.

There should be no economic impact upon the State Board of Education, other governmental agencies, private businesses or individuals.

K.A.R. 91-38-10. This regulation authorizes the use of an urban mass transportation system by school districts to provide transportation to its students.

There should be no economic impact upon the State Board of Education, other governmental agencies, private businesses or individuals.

K.A.R. 36-13-20, 36-13-30 through 36-13-35, and 36-13-37 through 36-13-39. These regulations were promulgated under the authority of the Department of Transportation. This responsibility has been transferred to the Department of Education; therefore, these regulations are being revoked. The revocation of these regulations will have no economic impact upon the State Board of Education or other governmental agencies, or upon private business or individuals or school districts.

A complete copy of the regulations and their economic impact statements may be obtained by contacting the secretary of the State Board of Education, 120 S.E. 10th Ave., Topeka, 66612-1182.

All interested persons will be given a reasonable opportunity at the hearing to present their views or arguments, either orally or in writing, in regard to the proposed regulations. In addition, the period of public notice hereby provided constitutes a public comment period for the purpose of receiving written public comments on the proposed regulations. Such written comments may be submitted to the secretary of the State Board of Education at the above address. The hearing shall be conducted in compliance with the public hearing procedures of the State Board of Education.

Any individual with a disability may request accommodation in order to participate in the public hearing and

may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Lanny Gaston at (785) 296-3906 or (785) 296-8172 (TDD).

Linda Holloway
Chairperson

Doc. No. 024128

State of Kansas

State Corporation Commission

Notice of Motor Carrier Hearings

The following motor carriers have filed various applications and are scheduled for hearing at 9:30 a.m. August 24 before the commission at its offices, 1500 S.W. Arrowhead Road, Topeka, as indicated below. All applications listed herein are for statewide authority, unless otherwise stated. This list does not include cases that have been continued from earlier assigned hearing dates for which parties of record have received notice.

Requests to inspect and copy the notices provided to the parties and questions in regard to these hearings should be addressed to the State Corporation Commission, Transportation Division, 1500 S.W. Arrowhead Road, Topeka, 66604-4027, (785) 271-3225 or 271-3151. The presiding officer for these matters is Paula Lentz, Assistant General Counsel, (785) 271-3279. Anyone needing special accommodations should give notice to the commission 10 days prior to the scheduled hearing date.

Attention should be directed to Kansas Administrative Regulation 82-1-228, "Rules of Practice and Procedure Before the Commission."

Applications for Certificate of Public Service:

Advanced Delivery Systems, Inc. 1071 Post Road East, Suite 3, Westport, CT 06880; MC ID No. 153412; Joseph Weiler, Attorney; General commodities (except Classes A & B explosives, household goods and hazardous materials).

B & M Transportation, Inc., 130 S. Grant, Clearwater, KS 67026; MC ID No. 157305; Joseph Weiler, Attorney; General commodities (except Classes A & B explosives and household goods).

Kenneth Crane, dba D & K Trucking, 1158 Smokey Valley Road, Lindsborg, KS 67456; MC ID No. 157316; General commodities (except household goods and hazardous materials).

Fleet Logistics, L.L.C., #1 Woodswether Road, Kansas City, KS 66118; MC ID No. 157314; Frank Taylor, Jr., Attorney; General commodities (except household goods and hazardous materials).

Abe Friesen, dba Friesen Farms, PO Box 152, Kismet, KS 67859; MC ID No. 157311; General commodities (except explosives and household goods).

Gooch Transporting, Inc., 919 Timber Road, Belle Plaine, KS 67013; MC ID No. 157307; Joseph Weiler, Attorney; General commodities (except Classes A & B explosives, household goods and hazardous materials).

Guy W. Kelley, dba Kelley's Wrecker Service, 531 Witt Avenue, Russell, KS 67665; MC ID No. 157313; Wrecked, disabled, repossessed and replacement vehicles.

Bill Lee, RR 1, Box 145, Glen Elder, KS 67446; MC ID No. 157550; General commodities (except explosives and household goods).

Richard A. Maxwell, dba RAM Transportation, 125 N. Cumming, Pilger, NE 68768; MC ID No. 226451; General commodities (except household goods and hazardous materials).

Robert M. Roberts, dba Roberts Trucking, 407 W. Lockwood, Wichita, KS 67217; MC ID No. 157581; General commodities (except household goods and hazardous materials).

Dennis L. Shields, 2647 10th Avenue, Lindsborg, KS 67456; MC ID No. 157308; Joseph Weiler, Attorney; General commodities (except Classes A & B explosives, household goods and hazardous materials).

Dennis L. Simmons, dba Double D Trucking, 315 E. 12th, Hutchinson, KS 67501; MC ID No. 157312; General commodities (except explosives and household goods).

John Daniel Stroud, dba Dantrans Transportation, 217 Sedgwick, Garden Plain, KS 67050; MC ID No. 157309; Joseph Weiler, Attorney; General commodities (except Classes A & B explosives and household goods).

Jerel K. Taul, dba Taul Trucking, 206 W. B, Trenton, NE 69044; MC ID No. 157310; General commodities (except household goods and hazardous materials).

Truck It, Inc., ½ mile south of N26, Lakin, KS 67860; MC ID No. 157315; Clyde Christey, Attorney; General commodities (except household goods and hazardous materials).

Gary W. Wescoat, dba Wescoat Collision & Towing, Route 3, Box 452, Fort Scott, KS 66701; MC ID No. 157317; Mark Ward, Attorney; Wrecked, disabled, repossessed and replacement vehicles.

Donald Land Woodworth, dba WLF Trucking, HC 1, Box 16, St. Francis, KS 67756; MC ID No. 156801; General commodities (except household goods and hazardous materials).

Application for Certificate of Convenience and Necessity:

David Davidson, dba Budget Mover's, 1217 Augusta, Salina, KS 67401; MC ID No. 157306; General commodities (except Classes A & B explosives and hazardous materials).

Application for Transfer of Certificate of Public Service:

Hayes Transport, Inc., dba Kingsway Mobile Homes, 3841 N. Peace Church Avenue, Joplin, MO 64801, MC ID No. 153415, to: Win-Sell, L.L.C., dba Try Country Homes, 4901 Rangeline Road, Joplin, MO 64801; Philip Metz, Attorney; Mobile homes.

Application for Abandonment of Certificate of Public Service:

Floyd R. Long, dba T-J Trucking, 3860 Porterhouse Road, Garden City, KS 67846; MC ID No. 146449.

Jacquelyn S. Miller
Administrator
Transportation Division

Doc. No. 024136

State of Kansas

State Corporation Commission

Notice of Prehearing Conference

The State Corporation Commission has directed that an investigation be instituted and a prehearing conference be conducted for the determination of amendments to the basic proration orders for the regulation of the installation and use of vacuum pumps for the production of natural gas from wells from the following gas fields:

- Greenwood gas field in Morton County
-Hugoton gas field in Finney, Grant, Gray, Hamilton, Haskell, Kearny, Morton, Seward, Stanton, Stevens and Wichita counties
-Panoma-Council Grove gas field in Finney, Grant, Hamilton, Haskell, Kearny, Morton, Seward, Stanton, Stevens and Wichita counties

The prehearing conference will be at 10 a.m. Thursday, August 26, in Room 2078, Finney State Office Building, 130 S. Market, Wichita. Persons interested in participating in the prehearing conference shall enter their appearances by August 26. The original and five copies should be filed at the commission's Wichita office listed below. Any person requiring accommodations under the Americans With Disabilities Act should give notice to the commission at least 10 days prior to the hearing date.

Further information may be obtained by contacting John McCannon or Diana Edmiston, State Corporation Commission, Conservation Division, Room 2078, Finney State Office Building, 130 S. Market, Wichita, 67202, (316) 337-6200.

Jeffrey S. Wagaman
Executive Director

Doc. No. 024124

State of Kansas

Department of Health and Environment

Notice 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-99-99
Application(s) for New or Expansion of Existing Swine Facilities

Table with 4 columns: Name and Address of Applicant, Owner of Property Where Facility Will Be Located, Legal Description, Receiving Water. Row 1: Todd Graham, Skyview Inc., NW/4 of Section 21, Upper Arkansas River Basin.

Application Number A-UAKE-H003 Federal Permit No. KS-0095087
This is an application for a permit for the construction of a new 16,200 head (6,480 animal unit) swine facility.
A new or modified permit will not be issued without additional public notice.

Public Notice No. KS-AG-99-100/102
Pending Permits for Confined Feeding Facilities

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Larry Low, SW/4 of Section 8, Marais des Cygnes River.

Kansas Permit No. A-MCMI-S011
This is a renewal of an existing permit for 430 head (172 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: The lagoons will be dewatered until they have the required freeboard levels stated in the permit.

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: John Claassen, SE/4 of Section 4, Walnut River.

Whitewater, KS 67154
Kansas Permit No. A-WABU-S021
This is a renewal permit for an existing facility for 150 head (75 animal units) of beef cattle less than 700 lbs. each and 200 head (20 animal units) of swine less than 55 lbs. each and 125 head (50 animal units) of swine greater than 55 lbs. each.

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 and the approved plan shall become part of the permit.

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Anthony and Penny McNeill, NE/4 of Section 14, Walnut River.

Whitewater, KS 67154
Kansas Permit No. A-WABU-S036
This is a new permit for an existing facility for 450 head (180 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 and the approved plan shall become part of the permit. Dewatering equipment shall be obtained within three months of the effective date of the permit.

Public Notice No. KS-99-169/176

Name and Address of Applicant	Legal Location	Type of Discharge
City of Americus 604 Main St. P.O. Box 526 Americus, KS 66835	Neosho River via Allen Creek via Troublesome Creek via Pester Creek	Treated domestic wastewater

Kansas Permit No. M-NE02-0001 Federal Permit No. KS0047406
Legal: SW¼, S12, T18S, R10E, Lyon Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, and pH. Monitoring for ammonia and fecal coliform will be required annually. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Legal Location	Type of Discharge
City of Baldwin City P.O. Box 86 Baldwin City, KS 66006	Tauy Creek via East Fork Tauy Creek	Treated domestic wastewater

Kansas Permit No. M-MC04-0001 Federal Permit No. KS0046361
Legal: SE¼, S9, T15S, R20E, Douglas Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, ammonia, fecal coliform and pH. Monitoring for dissolved oxygen and weekday flow will be required. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Name and Address of Applicant	Legal Location	Type of Discharge
Johnson County Unified Wastewater Districts 10881 Lowell Suite 100 Overland Park, KS 66210	Blue River via Wolf Creek via unnamed tributary	Treated domestic wastewater

Facility Name: Timber Wolf Estates WWTF
Kansas Permit No. M-MO14-0003 Federal Permit No. KS0082970
Legal: SW¼, S33, T14S, R24E, Johnson Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, and pH. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Legal Location	Type of Discharge
City of Lindsborg P.O. Box 70 Lindsborg, KS 67456	Smoky Hill River	Treated domestic wastewater

Kansas Permit No. M-SH21-0001 Federal Permit No. KS0022462
Legal: SW¼, S16, T17S, R3W, McPherson Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, ammonia, fecal coliform and pH. Monitoring for weekday flow is also required. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Name and Address of Applicant	Legal Location	Type of Discharge
Linn Valley Lakes Route 1, Box L-54 LaCygne, KS 66040	Middle Creek via Linn Valley Lakes via unnamed tributary	Treated domestic wastewater

Kansas Permit No. C-MC18-0002 Federal Permit No. KS0085511
Legal: SW¼, S19, T19S, R25E, Linn Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, and pH. Also, monitoring for ammonia, fecal coliform will be required annually. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Legal Location	Type of Discharge
City of Mankato 202 E. Jefferson P.O. Box 2 Mankato, KS 66956	Republican River via Buffalo Creek	Treated domestic wastewater

Kansas Permit No. M-LR16-0001 Federal Permit No. KS0021385
Legal: SE¼, S22, T3S, R8W, Jewell Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, ammonia, fecal coliform, total residual chlorine, and pH. Monitoring for weekday flow will be required. The existing treatment facility is not expected to meet the proposed permit limitations for ammonia or fecal coliform. A schedule of compliance is included for improvements to meet all permit limits. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Name and Address of Applicant	Legal Location	Type of Discharge
City of Olpe P.O. Box 104 Olpe, KS 66865	Neosho River via Eagle Creek	Treated domestic wastewater

Kansas Permit No. M-NE52-0001, Federal Permit No. KS0047571
Legal: NE¼, S2, T21S, R11E, Lyon Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, and pH. Monitoring for ammonia and fecal coliform will be required monthly. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Legal Location	Type of Discharge
City of Oswego 703 Fifth St. P.O. Box 210 Oswego, KS 67356	Neosho River via Labette Creek via unnamed tributary	Treated domestic wastewater

Kansas Permit No. M-NE53-0001 Federal Permit No. KS0047554
(continued)

Legal: NW¼, S20, T33S, R21E, Labette Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, and pH. Monitoring for ammonia and fecal coliform will be required annually. Disinfected effluent is utilized for golf course irrigation. When the irrigation system is in use, monitoring for fecal coliform and chlorine residual will be required of the irrigation water. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Public Notice No. KS-ND-99-013/014

Name and Address of Applicant	Waterway	Type of Discharge
Art Janssen 8955 Nadeau Road St. Marys, KS 66422	SW, S2, T9S, R12E Pottawatomie Co.	Nonoverflowing

Kansas Permit No. C-KS16-NO02

Facility Name: Art Janssen MHP

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility. This facility is a two single-cell wastewater stabilization lagoon system. Also, the permittee shall provide KDHE the name of an operator-in-training to begin the process of becoming a KDHE-certified wastewater treatment plant operator. Discharge of wastewater from this treatment facility to the surface waters of the State of Kansas is prohibited by this permit. The permit requirements are pursuant to the Kansas surface water quality standards, K.A.R. 28-16-28(b-f).

Name and Address of Applicant	Legal Location	Type of Discharge
Sundowner, Inc. - Salina P.O. Box 2388 Salina, KS 67402-2388	SE¼, S28, T13S, R4W Saline Co.	Nonoverflowing

Kansas Permit No. C-SH33-NO01

Facility Name: Sundowner Inc. WWTP

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility. This facility is a two two-cell wastewater stabilization lagoon system. Also, the permittee shall provide KDHE the name of an operator-in-training to begin the process of becoming a KDHE-certified wastewater treatment plant operator. Discharge of wastewater from this treatment facility to the surface waters of the State of Kansas is prohibited by this permit. The permit requirements are pursuant to the Kansas surface water quality standards, K.A.R. 28-16-28(b-f).

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 September 4 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-99-99, KS-

AG-99-100/102, KS-99-169/176, KS-ND-99-013/014) 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, if appropriate, are 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 and expansions of existing swine facilities may also be reviewed on the Internet at www.kdhe.state.ks.us.

For all other proposed permits, the draft permit(s), 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 offices of the Kansas Department of Health and Environment, Bureau of Water, J Street and 2 North, Forbes Field, Building 283, Topeka.

Division of Environment offices are open 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
Secretary of Health
and Environment

Doc. No. 024142

State of Kansas

**Department on Aging
Social and Rehabilitation Services**

**Notice of Final Nursing Facility Medicaid Rates for
State Fiscal Year 2000 for the Nursing Facility Quality
Enhancement Wage Pass-Through Program
Methodology for Calculating Final Rates, and Rate
Justifications; Response to Written Comments; and
Notice of Intent to Amend the Medicaid State Plan**

Under the Medicaid program, 42 U.S.C. 1396 *et seq.*, the State of Kansas pays nursing facilities, nursing facilities for mental health, and hospital-based long-term care units (hereafter collectively referred to as nursing facilities) a daily rate for care provided to residents who are eligible for Medicaid benefits. The Secretary of Aging administers the Medicaid nursing facility services payment program on behalf of the Secretary of Social and Rehabilitation Services. As required by 42 U.S.C. 1396a(a)(13), as amended by Section 4711 of the Balanced Budget Act of 1997, P.L. No. 105-33, 101 Stat. 251, 507-08 (August 5, 1997), the Secretary of Social and Rehabilitation Services (SRS) and the Secretary of Aging (KDOA) are publishing the final Medicaid per diem rates for Medicaid-certified nursing facilities for state fiscal year 2000, the methodology underlying the establishment of the final nursing facility rates, and the justifications for those final rates for the Nursing Facility Quality Enhancement Wage Pass-Through Program. SRS and KDOA also are providing notice of the state's intent to submit the proposed amendment to the Medicaid State Plan to the U.S. Department of Health and Human Services' Health Care Financing Administration (HCFA) on or before September 30, 1999.

The state published its Notice of Proposed Nursing Facility Medicaid Rates for State Fiscal Year 2000 for the Nursing Facility Quality Enhancement Wage Pass-Through Program, Methodology for Calculating Proposed Rates, and Rate Justifications; Notice of Intent to Amend the Medicaid State Plan and Request for Comments in the June 24, 1999 Kansas Register. As a result of the written comments received, revisions have been made to the final methodology. The final methodology used to calculate the Medicaid per diem rates for the Nursing Facility Quality Enhancement Wage Pass-Through Program is described below.

I. Methodology Used to Calculate Medicaid Per Diem Rates for Nursing Facility Quality Enhancement Wage Pass-Through Program.

The Kansas Legislature, during the 1999 session, adopted Senate Bill 126 (1999 Session Laws of Kansas, Chapter 101), an act to establish the quality enhancement wage pass-through program for nursing facilities. Nursing facilities electing to participate in this program can increase salaries or benefits or both for those employees providing direct care and support services to nursing facility residents. This bill includes the following proviso: "All expenditures for the quality enhancement wage pass-through program shall be made only from moneys specifically appropriated therefor." The Governor signed the bill into law on April 14, 1999.

House Bill 2489 (1999 Session Laws of Kansas, Chapter 160, §§ 2-3) included the appropriations for SB 126 for

state fiscal year 2000 (July 1, 1999 through June 30, 2000). The Kansas Department of Social and Rehabilitation Services was appropriated state general funds of \$224,402 to fund the nursing facilities-mental health (NF-MH) and intermediate care facilities-mentally retarded (ICF-MR). The Kansas Department on Aging was appropriated state general funds of \$1,725,000 to fund the nursing facilities, including hospital-based long-term care units (NF).

Under SB 126, the secretaries of SRS and KDOA are required to establish a Medicaid State Plan provision for the quality enhancement wage pass-through program. The pass-through may not exceed \$4 per resident day. Participation in the program is voluntary but limited to the available funds. Copies of SB 126 and the relevant parts of HB 2489 are included in the Medicaid State Plan exhibit and not reprinted here.

Criteria for Prioritizing Applications

The providers must submit a completed application to KDOA for the NF and NF-MH on a form prescribed by the secretary of each agency. The applications will be placed in a primary group if they are received by the due date below. The secondary group of applications are those received after the first due date and will be time and date-stamped based on receipt. Following is the procedure for treatment of the two groups of applications.

Primary Group of Applications

The primary group of applications are those received following the mailing of applications to the providers on July 30, 1999, and by the deadline of 5 p.m. Friday, August 13, 1999. There will be two steps for approving funding to the primary group of applicants. The steps are based on the availability of funds.

The first step is to open the applications received through the close of business on August 13, 1999. If the total dollar amount of all requests is below the available funding, all providers will receive 100% of the requested funding. The total dollar amount of the requests will be determined by multiplying the Medicaid days by the per diem amount requested for the wage enhancement pass-through for each facility and then summing the total requests from all facilities.

The second step of the process is used if the total requested funding from all the applications is greater than 100% of the available funds. All providers in the primary group will be funded but at a reduction so that the estimated fiscal impact of the program does not exceed the available funding. The reduction will be proportional to the amount of funding requested over the available monies.

For example, if the total fiscal impact of funding all applications were 120% of the available funding, each request would be reduced by 16.7%. The provider that requests \$4 per day would receive \$3.33 per day. The provider that requests \$2 per day would receive \$1.67.

Secondary Group of Applications

The secondary group of applications are only used if step one of the primary applications is used. In that situation, all the applications in step one are opened, and there are still available funds for additional applications. The selection process for the secondary group is based on

(continued)

a first-come, first-served basis. The applications will be time and date stamped to determine the order in which providers receive funding.

Once the applications from the secondary group reach the available funding, the process stops. Applications received after the last application is selected that expends the available funding will not receive funding. If step two is used with the primary group of applicants, none of the secondary group will receive funding.

Timeline for Implementing the Wage Pass-Through

The following is the timeline:

Thursday, June 24, 1999: Notice is published in Kansas Register and public comment period begins.

Monday, July 26, 1999: End of the comment period for the proposed methodology, rate and justifications.

Thursday, July 29, 1999: Notice of final methodology, rate and justification is submitted to Secretary of State for publication in the Kansas Register.

Friday, July 30, 1999: Application packets and state plan provision are mailed out to all nursing facilities.

Thursday, August 5, 1999: Notice of final methodology, rate and justification is published in Kansas Register.

Friday, August 13, 1999: Initial applications for primary group must be received by deadline of 5 p.m.

Friday, August 20, 1999: After reviewing applications, KDOA sends out rate notifications to providers.

Wednesday, September 1, 1999: Wage pass-through rates take effect (provided a facility has adjusted its private pay rate, if necessary).

Wage Pass-Through Effective Dates

The earliest that a provider can receive the wage pass-through per diem will be for dates of service beginning with September 1, 1999. If a provider chooses to implement the wage pass-through program after September 1, 1999, payment will not begin until the effective date of the implementation. If the effective date is on or before the 15th of the month, the payment increase will begin on the first of that month. If the effective date is on or after the 16th of the month, the payment increase will begin on the first of the following month.

Application

The following information will be requested on the application form:

- Facility name, address, telephone number and Medicaid provider number
- Effective date for implementing the wage pass-through program
- The number of Medicaid residents at the time of the application
- Amount of per diem funding requested for the pass-through (not to exceed \$4 per resident day)
- Current Medicaid rate and private pay rate
- Enhanced Medicaid rate and private pay rate on the date of implementation
- Authorized signature and date

The application will explain the allowable and nonallowable uses of the wage pass-through per diem. It will list the employee positions that are eligible for the pass-through. There will be a notice that this program is funded for FY 2000 only and that there may not be fund-

ing in FY 2001. The requirement of the quarterly reporting and consequences of not reporting will be explained below.

Reporting and Documentation

Providers shall be required to submit cost information within 45 days after the end of each quarter to document the use of the wage pass-through moneys. A nursing facility participating in the quality enhancement wage pass-through program which fails to file the Quality Enhancement Wage Pass-Through Quarterly Audit Report(s) and supporting documentation shall be terminated from the Quality Enhancement Wage Pass-Through Program and must repay all amounts from the pass-through program received during the reporting period.

Quality Enhancement Wage Pass-Through Quarterly Audit Reports and instructions will be sent to the providers in hard copy form and on diskette. The diskette will have LOTUS and Excel versions of the reports and related instructions. The forms and instructions are part of the Medicaid State Plan exhibit.

The supporting documentation that must accompany the quarterly audit reports shall include: (1) The provider payroll registers that reflect the positions impacted by the quality enhancement wage pass-through program, (2) the State Unemployment Tax (SUTA) report, and (3) the Quality Enhancement Wage Pass-Through Quarterly Employee Turnover Report. The employee turnover report will be sent to providers in hard copy and on the diskette. The diskette will include both the LOTUS and Excel versions of the turnover report.

If the providers elect to use the wage pass-through to increase employee wages, they shall submit a copy of the payroll registers for the period just prior to implementation of the wage pass-through program. This will be in addition to the payroll register for the quarter for which they are reporting. This documentation should reflect the increased wages that were incurred for the pass-through.

Optional documentation may include salary charts or matrices used prior to and after implementation of the pass-through program. These charts may aid in demonstrating wage enhancements, especially for employees hired as replacements. KDOA audit staff may request additional documentation if they deem it necessary.

Reports are required on a calendar quarter basis. The first report will be for the month of September and will be due 45 days after September 30, 1999. Subsequent reports will be due 45 days after the quarters ending December 31, 1999, March 31, 2000, and June 30, 2000. If a provider implements later than September 1, 1999, they will be required to file the report at the end of the calendar quarter in which they implemented the pass-through enhancement. For example, if a provider implements the pass-through enhancement on November 1, 1999, the first report will be for the two months ending December 31, 1999.

Allowable Reimbursement

The following are the eligible position classifications for the Quality Enhancement Wage Pass-Through per diem:

- Nurse aides
- Medication aides

- Restorative-rehabilitation aides
- Licensed mental health technicians
- Plant operating and maintenance personnel
- Non-supervisory dietary personnel
- Laundry personnel
- Housekeeping personnel
- Non-supervisory activity staff

The following are the eligible uses for the quality enhancement wage pass-through per diem for the above position classifications:

- Increase salaries
- Increase benefits
- Hire new staff

Senate Bill 126 specifically states: "No wage pass-through moneys shall be expended to increase management compensation or facility profits."

The documented quarterly expenditures for the wage pass-through program shall be divided by total resident days for all payer sources during the reporting period to determine the per diem cost for each resident. The Medicaid portion of the reimbursement of the total costs will be for the Medicaid resident days.

For example, a facility's total cost of the wage pass-through program for the quarter is \$30,000. There are 7,500 resident days during the quarter. Of the resident days, 50% (3,750 days) are Medicaid and 50% (3,750 days) are private pay.

The total documented cost for the quarter would be \$4 per day (\$30,000 divided by 7,500 days). The Medicaid portion of the cost would be \$15,000 (\$4 per day times 3,750 days). The private pay portion of the cost would be \$15,000, using the same calculation.

Using the same example, but with a resident mix of 40% Medicaid (3,000 days) and 60% private pay (4,500 days) the following cost sharing would take place. The Medicaid portion of the cost would be \$12,000 (\$4 per day times 3,000 days). The private pay portion of the cost would be \$18,000 (\$4 per day times 4,500 days).

The quality enhancement wage pass-through per diem will be added to the calculated Medicaid rate that would have been in effect from September 1, 1999 through June 30, 2000. The per diem wage pass-through will reimburse facilities while the enhanced costs are being incurred. The pass-through is not subject to cost center limits or the 85% minimum occupancy rule. When the actual cost for the wage enhancement is reported on a quarterly basis, it will be divided by the actual resident days to determine the allowable per diem cost. The costs incurred due to using the pass-through will be included in the Medicaid cost report base.

Providers will be held to the lower of the calculated Medicaid rate or the private pay rate in the agency register. For example, on September 1, 1999, a provider has a calculated Medicaid rate of \$80 and a private pay rate in the register of \$82. The provider requests a wage pass-through per diem of \$4. The Medicaid rate the provider will receive is \$82 until the private pay rate increased to equal or exceed the enhanced Medicaid rate with the full pass-through request of \$84.

Providers who increase wages or benefits and/or hire new staff on July 1, 1999, but before September 1, 1999,

in anticipation of being a successful applicant for the Quality Enhancement Wage Pass-Through will be able to use those increases to document the use of the wage enhancement when the rates are effective on September 1, 1999. However, there will not be a retroactive rate increase for those days prior to September 1, 1999, that the wage increases impact. Providers assume the risk of increasing wages or benefits and/or hiring new staff before they know the outcome of the application selection process.

For example, a provider raises wages \$1 per hour in the eligible position classifications on July 1, 1999, in anticipation of a Medicaid wage pass-through of \$4 per day, effective September 1, 1999. If the provider is a successful applicant, the \$1 per hour wage increase can be used to document the increased costs beginning on September 1 even though it was first incurred on July 1. However, there will be no retroactive rate adjustment for the resident days in July and August 1999, prior to the effective date of the wage pass-through provision. If the provider is not a successful applicant, the quality enhancement wage pass-through program will not reimburse the wage increase.

Auditing/Settlements

The quarterly reports shall be audited by KDOA staff to ensure the wage pass-through moneys were used to increase salaries or benefits and/or to hire new staff in the eligible personnel classifications. Expenditures reported for other uses or money used to increase facility profits are not allowable and will be recouped on the final accounting. The final accounting will take place after the report for the quarter ended June 30, 2000, is submitted and reviewed by agency staff.

The agency will neither reduce the wage pass-through per diem nor recoup funds following the review of the quarterly audit reports. The reports will be reviewed for accuracy and records will be kept to identify moneys that were advanced, but not spent in the quarter for which the audit report covered. A final settlement will be made after the last quarterly audit report is received for the quarter ended June 30, 2000. If a provider did not use all of the Medicaid moneys advanced for the Quality Enhancement Wage Pass-Through Program on acceptable enhancements, the moneys not used for the enhancements will be recouped.

Voluntary Provider Termination/Change of Provider

Providers may voluntarily withdraw from the Quality Enhancement Wage Pass-Through Program by notifying KDOA for NF or NF-MH. If a provider terminates, quarterly audit reports will still be required for each quarter in which the provider participated in the pass-through program. Some reports may be for a partial quarter when applicable. The agency will recoup funds that were advanced, but not documented by the provider as being used for acceptable enhancements.

If a facility receiving the wage pass-through has a change of provider, the new provider shall be responsible for notifying the agency that they want to be terminated from the program. The new provider shall be required to submit the quarterly audit reports to document the use

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of the funds for the intended purpose and shall be responsible for the final settlement. If the new provider decides to terminate participation, the old provider shall be responsible for any overpayment unless the 60-day notice of change of provider was not given. If the 60-day notice is not given, the new provider assumes the responsibility of any overpayment to the old provider.

II. Final Medicaid Per Diem Rates for Kansas Nursing Facilities.

The quality enhancement wage pass-through per-diem shall not exceed \$4 per Medicaid resident day. Providers may request less than \$4 per day or choose not to participate in the program. The per-diem increase for the applications approved will be added to the computed Medicaid rate in effect for the nursing facility but shall not exceed the comparable private pay rate.

III. Justifications for the Final Rates.

1. The final rates are calculated according to methodology that satisfies the requirements of Senate Bill 126 and House Bill 2489.

2. Staff with the Kansas Departments on Aging and Social and Rehabilitation Services met with representatives from the Kansas Association of Homes and Services for the Aging and the Kansas Health Care Association to determine the most equitable method of distributing the available funding for the quality enhancement wage pass-through program. The final methodology represents a consensus of the attendees at the meetings.

3. a. Estimated impact of the rate change due to the implementation of the quality wage enhancement program:

Estimated Average Rate September 1, 1999	\$84.12
Estimated Average Rate July 1, 1999	\$83.12
Amount of Change	\$ 1.00
Percent of Change	1.20%

b. The above estimated average rates are in the aggregate. Not all nursing facilities will receive a rate change and some may receive up to \$4 per day.

4. Estimated annual aggregate expenditures in the Medicaid nursing facility services payment program will increase by approximately \$4,500,000.

5. The state estimates that the final rates would continue to make quality care and services available under the Medicaid State Plan at least to the extent that care and services are available to the general population. The state's studies indicate:

a. Service providers operating a total of 326 nursing facilities (representing 98% of all the licensed nursing facilities in Kansas) participate in the Medicaid program, while an additional 46 hospital-based long-term care units are also certified to participate in the Medicaid program;

b. There is at least one Medicaid-certified nursing facility or Medicaid-certified hospital-based long-term care unit in each of the 105 counties in Kansas;

c. The statewide average occupancy rate for nursing facilities participating in Medicaid is 86.4%;

d. The statewide average Medicaid occupancy rate for participating facilities is 54.2%, which is a decrease from the prior year; and

e. The final rates would enhance the coverage that is already at 98.64% of the estimated Medicaid health care costs incurred by participating nursing facilities statewide.

6. Federal Medicaid regulations at 42 C.F.R. 447.272 impose an aggregate upper payment limit that states may pay for Medicaid nursing facility services. The state's analysis indicates that the final methodology would result in compliance with the federal regulation.

IV. The State's Response to Written Comments on the Published Proposal.

The state received 17 written comments to the Notice of Proposed Nursing Facility Medicaid Rates for State Fiscal Year 2000 for the Nursing Facility Quality Enhancement Wage Pass-Through Program, Methodology for Calculating Proposed Rates, and Rate Justifications; Notice of Intent to Amend the Medicaid State Plan and Request for Comments published in the June 24, 1999 Kansas Register. As a result of the comments, revisions have been made to the final methodology and are incorporated herein. The secretaries wish to thank all those who submitted written comments and those representatives of the nursing facility industry who worked with the state to develop the Nursing Facility Quality Enhancement Wage Pass-Through Program.

V. Notice of Intent to Amend the Medicaid State Plan.

The state intends to submit the proposed Medicaid State Plan amendments to HCFA on or before September 30, 1999.

Thelma Hunter Gordon
Secretary of Aging

Rochelle Chronister
Secretary of Social and
Rehabilitation Services

Doc. No. 024138

(Published in the Kansas Register August 5, 1999.)

Heartland Works, Inc.

Invitation for Bids

Heartland Works, Inc. is accepting bids for consultant services regarding the Workforce Investment Act of 1998. To receive an invitation for bids, including all specifications, contact Heartland Works, Inc., 1035 S.W. Topeka Blvd., Topeka, 66612-1601, (785) 234-0500. Bids must be received not later than 3 p.m. Wednesday, August 25. Heartland Works welcomes all interested bidders.

Phyllis McCune
Fiscal Director

Doc. No. 024158

(Published in the Kansas Register August 5, 1999.)

**Notice of Mandatory Partial Redemption
City of Wichita, Kansas
Industrial Revenue Bonds Series XCV-1979
(Cherry Creek Village Partnership)**

**Dated September 1, 1979, 9.0%, Due September 1, 2002
(9672568U5)**

Notice is hereby given that pursuant to Section 5 of the Resolution No. 36-307 of the Trust Indenture dated September 1, 1979, the following outstanding bonds in the denomination of \$5,000 each, totaling \$270,000 aggregate principal amount of the above issue, will be redeemed on September 1, 1999 (the redemption date), at a redemption price of 100 percent of the principal amount thereof, plus accrued interest to the redemption date:

Bond #	Bond #	Bond #	Bond #	Bond #	Bond #
366	409	452	498	567	640
367	414	454	501	572	659
370	419	456	506	608	662
379	427	458	513	612	669
383	430	461	521	616	673
387	435	470	541	620	677
388	442	479	547	628	681
395	443	482	556	632	682
407	445	487	561	636	686

The bonds shall be payable upon presentation and surrender thereof on the redemption date to the paying agent, Commerce Bank N.A., Securities Processing Unit, Suite 0125, One First National Plaza, Chicago, IL 60670-0125. Interest shall cease to accrue on all bonds called for redemption on and after September 1, 1999.

The method of presentation and delivery of such bonds for redemption is at the option and risk of the owners of each bond. It is suggested, however, if the securities are sent by mail, that the envelope be sent insured, registered, return receipt.

Such redemption of the bonds is conditional and subject to the deposit of the redemption funds with Commerce Bank, N.A. not later than the opening of business on the redemption date. This notice of redemption shall be of no effect unless such funds are so deposited.

Under the provisions of the National Energy Policy Act of 1992, paying agents making payments of principal on municipal securities may be obligated to withhold an amount equal to 31 percent of the remittances to the individuals who have failed to furnish the paying agent with a valid taxpayer identification number. Holders of the above-described securities who wished to avoid the imposition of this withholding should submit certified taxpayer identification numbers on a Form W-9 when presenting their bonds for collection.

Neither Commerce Bank nor Cherry Creek Village Partnership shall be responsible for the selection or use of the CUSIP identification number shown above, nor is any representation made as to the correctness of the CUSIP identification number shown above or printed on any of the Series 1979 Bonds. Said CUSIP identification numbers are included solely for the convenience of the holders of the 1979 bonds.

Dated August 1, 1999.

Commerce Bank N.A.
Wichita, Kansas
Trustee

Doc. No. 024130

(Published in the Kansas Register August 5, 1999.)

**Notice of Mandatory Partial Redemption
City of Elwood, Kansas
First Mortgage Revenue Bonds
(Section 8 Assisted Housing Project)**

**Dated March 1, 1978, 7.40% Due September 1, 2008
(No Cusip No. Assigned)**

Notice is hereby given that pursuant to 302c of the Indenture of Trust and Mortgage dated March 1, 1978, the following outstanding bonds, in denominations of \$5,000 each, totaling \$25,000 aggregate principal amount of the above issue, will be redeemed at the option of the issuer on September 1, 1999 (the redemption date), at a redemption price of 100 percent of the principal amount thereof, plus accrued interest to the redemption date:

Bond #	Bond #	Bond #	Bond #	Bond #
059	113	114	115	116

The bonds shall be payable upon presentation and surrender thereof on the redemption date to the paying agent, Commerce Bank N.A., Securities Processing Unit, Suite 0125, One First National Plaza, Chicago, IL 60670-0125. Interest shall cease to accrue on all bonds called for redemption on and after September 1, 1999.

The method of presentation and delivery of such bonds for redemption is at the option and risk of the owners of each bond. It is suggested, however, if the securities are sent by mail, that the envelope be sent insured, registered, return receipt.

Under the provisions of the National Energy Policy Act of 1992, paying agents making payments of principal on municipal securities may be obligated to withhold an amount equal to 31 percent of the remittances to the individuals who have failed to furnish the paying agent with a valid taxpayer identification number. Holders of the above-described securities who wish to avoid the imposition of the withholding should submit certified taxpayer identification numbers on a Form W-9 when presenting their bonds for collection.

Dated August 1, 1999.

Commerce Bank, N.A.
Wichita, Kansas
Trustee

Doc. No. 024129

State of Kansas

State Bank Commissioner

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 9 a.m. Monday, October 18, in the conference room of the Office of the State Bank Commissioner, Suite 300, 700 S.W. Jackson, Topeka, to consider the adoption of Kansas Administrative Regulations 17-11-19, 17-22-1 and 17-23-16. The regulations are proposed for adoption on a permanent basis.

K.A.R. 17-11-19. This regulation concerns the records of charged-off assets. This amendment is intended to clarify that maintenance of a general ledger is not a sufficient "central listing" for purposes of compliance with the regulation's requirement concerning records of charged-off assets. The amendment makes clear that maintenance of a subsidiary ledger for each debtor is required. In practice, most banks already maintain such subsidiary ledgers. Adoption of this regulation will result in no new economic impact on a government agency, regulated entities or the public.

K.A.R. 17-22-1. The proposed amendment adds language to address an aspect of bank relocation not currently addressed in present in the regulation. The amended regulation addresses the situation where a main bank office is moved to a new location and bank management chooses to maintain the old main office location as a branch. The proposed fee for such a relocation is \$500. The OSBC believes its fee accurately reflects the amount of time necessary for the agency to process the application. The added language in the regulation will not have an impact on the general public or any other governmental entity.

K.A.R. 17-23-16. This regulation concerns the location of trust documents. It currently requires that all of the original governing instruments establishing a fiduciary relationship with a bank or trust company be kept in one location. By adding the language "unless an exception is granted by the commissioner" and the criteria the commissioner will use in granting exceptions, the OSBC will have the ability to review situations on a case-by-case basis. This should avoid unnecessary burdens on banks and trust companies while preserving the intent behind the regulation, which is to ensure that OSBC examiners are able to conduct examinations efficiently.

A copy of the proposed regulations and the economic impact statement may be obtained by contacting Ezra Ginzburg, Staff Attorney, Office of the State Bank Commissioner, 700 S.W. Jackson, Suite 300, Topeka, 66603, (785) 296-2266. The standard departmental cost will be assessed for any copies requested.

This 60-day notice of hearing shall constitute a public comment period for the purpose of receiving public comments on the proposed regulations. Written comments should be submitted prior to the hearing to Judi Stork, Acting State Bank Commissioner, at the address listed above. Interested persons will be given reasonable opportunity at the hearing to present their views and arguments on the adoption of the proposed regulations. However, presentations should be in writing whenever possible.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days before the hearing by contacting Ezra Ginzburg at (785) 296-2266, fax (785) 296-0168.

Judi Stork
Acting State Bank Commissioner

Doc. No. 024131

(Published in the Kansas Register August 5, 1999.)

**Summary Notice of Bond Sale
City of Andale, Kansas
\$380,000**

**General Obligation Main Trafficway Bonds
(General obligation bonds payable
from unlimited ad valorem taxes)**

Details of the Sale

Subject to the terms and conditions of the complete official notice of bond sale dated July 26, 1999, of the City of Andale, Kansas, in connection with the city's General Obligation Main Trafficway Bonds, Series A, 1999, hereinafter described, sealed, written bids shall be received at the office of the city clerk at City Hall, 304 N. Main, Andale, Kansas, until 2 p.m. Thursday, August 12, 1999, for the purchase of the bonds. All bids shall be publicly opened, read aloud and tabulated on said date and at said time by city staff, and shall be presented to, considered and acted upon by the governing body of the city at its regular meeting at 7 p.m. on said date and at said place.

No oral or auction bids for the bonds shall be considered, and no bids 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 or from the city's financial advisor. Bids may be submitted by mail or may be 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 and made payable to the order of the city, or in the form of a financial surety bond payable to the order of the city and meeting requirements set forth in the official notice of bond sale, and shall be in an amount equal to 2 percent of the principal amount of the bonds.

Details of the Bonds

The bonds to be sold are in the aggregate principal amount of \$380,000, and shall bear a dated date of August 15, 1999. The bonds shall be issued as 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 interest, payable as hereinafter set forth, at the rates specified by the successful bidder for the bonds. The bonds are *not* subject to redemption prior to their maturities.

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

Principal Amount	Maturity Date
\$30,000	2000
30,000	2001
35,000	2002
35,000	2003
35,000	2004
40,000	2005
40,000	2006
45,000	2007
45,000	2008
45,000	2009

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 is 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. (Reference is made to the official notice of bond sale and the preliminary official statement for a complete discussion of security for the bonds.)

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 Monday, August 30, 1999, at such bank or trust company or other qualified depository in the State of Kansas or Kansas City, Missouri, or at the the Depository Trust Corporation in New York, New York, 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 Hinkle Elkouri Law Firm L.L.C., 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 city's equalized assessed tangible valuation for computation of bonded debt limitations for calendar year 1999 is \$3,515,602. On August 15, 1999, the city's outstanding general obligation bonded indebtedness, including the bonds described herein, will be in the principal amount of \$1,215,240.

Official Statement

The city has prepared a preliminary official statement relating to the bonds, copies of which may be obtained from the city or the city's financial advisor. The preliminary official statement is in a form "deemed final" by the city for the purpose of the 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.

Additional Information

For additional information regarding the city, the bonds and the public 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 at the address and telephone number shown below, or from the city's financial advisor, Cooper Malone McClain, Inc., 7701 E. Kellogg, Suite 700, Wichita, KS 67207, (316) 685-5777.

Shirley J. Stuever, City Clerk
City Hall, 304 N. Main
P.O. Box 338
Andale, KS 67001-0338
(316) 444-2351

Doc. No. 024140

(Published in the Kansas Register August 5, 1999.)

Summary Notice of Bond Sale**City of Russell, Kansas****\$1,000,000****General Obligation Bonds****Series 1999A (Swimming Pool Project)****(General obligation bonds payable from
unlimited ad valorem taxes)****Sealed Bids**

Subject to the official notice of bond sale and preliminary official statement dated July 20, 1999, sealed bids will be received by the city clerk of the City of Russell, Kansas (the issuer), on behalf of the governing body of the city at City Hall, 133 W. 8th, Russell, Kansas, until 3 p.m. Tuesday, August 17, 1999, for the purchase of \$1,000,000 principal amount of General Obligation Bonds, Series 1999A (Swimming Pool Project). 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 August 1, 1999, and will become due on September 1 in the years as follows:

Year	Principal Amount
2000	\$ 80,000
2001	85,000
2002	90,000
2003	90,000
2004	95,000
2005	100,000
2006	105,000
2007	110,000
2008	120,000
2009	125,000

The bonds will be subject to optional redemption prior to maturity as provided in the official notice of bond sale and preliminary official statement.

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.

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

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 the amount of \$20,000 (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 to the facilities of the Depository Trust Company, New York, New York, without cost to the successful bidder within 45 days after the date of sale.

Assessed Valuation and Indebtedness

The total assessed valuation of taxable tangible property in the city for the year 1998 is \$21,033,530. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$2,196,000.

Approval of Bonds

The bonds will be sold subject to the legal opinion of Nichols and Wolfe Chartered, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds, will be furnished and paid for by the issuer and delivered to the successful bidder when the bonds are delivered.

Additional Information

Additional information regarding the bonds may be obtained from the city clerk, (785) 483-6311, or from the financial advisor, Stifel, Nicolaus & Co., Inc., 250 N. Water, Suite 100, Wichita, KS 67202, (316) 264-6321.

Dated July 20, 1999.

City of Russell, Kansas
Karen D. Gates, City Clerk
City Hall
133 W. 8th
Russell, KS 67665

Doc. No. 024132

(Published in the Kansas Register August 5, 1999.)

Summary Notice of Bond Sale**City of Olathe, Kansas****\$1,111,000*****General Obligation Bonds****(Taxable Under Federal Law)****Series 195****(General obligations payable from
unlimited ad valorem taxes)****Sealed Bids**

Subject to the notice of sale and preliminary official statement, sealed bids will be received by the city treasurer of the City of Olathe, Kansas, on behalf of the governing body at the Municipal Building, 126 S. Cherry, Olathe, KS 66061, on Tuesday, August 17, 1999, for the purchase of \$1,111,000* principal amount of General Obligation Bonds (Taxable Under Federal Law), Series 195. Bids for the bonds will be opened at 11 a.m. local time on that day. No bid will be considered of less than 99 percent of the principal amount of the bonds and accrued interest to the date of delivery.

Bond Details

The bonds will consist of fully registered certificated bonds in the denomination of \$5,000 or any integral multiple thereof, except for one bond maturing in 2000 in the amount of \$6,000 or any integral multiple of \$5,000 in excess thereof. Bonds shall initially be registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York, to which payments of principal of and interest on the bonds will be made. Individual purchases of bonds will be made in book-entry

form only. Purchasers will not receive certificates representing their interest in bonds purchased. The bonds will be dated September 1, 1999, and will become due annually on October 1, beginning October 1, 2000, in the years as follows:

Year	Principal Amount*
10/01/01	\$111,000
10/01/00	110,000
10/01/02	110,000
10/01/03	110,000
10/01/04	110,000
10/01/05	115,000
10/01/06	110,000
10/01/07	110,000
10/01/08	110,000
10/01/09	115,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold, and interest will be payable semiannually on April 1 and October 1 in each year, beginning April 1, 2000. The Kansas State Treasurer, Topeka, Kansas, will be the paying agency and bond registrar for the bonds.

Good Faith Deposit

Each bid for the bonds shall be accompanied by a good faith check in the form of a cashier's or certified check or a financial surety bond in the amount of 2 percent of the principal amount of the bonds of such series.

Delivery

The city will pay for preparing the bonds. The city will deliver the bonds in book-entry form only through the facilities of the the Depository Trust Company, New York, New York, on or before September 15, 1999.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations is \$711,802,583. The total general obligation indebtedness of the city as of the date of the bonds, including the bonds being sold and outstanding temporary notes, is \$94,229,400, and the total general obligation indebtedness of the city as of December 31, 1998, for debt limitation purposes was \$34,996,336.

Approval of Bonds

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

Additional Information

Additional information regarding the bonds may be obtained from Kevin Hammeke, the city's director of financial services, (913) 782-2600; or from the city's financial advisor, U.S. Bancorp Piper Jaffray Inc., Kansas City, Missouri, Attention: Dennis Mitchell, (816) 360-3072.

Dated July 20, 1999.

City of Olathe, Kansas
 Kevin Hammeke
 Olathe City Treasurer

Municipal Building
 126 S. Cherry
 Olathe, KS 66061

*Subject to change.

Doc. No. 024121

(Published in the Kansas Register August 5, 1999.)

**Summary Notice of Bond Sale
 City of Dodge City, Kansas
 \$965,000***

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

Sealed Bids

Subject to the notice of bond sale, sealed bids will be received by the city clerk of the City of Dodge City, Kansas, on behalf of the governing body at 806 2nd Ave., Dodge City, KS 67801, until 5 p.m. Monday, August 16, 1999, for the purchase of \$965,000* principal amount of General Obligation Bonds, Series 1999. No bid of less than the entire par value of the bonds and accrued interest 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 August 15, 1999, and will become due September 1 in the years as follows:

Maturity September 1	Principal Amount*
2000	\$ 80,000
2001	80,000
2002	85,000
2003	90,000
2004	95,000
2005	100,000
2006	105,000
2007	105,000
2008	110,000
2009	115,000

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

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

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 financial surety bond in a form that complies with the requirements set forth in the notice of sale in the amount of \$19,300 (2 percent of the principal amount of the bonds).

Delivery

The city will pay for preparation of the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about

(continued)

August 31, 1999, through the facilities of the Depository Trust Company, New York, New York.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1998 is \$118,453,384. The total general obligation indebtedness of the city as of the date of the bonds, including the bonds being sold, is \$8,958,500. Temporary notes of the city in the amount of \$233,500 will be retired from the proceeds of the bonds.

Approval of Bonds

The bonds will be sold subject to the legal opinion of Logan Riley Carson & Kaup, L.C., Overland Park, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the city and delivered to the successful bidder when the bonds are delivered.

Additional Information

Additional information regarding the bonds may be obtained from the city clerk, Nannette Pogue, (316) 225-8100; from the city's financial advisor, Stifel Nicolaus & Co., Inc., Wichita, Kansas, Attention: Steve Randle, (800) 786-5786; or from bond counsel, Logan Riley Carson & Kaup, L.C., 9200 Indian Creek Parkway, Suite 230, Overland Park, KS 66210, (913) 661-0399.

Dated July 29, 1999.

City of Dodge City, Kansas
By Nannette Pogue
City Clerk/Finance Director
806 2nd Ave.
Dodge City, KS 67801

* Principal amount subject to change.

Doc. No. 024144

(Published in the Kansas Register August 5, 1999.)

Summary Notice of Bond Sale \$10,000,000

General Obligation School Building Bonds
Series 1999
of Unified School District No. 232
Johnson County, Kansas
(DeSoto)

(General obligations payable from
unlimited ad valorem taxes)

Sealed Bids

Subject to the notice of sale and preliminary official statement, sealed bids will be received by the clerk of Unified School District No. 232, Johnson County, Kansas (DeSoto), on behalf of the Board of Education of the district at the District Office, 8305 Peoria, DeSoto, KS 66018, on Monday, August 16, 1999, for the purchase of \$10,000,000 principal amount of General Obligation School Building Bonds, Series 1999. Bids for the bonds will be received until 5 p.m. on that day. No bid will be considered of less than 97.50 percent of the principal amount of the bonds and accrued interest to the date of delivery and no supplemental interest payments will be

considered. The successful bidder shall not reoffer the bonds at an aggregate dollar price greater than 100 percent of the principal amount of the bonds plus accrued interest.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. Bonds shall initially be registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York, to which payments of principal of and interest on the bonds will be made. Individual purchases of bonds will be made in book-entry form only. Purchasers will not receive certificates representing their interest in bonds purchased. The bonds will be dated August 15, 1999, and will become due annually on September 1, beginning September 1, 2001, in the years as follows:

Year	Principal Amount
09/01/01	\$ 155,000
09/01/02	200,000
09/01/03	345,000
09/01/04	450,000
09/01/05	540,000
09/01/06	660,000
09/01/07	900,000
09/01/08	1,050,000
09/01/09	875,000
09/01/10	975,000
09/01/11	1,240,000
09/01/12	965,000
09/01/13	1,225,000
09/01/14	420,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold, and interest will be payable semiannually on March 1 and September 1 in each year, beginning September 1, 2000. The Kansas State Treasurer, Topeka, Kansas, will be the paying agent and bond registrar for the bonds.

Good Faith Deposit

Each bid for the bonds shall be accompanied by a good faith check in the form of a cashier's or certified check or a financial surety bond in the amount of 2 percent of the principal amount of the bonds.

Delivery

The district will pay for preparing the bonds. The district will deliver the bonds in book-entry form only through the facilities of Depository Trust Company, New York, New York, on or before September 14, 1999.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations is \$130,298,522. The total general obligation indebtedness of the district as of the date of the bonds, including the bonds being sold, is \$54,435,000.

Approval of Bonds

The bonds will be sold subject to the legal opinion of Gilmore & Bell, P.C., Kansas City, Missouri, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the district,

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 Dr. Sharon Zoellner, assistant superintendent, (913) 583-8300, or from the district's financial advisor, Ranson & Associates, Inc., Attention: Steve Shogren, (316) 681-3123.

Dated July 19, 1999.

Unified School District No. 232
Johnson County, Kansas (DeSoto)
Barbara J. Gregg
Clerk, Board of Education

Doc. No. 024133

State of Kansas

Kansas Lottery

Temporary Administrative Regulations

Article 2.—LOTTERY RETAILERS

111-2-4. Compensation. Each lottery retailer shall be compensated for selling lottery tickets and/or shares in accordance with the terms of the contract or contracts currently in effect between the Kansas Lottery and the lottery retailer.

Effective at the start of the business day, as defined at subsection (p) of section K.A.R. 111-6-1, on August 22, 1999, as consideration for problem on-line game tickets erroneously produced either by terminal malfunction or by miscommunication between a player and retailer that cannot be sold and are not cancelled, a retailer shall receive an allowance of .25 percent of its net on-line sales. Any on-line game ticket that is neither sold nor cancelled shall be returned to the lottery for credit. At the discretion of the executive director, credit may be applied to a retailer's account in the event of a major terminal or system malfunction that results in unsellable and uncancellable tickets being charged to the retailer. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-88-25, Aug. 12, 1987; amended, T-111-10-21-96, Oct. 18, 1996; amended, T-111-12-18-96, Dec. 12, 1996; amended, T-111-3-13-98, Feb. 20, 1998; amended, T-111-7-19-99, June 17, 1999.)

111-2-30. Retailer bonus; on-line games. (a) On all Powerball, Cash 4 Life, and Kansas Cash drawings in which the prize claimed and awarded is the "jackpot prize" offered in the game it represents, the Kansas lottery retailer(s) selling the ticket(s) shall receive \$10,000 for Powerball, \$2,500 for Cash 4 Life and \$1,000 for Kansas Cash, or share equally in a bonus if there are multiple winners and the prize is paid on a parimutuel basis. The bonus shall be in addition to compensation specified in K.A.R. 111-2-4.

(b) A "jackpot prize" is the highest prize awarded in the prize structure of the Powerball, Cash 4 Life, or Kansas Cash game it represents.

(c) On all Powerball and Cash 4 Life drawings where the prize claimed and awarded is less than the jackpot

prize and is not less than \$100,000, the Kansas lottery retailer selling the ticket shall receive \$1,000.

(d) On all Keno drawings where the prize claimed and awarded is not less than \$100,000, the Kansas lottery retailer selling the ticket shall receive \$1,000.

(e) Effective at 6:00 a.m., August 22, 1999, in addition to other commissions and bonuses received, each retailer shall receive a sales bonus of one percent (1%) of prizes over \$599, with a minimum bonus of \$10 and a maximum bonus of \$100. A retailer receiving a bonus pursuant to subsections (a), (b), (c) or (d) above shall not be entitled to this bonus. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-8-5-94, July 15, 1994; amended, T-111-3-22-95, March 16, 1995; amended, T-111-5-22-96, May 15, 1996; amended, T-111-6-27-96, June 21, 1996; amended, T-111-7-22-96, July 19, 1996; amended, T-111-3-13-98, Feb. 20, 1998; amended, T-111-5-28-98, May 15, 1998; amended, T-111-7-19-99, June 17, 1999.)

Article 4.—INSTANT GAME RULES

**RULES FOR INSTANT GAME NO. 24
"WORLD CHAMPIONSHIP WRESTLING"**

111-4-1486. Name of game. The Kansas lottery shall conduct an instant winner lottery game entitled "World Championship Wrestling" commencing on or after June 19, 1999. The specific rules for the "World Championship Wrestling" game are contained in K.A.R. 111-3-1 et seq. and 111-4-1486 through 111-4-1490. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-7-19-99, June 17, 1999.)

111-4-1487. Definitions. The following definitions shall apply to the "World Championship Wrestling" instant lottery game:

(a) "Game symbols" are the numbers, letters, symbols, or pictures printed in each of the two play areas of each instant game ticket and which determine if the ticket bearer is entitled to a prize. In this instant game, the game symbols are printed in black ink with matching captions. A game symbol appears in each of the eighteen play spots within the two play areas. Each game symbol for this instant game is one of the following: \$2.00 - \$3.00 - \$5.00 - 10.00 - 20.00 - 25.00 - 50.00 - \$100\$ - \$1000 - \$30000 - T-shirt - MAYBE NEXT TIME - GOOD LUCK - 01 - 02 - 03 - 04 - 05 - 06 - 07 - 08 - 09 - 10 - 11 - 12 - 13 - 14 - 15 - 16 - 17 - 18 - 19 - 20.

(b) "Game symbol captions" are the words or portions of words, letters or numbers printed beneath each game symbol in the play area and are used to repeat or explain the game symbol. The game symbol caption associated with each game symbol is as follows:

Game Symbol	Game Symbol Caption
\$2.00	TWO\$
\$3.00	THR\$
\$5.00	FIVE\$
10.00	TEN\$
20.00	TWENTY
25.00	TWEN-FIV
50.00	FIFTY
\$100\$	ONE-HUN

(continued)

\$1000	ONETHOU
\$30000	30-THOU
T-shirt	
MAYBE NEXT TIME	
GOOD LUCK	
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SEV
08	EGT
09	NIN
10	TEN
11	ELVN
12	TWLV
13	THRTN
14	FORTN
15	FIFTN
16	SIXTN
17	SEVTN
18	EIGHTN
19	NINTN
20	TWNTY

(c) "Ticket validation number" means a unique number appearing on each ticket which is used to validate winning tickets. For this instant game, the ticket validation number is an 11-digit number which appears below the game symbols under the latex covering in the play area on the front of each instant ticket.

(d) "Book-ticket number" means the unique number appearing on each ticket which includes the number of the book from which it was removed and the serially assigned number of the ticket within that book. For this instant game, the book-ticket number is an 8-digit book number followed by a dash and then a 3-digit ticket number. The ticket numbers in each book start with 000 and end with 099. The book-ticket number is printed in black ink on the back of each instant game ticket both below the information form and below the bar code.

(e) "Retailer validation code" means the small letters found under removable covering in the play area of each instant game ticket. The retailer uses this code to verify and validate winners which are to be paid by the retailer. In this instant game, the retailer validation code is a three-letter code printed and appearing in three of eight varying locations among the game symbols in the play areas. The codes and their meanings are as follows: THR = \$3.00; FIV = \$5.00; SEV = \$7.00; TEN = \$10.00; FTN = \$15.00; TWN = \$21.00; TWF = \$25.00; FTY = \$50.00; ETY = \$80.00; HUN = \$100.00; THN = \$200.00; FHN = \$500.00.

(f) "Bar code" means the 16-digit bar-coded number appearing on the back of each ticket. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-7-19-99, June 17, 1999.)

111-4-1488. Cost of ticket. The price of "World Championship Wrestling" instant tickets sold by a retailer shall be \$3.00 each. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-7-19-99, June 17, 1999.)

111-4-1489. Determination of instant prize winners. (a) This instant game consists of two separate play areas. Game 1 is a "BONUS" game where a player removes or "scratches off" the material covering the play area. If a T-shirt symbol is revealed, the player wins a World Championship Wrestling® T-shirt. If a \$5.00 prize amount is revealed, the player wins that amount instantly. A player can win once in this play area. Game 2 is a "key number match" game. A player removes the scratch-off material to reveal one "LUCKY WRESTLING NUMBER" and eight "YOUR WRESTLING NUMBERS." If a player matches the "LUCKY WRESTLING NUMBER" to any of the "YOUR WRESTLING NUMBERS," the player wins the prize shown below that number. A player can win up to eight times in this play area.

(b) T-shirts must be claimed at Kansas lottery headquarters, 128 North Kansas Avenue, Topeka, Kansas 66603-3638, as reflected on the back of the ticket and on the receipt following validation, and will be mailed to winners. The lottery shall not be responsible for T-shirts which lottery records show have been mailed but not received.

(c) A player can win up to nine times on a single ticket. (Authorized by K.S.A. 1998 Supp. 74-8710(b), (c) and (i); implementing K.S.A. 1998 Supp. 74-8710(b), (c) and (i), and K.S.A. 74-8720(b) and (d); effective, T-111-7-19-99, June 17, 1999.)

111-4-1490. Number and value of instant prizes.

(a) There will be approximately 1,200,000 tickets ordered initially for this instant game. The expected number and value of the instant prizes are as follows:

Bonus	Game 2	Prize	Expected Number of Prizes in Game	Expected Value in Game
	\$3	\$3	148,000	\$444,000
	\$5	\$5	18,000	90,000
\$5	\$5	\$5	30,000	150,000
\$5	\$2	\$7	14,000	98,000
\$5	\$5	\$10	13,200	132,000
	\$5x2	\$10	13,200	132,000
\$5	\$2x5	\$15	5,600	84,000
\$5	\$2x8	\$21	2,900	60,900
	\$5x5	\$25	2,900	72,500
\$5	\$10x2	\$25	2,900	72,500
	\$25x2	\$50	1,500	75,000
\$5	(\$20x2)+10	\$50	1,500	75,000
	(\$5x7)+10	\$50	1,500	75,000
	\$10x5	\$50	1,500	75,000
	\$10x8	\$80	560	44,800
	\$20x5	\$100	500	50,000
	\$50x2	\$100	800	80,000
	\$100	\$100	800	80,000
	\$100x2	\$200	300	60,000
	\$50x4	\$200	300	60,000
	\$100x5	\$500	120	60,000
	\$1,000	\$1,000	32	32,000
	\$30,000	\$30,000	8	240,000
Bonus T-Shirt Prizes			6,600	0
TOTAL			<u>266,720</u>	<u>\$2,342,700</u>

(b) The executive director may terminate the sale of tickets prior to the complete sale of all tickets. In this event, the number and value of prizes will be approximately proportional to the number of tickets actually sold. The odds of winning a prize in this game are one in 4.50.

(c) All prizes are subject to deductions provided by law.
 (d) Additional ticket orders shall have the same prize structure, the same number of prizes per prize pool of 300,000 tickets and the same odds as were contained in the initial ticket order. (Authorized by K.S.A. 1998 Supp. 74-8710(b), (c) and (f), implementing K.S.A. 1998 Supp. 74-8710(b), (c) and (f), and K.S.A. 74-8720; effective, T-111-7-19-99, June 17, 1999.)

**RULES FOR INSTANT GAME NO. 28
 "INSTANT BATTLESHIP"**

111-4-1491. Name of game. The Kansas lottery shall conduct an instant winner lottery game entitled "Instant Battleship" commencing on or after June 19, 1999. The specific rules for the "Instant Battleship" game are contained in K.A.R. 111-3-1 *et seq.* and 111-4-1491 through 111-4-1495. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-7-19-99, June 17, 1999.)

111-4-1492. Definitions. The following definitions shall apply to the "Instant Battleship" instant lottery game:

(a) "Game symbols" are the numbers, letters, symbols, or pictures printed in the play area of each instant game ticket and which determine if the ticket bearer is entitled to a prize. In this instant game, the game symbols are printed in black ink in the two play areas. A game symbol appears in each of the 24 play spots within the "YOUR SHOTS" play area and in certain of the 96 play spots in the "TARGET GRID" play area. Each game symbol appearing in the "PRIZE LEGEND" for this instant game is one of the following: symbol of an aircraft carrier - symbol of a cruiser - symbol of a submarine - symbol of a destroyer - symbol of a PT boat - symbol of a mine.

(b) "Game symbol captions" are the letters appearing just below the bottom of the game symbol ships which identify the type of ship. The game symbol caption associated with each game symbol is as follows:

Game Symbol	Game Symbol Captions
Symbol of an aircraft carrier	AC AC AC AC AC
Symbol of a cruiser	CR CR CR CR
Symbol of a submarine	SB SB SB SB
Symbol of a destroyer	DS DS DS
Symbol of a PT boat	PT PT
Symbol of a mine	

(c) The above game symbols shall also appear on the "TARGET GRID" play area in the number of squares accompanying each game symbol caption. Each game symbol appearing in the "YOUR SHOTS" which identifies locations in the alphabetic and numeric "TARGET GRID" play area is a combination of one of the following:

A01	A02	A03	A04	A05	A06	A07	A08	A09	A10	A11	A12
B01	B02	B03	B04	B05	B06	B07	B08	B09	B10	B11	B12
C01	C02	C03	C04	C05	C06	C07	C08	C09	C10	C11	C12
D01	D02	D03	D04	D05	D06	D07	D08	D09	D10	D11	D12
E01	E02	E03	E04	E05	E06	E07	E08	E09	E10	E11	E12
F01	F02	F03	F04	F05	F06	F07	F08	F09	F10	F11	F12
G01	G02	G03	G04	G05	G06	G07	G08	G09	G10	G11	G12
H01	H02	H03	H04	H05	H06	H07	H08	H09	H10	H11	H12

(d) "Ticket validation number" means a unique number appearing on each ticket which is used to validate

winning tickets. For this instant game, the ticket validation number is an 11-digit number which appears between the retailer validation codes and above the game symbols under the latex covering the "YOUR SHOTS" play area on the front of each instant ticket.

(e) "Book-ticket number" means the unique number appearing on each ticket which includes the number of the book from which it was removed and the serially assigned number of the ticket within that book. For this instant game, the book-ticket number is an 8-digit book number followed by a dash and then a 3-digit ticket number. The ticket numbers in each book start with 000 and end with 149. The book-ticket number is printed in black ink on the back of each instant game ticket both below the information form and below the bar code.

(f) "Retailer validation code" means the small letters found under removable covering in the play area of each instant game ticket. The retailer uses this code to verify and validate winners which are to be paid by the retailer. In this instant game, the retailer validation code is a three-letter code printed and appearing in three of eight varying locations among the game symbols in the "YOUR SHOTS" play area. The codes and their meanings are as follows: TWO = \$2.00; THR = \$3.00; FIV = \$5.00; TEN = \$10.00; TWY = \$20.00; FTY = \$50.00.

(g) "Bar code" means the 16-digit bar-coded number appearing on the back of each ticket. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-7-19-99, June 17, 1999.)

111-4-1493. Cost of ticket. The price of "Instant Battleship" instant tickets sold by a retailer shall be \$2.00 each. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-7-19-99, June 17, 1999.)

111-4-1494. Determination of instant prize winners. This game consists of two play areas. The "YOUR SHOTS" play area located in the upper part of the ticket has 24 missiles shown in the opaque latex which covers 24 grid coordinates. The "TARGET GRID" play area located in the lower portion of the ticket is a 12 square by eight square matrix containing 96 playing squares in total. Each square has an associated alphabetic and numeric reference. The "TARGET GRID" will have 11 game symbols, one of each ship type of an aircraft carrier, a cruiser, a submarine, a destroyer, and a PT boat, and six mines. These imaged play symbols will be covered by opaque latex. The winner is determined for this instant game when the player removes or "scratches" off the removable layer of material featuring the missiles in play area entitled "YOUR SHOTS" to reveal 24 grid coordinates. A player matches these grid coordinates with locations on the "TARGET GRID" play area. If a player uncovers an entire ship symbol in the prize legend on the "TARGET GRID" as identified by the grid coordinates in the "YOUR SHOTS" play area, the player sinks the ship and wins the amount shown. If a player sinks all five ships in the "TARGET GRID" by uncovering the entire symbols of each of the five ships in the prize legend and as identified by the grid coordinates in the "YOUR SHOTS" play area, a player wins \$20,000. If a mine is revealed in the "TARGET GRID" as identified by the grid coordinates in

(continued)

the "YOUR SHOTS" play area, the player wins \$2.00 instantly. Multiple wins are possible on a single ticket by sinking more than one ship and by revealing a mine as identified by the grid coordinates in the "YOUR SHOTS" play area. A player can win up to four times on a single ticket. (Authorized by K.S.A. 1998 Supp. 74-8710(b), (c) and (i); implementing K.S.A. 1998 Supp. 74-8710(b), (c) and (i), and K.S.A. 74-8720(b) and (d); effective, T-111-7-19-99, June 17, 1999.)

111-4-1495. Number and value of instant prizes.

(a) There will be approximately 900,000 tickets ordered initially for this instant game. The expected number and value of the instant prizes are as follows:

Get	Prizes	Expected Number of Prizes in Game	Expected Value in Game
\$2 (mine)	\$2	108,000	\$216,000
\$3 (PT)	\$3	45,000	135,000
\$5 (DS)	\$5	24,000	120,000
\$5 (\$2 mine+\$3 PT)	\$5	24,000	120,000
\$10 (SUB)	\$10	9,000	90,000
\$10 (\$5 DS+\$3 PT+\$2 mine)	\$10	9,000	90,000
\$20 (\$10 SUB+\$5 DS+\$3 PT+\$2 mine)	\$20	6,000	120,000
\$50 (CR)	\$50	1,800	90,000
\$1000 (AC)	\$1,000	30	30,000
\$20,000 (all five ships)	\$20,000	6	120,000
TOTAL		226,836	\$1,131,000

(b) The executive director may terminate the sale of tickets prior to the complete sale of all tickets. In this event, the number and value of prizes will be approximately proportional to the number of tickets actually sold. The odds of winning a prize in this game are one in 3.97.

(c) All prizes are subject to deductions provided by law.

(d) Additional ticket orders shall have the same prize structure, the same number of prizes per prize pool of 300,000 tickets and the same odds as were contained in the initial ticket order. (Authorized by K.S.A. 1998 Supp. 74-8710(b), (c) and (f); implementing K.S.A. 1998 Supp. 74-8710(b), (c) and (f), and K.S.A. 74-8720; effective, T-111-7-19-99, June 17, 1999.)

RULES FOR INSTANT GAME NO. 30 "CROSSWORD 2000"

111-4-1496. Name of game. The Kansas lottery shall conduct an instant winner lottery game entitled "Crossword 2000" commencing on or after June 19, 1999. The specific rules for the "Crossword 2000" game are contained in K.A.R. 111-3-1 et seq. and 111-4-1496 through 111-4-1500. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-7-19-99, June 17, 1999.)

111-4-1497. Definitions. The following definitions shall apply to the "Crossword 2000" instant lottery game:

(a) "Game symbols" are the numbers, letters, symbols, or pictures printed in each of the instant game tickets and which determine if the ticket bearer is entitled to a prize. In this instant game, the game symbols are printed in black ink with matching captions. A game symbol appears in each of the 18 play spots within the play area. Each game symbol for this instant game is one of the following: A - B - C - D - E - F - G - H - I - J - K - L - M - N - O - P - Q - R - S - T - U - V - W - X - Y - Z.

(b) "Ticket validation number" means a unique number appearing on each ticket which is used to validate winning tickets. For this instant game, the ticket validation number is an 11-digit number which appears below the game symbols under the latex covering in the play area on the front of each instant ticket.

(c) "Book-ticket number" means the unique number appearing on each ticket which includes the number of the book from which it was removed and the serially assigned number of the ticket within that book. For this instant game, the book-ticket number is an 8-digit book number followed by a dash and then a 3-digit ticket number. The ticket numbers in each book start with 000 and end with 149. The book-ticket number is printed in black ink on the back of each instant game ticket both below the information form and below the bar code.

(d) "Retailer validation code" means the small letters found under removable covering in the play area of each instant game ticket. The retailer uses this code to verify and validate winners which are to be paid by the retailer. In this instant game, the retailer validation code is a three-letter code printed and appearing in three of eight varying locations among the game symbols in "YOUR LETTERS" area. The codes and their meanings are as follows: FRE = Free ticket; FIV = \$5.00; TEN = \$10.00; TWY = \$20.00; HUN = \$100.00; FHN = \$500.00.

(e) "Bar code" means the 16-digit bar-coded number appearing on the back of each ticket. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-7-19-99, June 17, 1999.)

111-4-1498. Cost of ticket. The price of "Crossword 2000" instant tickets sold by a retailer shall be \$2.00 each. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-7-19-99, June 17, 1999.)

111-4-1499. Determination of instant prize winners. (a) The game "Crossword 2000" consists of two play areas. In the "YOUR LETTERS" play area located in the upper part of the ticket, there are 18 letters located under the latex. In the lower part of the ticket, there is a crossword puzzle grid that is 11 spaces high and 11 spaces wide covered by transparent latex. An instant prize winner is determined for this instant game when the player removes or "scratches off" the removable layer of material labeled "YOUR LETTERS" to reveal 18 letters. The player then removes the transparent latex material from the crossword puzzle grid below the "YOUR LETTERS" play area that match the "YOUR LETTERS" revealed. If the player has revealed at least three complete words in the crossword puzzle grid, the player wins the corresponding prize in the "PRIZE LEGEND." The legend located on the ticket face indicates prizes won for number of words revealed. No ticket will be eligible to win more than one instant prize.

(b) To qualify as a complete word, each word revealed must meet the following requirements:

- (1) must contain at least three letters;
- (2) cannot be formed diagonally, run right to left or from bottom to top;
- (3) must appear in an unbroken horizontal or vertical string of letters in the "Crossword 2000" puzzle;

(4) an unbroken string of letters cannot be interrupted by a black space and must contain every single letter square between two black spaces;

(5) every single letter in the unbroken string must be revealed in "YOUR LETTERS" and be included to form a word; and

(6) the three small letters outside the squares in the "YOUR LETTERS" area are for validation purposes and cannot be used to play "Crossword." (Authorized by K.S.A. 1998 Supp. 74-8710(b), (c) and (i); implementing K.S.A. 1998 Supp. 74-8710(b), (c) and (i), and K.S.A. 74-8720(b) and (d); effective, T-111-7-19-99, June 17, 1999.)

111-4-1500. Number and value of instant prizes.

(a) There will be approximately 900,000 tickets ordered initially for this instant game. The expected number and value of the instant prizes are as follows:

Prize Legend	Prizes	Expected Number of Prizes in Game	Expected Value in Game
3 words	FREE	150,000	0
4 words	\$5	42,000	210,000
5 words	\$10	20,100	201,000
6 words	\$20	6,900	138,000
7 words	\$100	960	96,000
8 words	\$500	180	90,000
9 words	\$2,000	45	90,000
10 words	\$20,000	6	120,000
TOTAL		<u>220,191</u>	<u>\$945,000</u>

(b) The executive director may terminate the sale of tickets prior to the complete sale of all tickets. In this event, the number and value of prizes will be approximately proportional to the number of tickets actually sold. The odds of winning a prize in this game are one in 4.09.

(c) All prizes are subject to deductions provided by law.

(d) Additional ticket orders shall have the same prize structure, the same number of prizes per prize pool of 300,000 tickets and the same odds as were contained in the initial ticket order. (Authorized by K.S.A. 1998 Supp. 74-8710(b), (c) and (f); implementing K.S.A. 1998 Supp. 74-8710(b), (c) and (f), and K.S.A. 74-8720; effective, T-111-7-19-99, June 17, 1999.)

Article 7.—ON-LINE GAMES

111-7-66. Game description; drawing. (a) Pick 3 is a daily game in which drawings shall be conducted every day but Sunday in accordance with lottery procedures until Sunday, July 18, 1999, following which time drawings shall be conducted seven days a week.

(b) To play Pick 3 a player shall select a set of three single digit numbers from three sets of single digit numbers beginning with zero and progressing by increments of one through the number nine by (1) communicating the numbers to the retailer; (2) marking up to four boards on each play slip and submitting the play slip to the retailer; or (3) requesting a quick pick from the retailer.

(c) The cost of a single ticket shall be either \$.50 per play times the number of plays, or \$1.00 per play times the number of plays, depending on the type of wager to be made.

(d) A validated ticket shall be the only proof of a game play or plays, and the submission of a winning ticket to

and receipt of the ticket by the lottery or its authorized retailer shall be the sole method of claiming a prize or prizes. A play slip has no pecuniary or prize value and shall not constitute evidence of ticket purchase, of numbers selected or prizes to be paid.

(e) A ticket may be cancelled as provided in K.A.R. 111-6-20.

(f) Ticket sales will end at approximately 6:45 p.m. central time on each drawing day and resume at approximately 7:00 p.m. Sales will end at approximately 8:59 p.m. central time on each drawing day and resume at approximately 9:05 p.m. for the next drawing.

(g) Drawings will be conducted daily after ticket sales end, under conditions and procedures promulgated by the executive director of the lottery. Winning number combinations shall be generated daily through the use of a computer-driven random number generator located at lottery headquarters. The generator shall be statistically analyzed, tested, and certified by an independent qualified statistician for integrity. Periodic checks shall be made to ensure the security and integrity of the system at least quarterly.

(h) It shall be the sole responsibility of the player to verify the accuracy of the game plays and other data printed on the ticket. The placing of plays is done at the player's own risk through the on-line retailer who is acting on behalf of the player in entering the plays. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-12-18-91, Dec. 13, 1991; amended, T-111-7-1-92, June 26, 1992; amended, T-111-10-27-92, Sept. 11, 1992; amended, T-111-10-22-93, Oct. 15, 1993; amended, T-111-6-28-94, June 17, 1994; amended, T-111-12-18-95, Dec. 14, 1995; amended, T-111-8-5-96, July 31, 1996; amended, T-111-6-10-99, May 21, 1999; amended, T-111-7-19-99, June 17, 1999.)

KENO

111-7-76. Name of the game; rules and regulations. The Kansas lottery shall conduct an on-line game, "Keno," beginning at 6:00 a.m., October 29, 1992. Starting at 6:00 a.m., August 22, 1999, enhancements to the Keno game, including the bull's-eye option, a progressive jackpot bonus and a drawing every four minutes will be available to players. The specific rules for the "Keno" game are contained in K.A.R. 111-6-1 *et seq.* and 111-7-76 through 111-7-83. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-9-1-92, Aug. 28, 1992; amended, T-111-7-22-96, July 19, 1996; amended, T-111-7-19-99, June 17, 1999.)

111-7-77. Definitions. The following definitions shall apply to "Keno."

(a) "Bull's-eye" or "bull's-eye number" means an optional method of play which allows a player who is playing Keno to win an additional prize if one of the 20 numbers drawn is the designated bull's-eye number and it is one of the numbers selected by the player described in K.A.R. 111-7-78a.

(b) "Consecutive draw ticket" or "multi-draw ticket" means a ticket which was purchased for 2, 3, 4, 5, 10, 20, 50 or 100 successive drawings.

(continued)

(c) "Exchange ticket" means the ticket issued by an on-line terminal to replace a consecutive draw ticket that is validated before the last game on the ticket.

(d) "Game board" or "board" means that area of the play slip which contains 80 numbers from one through 80.

(e) "Play slip" means the form used in marking a player's game play selections and contains one play area containing 80 numbers.

(f) "Progressive jackpot bonus" means a method of play which automatically enters a player selecting a "6 spot" or "7 spot" game play option to have a chance to win a prize in addition to the prize for the regular Keno game described in K.A.R. 111-7-78, and the bull's-eye option, if selected, as described in K.A.R. 111-7-78a.

(g) "Spot" or "spots" means the amount of numbers a player may play per game.

(h) "Keno game" means the basic Keno game described in K.A.R. 111-7-78, without any optional methods of play.

(i) "Winning numbers" mean the 20 numbers between 1 and 80, randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-9-1-92, Aug. 28, 1992; amended, T-111-7-22-96, July 19, 1996; amended, T-111-7-19-99, June 17, 1999.)

111-7-78. Game description; retail sale of tickets.

(a) "Keno" is a 10 of 20 of 80 lottery game with fixed prize amounts. For each game, a player may select from one to 10 spots. The lottery then selects 20 winning numbers from one to 80. Prizes are awarded based on the total amount of winning numbers matched by a player for the number of spots played for that game.

(b) To play, a player must use a play slip, or ask the retailer for a quick pick selection.

(c) The player must mark the number of spots to be played. A player can pick from one to 10 spots per play slip.

(d) The player must mark the number of dollars to be wagered per game: \$1, \$2, \$3, \$4 or \$5.

(e) The player may then select the spots to be played by one of two methods. The player may mark the player's own selections on the play slip; if this method is used, the number of spots marked on the play slip must equal the number of spots which were selected to play. The other method of play is to select "quick pick," in which the number of spots randomly generated by the computer will match the number of spots indicated by the player.

(f) The player shall indicate the number of consecutive games to be played: 1, 2, 3, 4, 5, 10, 20, 50 or 100.

(g) The player shall present the completed play slip to the retailer. The cost of the ticket equals the amount wagered per game times the number of consecutive games indicated by the player.

(h) The minimum wager shall be \$1.00 per game; the maximum wager shall be \$5.00 per game. The maximum wager per play slip for the basic Keno game is \$100 when multiple games are involved. Any play slip with a wager greater than \$100 shall be rejected.

(i) A business day for the purposes of this game shall be defined at subsection (p) of K.A.R. 111-6-1.

(j) A player choosing either a "6 spot" or "7 spot" game will automatically be playing for a progressive jackpot bonus in addition to the top prize for the "6 spot" by matching six of the six spots, or the "7 spot" game by matching seven of the seven spots. If the top prize for either the "6 spot" or "7 spot" game is not won, it will continue to grow for each successive drawing until it is won. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-9-1-92, Aug. 28, 1992; amended, T-111-7-22-96, July 19, 1996; amended, T-111-8-11-97, July 18, 1997; amended, T-111-7-19-99, June 17, 1999.)

111-7-78a. Description; bull's-eye option. (a) In addition to the Keno game described in K.A.R. 111-7-78, a player may choose the bull's-eye option which allows the player selecting the option, as specified in K.A.R. 111-7-80a, to win an additional prize. A player wins on the bull's-eye option if one of the 20 winning numbers drawn matches one of the numbers selected by the player and it appears in the play area on the player's ticket for the drawing for which the ticket was purchased.

(b) To play the bull's-eye option, in addition to the requirements to play the basic Keno game, a player must also mark the bull's-eye spot on the play slip.

(c) The amount of the bull's-eye wager must be marked on the play slip and it must equal the amount of the Keno wager, which doubles the \$1, \$2, \$3, \$4 or \$5 amounts that may be wagered on the Keno game.

(d) The minimum wager when selecting the bull's-eye option shall be \$2 per game; the maximum wager shall be \$10 per game. The maximum wager per play slip with the bull's-eye option is \$200 when multiple games are involved. Any play slip with a wager greater than \$200 shall be rejected. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-7-19-99, June 17, 1999.)

111-7-80. Prize structure. (a) Prizes for each \$1.00 wagered in the Keno game, including the progressive jackpot bonus, shall be as follows:

Mark 10 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
10	8,911,711.20	\$100,000
9	163,381.40	\$2,000
8	7,384.50	\$250
7	620.70	\$50
6	87.10	\$10
5	19.40	\$1
0	21.80	\$5
	% Payout	53.31%
	Overall Odds	1:9.05

Mark 9 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
9	1,380,687.60	\$25,000
8	30,681.90	\$2,000
7	1,690.10	\$100
6	174.80	\$20
5	30.70	\$5
4	8.80	\$1
	% Payout	53.40%
	Overall Odds	1:6.53

Mark 8 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
8	230,114.60	\$10,000
7	6,232.30	\$250
6	422.50	\$50
5	54.60	\$10
4	12.30	\$2
% Payout		54.79%
Overall Odds		1:9.77

Mark 7 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
7	40,979.30	\$2,000
6	1,366.00	\$100
5	115.80	\$10
4	19.20	\$3
3	5.70	\$1
% Payout		54.00%
Overall Odds		1:4.23

Mark 6 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
6	7,752.80	\$1,000
5	323.00	\$50
4	35.00	\$5
3	7.70	\$1
% Payout		55.63%
Overall Odds		1:6.19

Mark 5 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
5	1,550.60	\$400
4	82.70	\$10
3	11.90	\$2
% Payout		54.68%
Overall Odds		1:10.34

Mark 4 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
4	326.40	\$50
3	23.10	\$4
2	4.70	\$1
% Payout		53.88%
Overall Odds		1:3.86

Mark 3 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
3	72.10	\$20
2	7.20	\$2
% Payout		55.50%
Overall Odds		1:6.55

Mark 2 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
2	16.60	\$9

PROGRESSIVE JACKPOT PRIZE (Parimutuel)
\$100 minimum

PROGRESSIVE JACKPOT PRIZE (Parimutuel)
\$50 minimum

% Payout Overall Odds 54.11% 1:6.63

Mark 1 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
1	4.00	\$2
% Payout		50.00%
Overall Odds		1:4.00

(b) The maximum prize awarded per game per ticket shall be \$100,000 regardless of the amount wagered per game, except as provided by the bull's-eye option as specified in K.A.R. 111-7-80a.

(c) A player is eligible to receive only the highest prize per game played on a ticket, except as increased by the progressive jackpot bonus and the bull's-eye option.

(d) The progressive jackpot bonus applies only to a player choosing either the 6 spot or 7 spot game with starting 6 spot prizes for matching six of six numbers selected being \$50 higher than the Keno prize of \$1,000, and starting 7 spot prizes for matching seven of seven numbers selected being \$100 higher than the Keno prize of \$2,000. The progressive jackpot bonus shall be funded as follows:

(1) A total of .70 percent of Keno sales from the previous Keno game shall be applied to the bonus jackpot for the 6 spot game for each drawing after the starting progressive jackpot until the jackpot is won. The first drawing after a jackpot is won starts with a minimum progressive jackpot bonus minimum of \$50.

(2) A total of .35 percent of Keno sales from the previous Keno games shall be applied to the bonus jackpot for the 7 spot game for each drawing after the starting progressive jackpot until the jackpot is won. The first drawing after a jackpot is won starts with a minimum progressive jackpot bonus minimum of \$100.

(3) If the progressive jackpot bonus is not won, it will continue to grow as stated in subsection (d)(1) and (d)(2) above.

(4) Progressive jackpot bonus prizes shall be made on a parimutuel basis if two or more players win the same game.

(5) All progressive jackpot bonus prizes shall be paid in whole dollar amounts which will be rounded down for payment, except that no progressive jackpot bonus prize paid shall be less than \$1. (Authorized by and implementing 1998 Supp. K.S.A. 74-8710; effective, T-111-9-1-92, Aug. 28, 1992; amended, T-111-7-19-99, June 17, 1999.)

111-7-80a. Bull's-eye; prize structure. Prizes for each \$1.00 wagered for the bull's-eye option shall be as follows:

Mark 10 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
10	17,823,422	\$200,000
9	363,070	\$10,000
8	18,461	\$1,000
7	1,773	\$100
6	290	\$20
5	78	\$5

(continued)

4	34	\$2
3	25	\$2
2	34	\$2
1	111	\$6

% Payout 53.46%
Overall Odds 1:8.00

Mark 9 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
9	3,068,195	\$50,000
8	76,705	\$2,000
7	4,829	\$500
6	583	\$40
5	123	\$6
4	44	\$3
3	27	\$2
2	32	\$2
1	91	\$6

% Payout 53.52%
Overall Odds 1:9.76

Mark 8 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
8	575,287	\$20,000
7	17,806	\$1,000
6	1,408	\$50
5	219	\$30
4	61	\$5
3	31	\$2
2	30	\$2
1	75	\$5

% Payout 54.19%
Overall Odds 1:10.56

Mark 7 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
7	117,084	\$5,000
6	4,553	\$300
5	463	\$50
4	96	\$10
3	38	\$3
2	31	\$2
1	63	\$5

% Payout 54.38%
Overall Odds 1:13.39

Mark 6 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
6	25,843	\$2,000
5	1,292	\$100
4	175	\$20
3	51	\$5
2	32	\$3
1	55	\$5

% Payout 54.97%
Overall Odds 1:14.60

Mark 5 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
5	6,202	\$500
4	413	\$50
3	79	\$10

2	37	\$4
1	49	\$5

% Payout 53.70%
Overall Odds 1:21.13

Mark 4 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
4	1,632	\$200
3	154	\$20
2	47	\$7
1	46	\$7

% Payout 55.26%
Overall Odds 1:23.31

Mark 3 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
3	480	\$100
2	72	\$10
1	46	\$9

% Payout 54.08%
Overall Odds 1:46.42

Mark 2 Spots:

NUMBER CORRECT	ODDS 1:	PRIZE
2	166	\$55
1	53	\$10

% Payout 52.06%
Overall Odds 1:52.67

Mark 1 Spot:

NUMBER CORRECT	ODDS 1:	PRIZE
1	80	\$43

% Payout 53.75%
Overall Odds 1:80.00

(b) The bull's-eye option prize is in addition to the prizes a player may receive from the basic Keno game and the progressive jackpot bonus.

(c) The maximum prize per game per ticket for matching 10 of 10 in the 10 spot basic Keno game is \$100,000, which is increased by \$200,000 if the bull's-eye option number is one of those 10 numbers. (Authorized by and implementing 1998 Supp. K.S.A. 74-8710; effective, T-111-7-19-99, June 17, 1999.)

111-7-81. Determination of winners. (a) "Keno" tickets may be sold every day of the year between 6:00 a.m. and 12:52 a.m. with validation allowed until 1:00 a.m.

(b) The selection of winning numbers shall take place as nearly as possible, at four-minute intervals. The first drawing will be at 6:04 a.m. with subsequent drawings every four minutes thereafter with the last drawing at 12:52 a.m. If a drawing cannot be held at the scheduled drawing time, the delayed drawing will take place at the next scheduled drawing time. Ticket sales for each drawing will end momentarily immediately prior to the scheduled drawing and then resume for the next drawing without delay. Keno wagering will not be inhibited between games. Each game is identified by a 6-digit consecutive game number that is assigned by the central system and the game number(s) for the drawing(s) for which the ticket was purchased will appear on the ticket. In the

event a drawing does not occur at the drawing time scheduled, sales for that drawing will remain closed. Sales for the following drawing will remain open until five four minutes after the results of the delayed drawing have been posted by the system. Winning game number selections for any games remaining on a player's ticket at the end of daily sales shall take place the next day.

(c) Winning number combinations shall be generated every four minutes through the use of a computer-driven random number generator located at lottery headquarters. The 20 numbers randomly generated for each drawing shall include one randomly generated number which is designated as the bull's-eye. The generator shall be statistically analyzed, tested, and certified by an independent qualified statistician for integrity. Periodic checks shall be made to ensure the security and integrity of the system at least quarterly.

(d) The Kansas lottery director of security shall establish the procedures for the operation and security of the random number generator, including the specification of those individuals who shall have access to the system. A security officer shall accompany anyone needing access to the secured area containing the generator for any reason.

(e) All Keno prizes, including bull's-eye prizes, shall be the prizes set forth in subsection (a) of K.A.R. 111-7-80 and 111-7-80a except when the prize in any game from a 5 spot game through a 10 spot game exceeds \$599 where total prizes for that game and prize category for a single draw exceeds \$1,500,000. If that occurs, each valid winner's share for the game and prize category shall be calculated as a parimutuel prize from a prize pool of \$1,500,000. (Authorized by K.S.A. 1998 Supp. 74-8710; implementing K.S.A. 1998 Supp. 74-8710, and K.S.A. 74-8720; effective, T-111-9-1-92, Aug. 28, 1992; amended, T-111-8-5-94, July 15, 1994; amended, T-111-12-18-95, Dec. 14, 1995; amended, T-111-6-27-96, June 21, 1996; amended, T-111-7-22-96, July 19, 1996; amended, T-111-7-19-99, June 17, 1999.)

111-7-82. Ticket validation. (a) The ticket must be validated in accordance with the provisions of rule K.A.R. 111-6-7.

(b) A winning ticket must contain the required number of correct spots in relation to the total number of spots contained on the ticket per the prize structure(s) listed in K.A.R. 111-7-80 or K.A.R. 111-7-80a.

(c) A ticket with consecutive games may be validated before all the winning number game selections have been made for the remainder of the games on the ticket. An exchange ticket will be issued if a winning ticket is valid for future games. The exchange ticket will be valid for any games for which a drawing has not yet been conducted. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-9-1-92, Aug. 28, 1992; amended, T-111-7-19-99, June 17, 1999.)

111-7-83. Treatment of equipment. The equipment provided to a "Keno" retailer by the lottery shall be used only for the performance of lottery authorized games under the terms of the retailer agreement. Equipment provided includes a lottery terminal, television monitor, remote control unit, controller, and mounting bracket and

check-a-ticket device. (Authorized by and implementing K.S.A. 1998 Supp. 74-8710; effective, T-111-9-1-92, Aug. 28, 1992; amended, T-111-7-22-96, July 19, 1996; amended, T-111-7-19-99, June 17, 1999.)

Gregory P. Ziemak
Executive Director

Doc. No. 024117

State of Kansas
Board of Indigent's Defense Services

Permanent Administrative
Regulations

Article 1.—GENERAL

105-1-1. Legal representation provided. (a) Legal representation, at state expense, shall be provided to all persons who are financially unable to obtain adequate representation without substantial hardship to themselves or their families in the following cases:

- (1) felony cases at the trial court level;
- (2) habeas corpus cases arising out of an extradition proceeding pursuant to K.S.A. 22-2710;
- (3) habeas corpus cases arising from a mental commitment pursuant to K.S.A. 1997 Supp. 22-3428;
- (4) probation revocation hearings in felony cases;
- (5) habeas corpus cases as authorized by K.S.A. 1997 Supp. 22-4503 and K.S.A. 1997 Supp. 22-4506;
- (6) motions attacking sentence pursuant to K.S.A. 60-1507;
- (7) motions to modify sentence pursuant to K.S.A. 21-4603;
- (8) appeals from felony convictions or habeas corpus findings, as authorized by K.S.A. 1997 Supp. 22-4503 and K.S.A. 1997 Supp. 22-4506, to the appellate courts of Kansas;
- (9) appeals from an order of the court waiving jurisdiction of a juvenile offender to the criminal courts;
- (10) habeas corpus cases arising out of an involuntary commitment pursuant to K.S.A. 1997 Supp. 59-2965;
- (11) grand jury witnesses called to testify pursuant to K.S.A. 22-3009;
- (12) material witnesses committed to custody as authorized by K.S.A. 1997 Supp. 22-2805; and
- (13) any other cases in which legal representation at state expense is required by law.

(b) Legal representation at state expense shall not be provided in the following types of cases:

- (1) services on behalf of juvenile offenders, unless the juvenile is charged with commission of a felony offense as an adult under the criminal laws of Kansas;
- (2) services on behalf of a defendant charged with a misdemeanor or a defendant appealing a misdemeanor conviction;
- (3) any case in which the defendant or other person represented has not been determined to be indigent or partially indigent by a judge, using guidelines developed by the board of indigent's defense services; and

(continued)

(4) any case in which an attorney has not been appointed by a judge to represent the defendant.

(c) Legal representation shall continue until final resolution of the cause for which appointed. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 1997 Supp. 22-2805, K.S.A. 22-3009, 22-3716, K.S.A. 1997 Supp. 22-4503, K.S.A. 1997 Supp. 22-4505, K.S.A. 1997 Supp. 22-4506, K.S.A. 1997 Supp. 22-4522 and K.S.A. 1997 Supp. 38-1681; effective May 1, 1984; amended Aug. 20, 1999.)

Article 2.—TERMS DEFINED

105-2-1. Definitions. Unless the context otherwise requires, terms used in K.A.R. 105-1-1 et seq., forms, and instructions shall have the following meanings.

(a) "Board" means the state board of indigents' defense services.

(b) "Director" means the state director of indigents' defense services appointed by the board.

(c) "District" means judicial district.

(d) "Legal representation" means representation of indigent defendants by a qualified and effective attorney, as well as transcript preparation and other related defense services by investigators, expert witnesses, and others when requested by the attorney and properly approved in accordance with K.A.R. 105-7-1, 105-7-2, and 105-7-3.

(e) "Panel" means the list of qualified attorneys in a county or judicial district who are eligible for appointment or assignment to represent indigent defendants and who voluntarily request to be considered for appointment or assignment.

(f) "Public defender" means an attorney selected and employed on a full-time basis by the board to provide quality legal representation to indigent defendants.

(g) "State appellate defender" means an attorney selected and employed on a full-time basis by the board to provide appellate representation to indigent defendants in the appellate courts of Kansas.

(h) "Trial counsel" means an attorney or public defender appointed or assigned under the terms of these regulations to provide legal representation to indigent defendants in the district courts of Kansas and as provided by K.A.R. 105-3-9.

(i) "Conflicts attorney office" means the office designated by the board to provide indigent felony and related defense services for cases that cannot be handled by a public defender office due to potential conflicts of interest.

(j) "Contract counsel or attorney" means an attorney who has entered into a contract with the board to provide representation to indigent defendants in the district and appellate courts of Kansas.

(k) "Assigned counsel or attorney" means a panel attorney appointed by the court to represent an indigent defendant in a case in which a public defender, contract counsel, or designated conflicts office has a conflict of interest and the public defender, the designated conflicts office, or contract counsel is not able to undertake representation. (Authorized by and implementing K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended May

1, 1985; amended May 1, 1986; amended Oct. 31, 1988; amended March 28, 1994; amended Aug. 20, 1999.)

Article 3.—APPOINTED ATTORNEYS

105-3-1. Panel of attorneys. (a) The administrative judge of each district shall compile a list of volunteer attorneys eligible for assignment to represent indigent defendants for each county in the district. The list shall be known as the panel for indigent defense services.

(b) The administrative judge shall revise the panel annually, as incoming attorneys register with the clerk of the district court and when removal or withdrawal of attorneys from the panel or any other cause makes revision appropriate.

(c) Each attorney on the voluntary panel shall accept felony appointments for a minimum period of one year, with renewable one-year service terms thereafter. The administrative judge may waive this requirement for good cause shown.

(d) In compiling the list, the administrative judge shall consider the criteria contained in K.A.R. 105-3-2, the training, the resources and the experience of each attorney. The judge may consider any other relevant factor or factors relating to the attorney's ability to provide effective assistance of counsel to indigent defendants.

(e) An administrative judge may refuse to place an attorney on a panel. Should the administrative judge refuse to place an attorney on a panel, that judge shall promptly notify the attorney and the board of this decision. The decision shall become effective upon notice to the attorney and shall remain effective until the board or administrative judge places the attorney on the panel.

(f) An attorney who is refused placement on a panel may inform the board that the attorney wishes to appear and offer evidence for placement on the panel at a hearing before the board. Any such evidence shall be reviewed by the board for determination of whether or not the administrative judge abused that individual's discretion in refusing to place the attorney on the panel. The hearing shall be conducted as a summary proceeding. (Authorized by and implementing K.S.A. 22-4501 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended, T-105-6-13-88, July 1, 1988; amended Oct. 31, 1988; amended Aug. 20, 1999.)

105-3-2. Eligibility to serve. (a) Each licensed attorney engaged in private practice of law shall be eligible to serve on the panel if the following criteria are met.

(1) Each attorney on the voluntary panel representing an indigent defendant shall have completed 12 hours of continuing legal education in the area of criminal law within three years of appointment or have graduated from an accredited law school during the three years immediately before appointment.

(2) Each attorney assigned to the defense of any felony classified as a non-drug grid offense with a severity level of 3 or 4, or any felony classified as a drug grid offense with a severity level of 1, 2, or 3 shall have tried to a verdict, either as defense counsel or prosecutor, five or more felony jury trials.

(3) Each attorney assigned to the defense of any felony classified as an off-grid offense or a non-drug grid offense

with a severity level of 1 or 2 shall have tried to a verdict, either as defense counsel or prosecutor, five or more jury trials involving the following:

(A) non-drug offenses of severity levels 1 through 4 or drug grid offenses of severity levels 1 through 3; or

(B) any off-grid offenses.

(4) Each attorney assigned or appointed to the defense of any indigent person accused of a capital felony shall be a prequalified death penalty attorney. Each attorney shall be screened by the board to determine the attorney's qualifications to serve as defense counsel to an indigent person accused of a capital felony, pursuant to these regulations and "guideline 5.1(I), attorney eligibility," as published in the 1989 version of the American bar association (ABA) "guidelines for the appointment and performance of counsel in death penalty cases." Each attorney who is eligible to serve on the capital appointments panel shall be certified by the board.

(5) Each attorney assigned or appointed to represent an indigent person who has been convicted of capital murder and who is under a sentence of death in the direct review of the judgment shall be prequalified by the board. Each attorney shall be screened by the board to determine the attorney's qualifications to serve as defense counsel to an indigent person who has been convicted of capital murder and who is under a sentence of death in the direct review of the judgment, pursuant to these regulations and "guideline 5.1(II), attorney eligibility," as published in the 1989 version of the American bar association (ABA) "guidelines for the appointment and performance of counsel in death penalty cases." Each attorney who is eligible to serve on the capital appointments appellate panel shall be certified by the board.

(6) Each attorney assigned or appointed to represent an indigent person who has been convicted of capital murder and who is under a sentence of death in postconviction proceedings shall be prequalified by the board. Each attorney shall be screened by the board to determine the attorney's qualifications to serve as defense counsel to an indigent person who has been convicted of capital murder and who is under a sentence of death in the direct review of the judgment, pursuant to these regulations and "guideline 5.1(III), attorney eligibility," as published in the 1989 version of the American bar association (ABA) "guidelines for the appointment and performance of counsel in death penalty cases." Each attorney who is eligible to serve on the capital appointments postconviction panel shall be certified by the board.

(7) To ensure compliance with these regulations in capital felony or homicide cases, each attorney assigned or appointed to the defense of any indigent person accused of a capital felony or a homicide pursuant to K.S.A. 21-3401, 21-3402, or 21-3403 shall be appointed from panel lists screened pursuant to these regulations and approved by the board.

(b) Except for appointment of an attorney to provide representation for an indigent person accused of a capital felony or a homicide pursuant to K.S.A. 21-3401, 21-3402, or 21-3403, an indigent person who has been convicted of capital murder and who is under a sentence of death in the direct review of the judgment or an indigent person who has been convicted of capital murder and who is

under a sentence of death in postconviction proceedings, the judge may waive any of the above conditions if the attorney selected by the judge has sufficient training, resources, and experience to undertake the case in question. (Authorized by and implementing K.S.A. 22-4501, K.S.A. 1997 Supp. 22-4522, K.S.A. 1997 Supp. 22-4505, and K.S.A. 1997 Supp. 22-4506; effective May 1, 1984; amended, T-105-6-13-88, July 1, 1988; amended Nov. 1, 1988; amended Oct. 30, 1989; amended, T-105-6-15-93, June 15, 1993; amended Aug. 16, 1993; amended Nov. 1, 1996; amended Aug. 20, 1999.)

105-3-4. (Authorized by K.S.A. 1983 Supp. 22-4501 and 22-4522; implementing K.S.A. 1983 Supp. 22-4501 and 22-4522; effective May 1, 1984; revoked Aug. 20, 1999.)

105-3-5. Removal from panel. (a) An administrative judge may remove any attorney from a panel. The administrative judge shall promptly notify the board of a decision to remove an attorney from any panel.

(b) An attorney may be removed from any panel by the board after it confers with the administrative judge.

(c) The decision to remove shall become effective upon notice to the attorney and shall remain effective until the board or administrative judge reinstates the attorney to the panel.

(d) An attorney removed from the panel may inform the board that the attorney wishes to appear and offer evidence for reinstatement at a hearing before the board. Any such evidence shall be reviewed by the board to determine whether or not the administrative judge abused the judge's discretion in removing the attorney from the panel. The hearing shall be conducted as a summary proceeding. (Authorized by and implementing K.S.A. 22-4501 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

105-3-8. (Authorized by K.S.A. 1984 Supp. 22-4507 and 22-4522; implementing K.S.A. 1984 Supp. 22-4507; effective, T-86-33, Oct. 23, 1985; effective May 1, 1986; revoked Aug. 20, 1999.)

105-3-9. Duties of trial counsel following sentencing. (a) In order to protect a convicted defendant's right to appeal, it shall be the duty of each trial counsel to prepare, file, or both, the following documents:

(1) file a motion for modification of sentence pursuant to K.S.A. 21-4603(2), when appropriate;

(2) file a motion for release on appeal bond pursuant to K.S.A. 22-2804, when appropriate;

(3) file a notice of appeal in a timely manner, unless a waiver of the right to appeal has been signed by the defendant;

(4) upon filing the notice of appeal, obtain a court order for the trial transcript, and a transcript of any pretrial or posttrial proceedings from which a claim of error may arise;

(5) upon filing the notice of appeal, obtain an order from the district court appointing the state appellate defender as counsel for the appeal and file the order of appointment with the clerk of the district court within five days of the filing of the notice of appeal;

(continued)

(6) submit a draft of the docketing statement and all documents necessary to docket the appeal required by supreme court rule 2.041 to the appellate defender within 10 days of the filing of the notice of appeal; and

(7) submit a listing of all hearings in which a record was taken to the appellate defender, including dates, within 10 days of the filing of the notice of appeal.

(b) Requests for compensation for services set forth in subsection (a) shall be included in the claim filed with the board. (Authorized by and implementing K.S.A. 22-4507, as amended by L. 1998, ch. 52, sec. 5, and K.S.A. 1997 Supp. 22-4522; effective, T-86-33, Oct. 23, 1985; effective May 1, 1986; amended May 1, 1987; amended Jan. 11, 1993; amended Aug. 20, 1999.)

105-3-11. Conflict cases. (a) If a conflict of interest will not permit the public defender to represent a defendant, the court shall appoint the designated conflicts office for that county or an assigned attorney who has entered into a contract to represent defendants in conflict cases. If a conflicts office has not been designated for that county, if a contract attorney has not been designated to handle conflicts cases, or if the nature of the conflict requires it, the court shall appoint a qualified attorney from the panel. Each court-appointed attorney in conflict cases shall work independently of the public defender.

(b) Requests for investigative, expert, and other services by court-appointed attorneys shall be made in accordance with K.A.R. 105-7-1. (Authorized by K.S.A. 22-4501 and K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 1997 Supp. 22-4522; effective March 28, 1994; amended Aug. 20, 1999.)

105-3-12. Appointments in capital cases. (a) In each case in which the death penalty may be imposed and the defendant is unable to afford counsel, the court shall appoint the capital defender to represent the defendant.

(1) Subject to K.A.R. 105-5-4, the court may appoint co-counsel from the capital appointments panel list to represent the defendant in accordance with the system established by these regulations for providing legal defense services for indigent persons charged with capital felonies. The court, however, shall not appoint any attorney as co-counsel without prior notice to the chief capital defender and the board.

(2) The court shall not appoint any attorney to provide representation in a capital felony without prior notice to the chief capital defender.

(3) Eligibility to serve on the capital appointments panel shall be limited to attorneys who have been screened pursuant to K.A.R. 105-3-2(a)(5).

(b) The court shall appoint counsel for any indigent person accused of homicide pursuant to K.S.A. 21-3401, 21-3402, or 21-3403 from panel lists approved by the board. The court shall not appoint any attorney to provide representation to an indigent person accused of a felony pursuant to K.S.A. 21-3401, 21-3402, or 21-3403 without prior notice to the chief capital defender.

(c) Appeals. The court shall appoint the state appellate defender to represent an indigent defendant in each appeal of a capital felony conviction in accordance with K.A.R. 105-10-2. (Authorized by K.S.A. 22-4501, K.S.A. 1997 Supp. 22-4503, and K.S.A. 1997 Supp. 22-4522; im-

plementing K.S.A. 1997 Supp. 22-4503, K.S.A. 1997 Supp. 22-4505 and K.S.A. 1997 Supp. 22-4522; effective Nov. 1, 1996; amended Aug. 20, 1999.)

Article 5.—ATTORNEY COMPENSATION

105-5-2. Rates of compensation. (a) Each assigned counsel shall be compensated at the rate of \$50 per hour.

(b) Each attorney assigned to the defense of any indigent person who has been accused of a capital felony, each attorney assigned to represent any indigent person who has been convicted of capital murder and who is under a sentence of death in the direct review of the judgment, and each attorney assigned to represent any indigent person who has been convicted of capital murder and who is under a sentence of death in a postconviction proceeding shall be compensated at the rate of \$50 per hour, unless a higher rate has been approved in advance by the director.

(c) Contract counsel shall be compensated at the rate or rates established and set forth in the contract between the board and the assigned counsel. (Authorized by and implementing K.S.A. 22-4507, as amended by L. 1998, ch. 52, sec. 5, and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended May 1, 1988; amended, T-105-6-13-88, July 1, 1988; amended Oct. 31, 1988; amended July 1, 1993; amended Aug. 16, 1993; amended March 28, 1994; amended Aug. 20, 1999.)

105-5-3. Appellate courts; compensation. (a) For services performed in appealing a case to the court of appeals or the supreme court, compensation shall be at the rate prescribed in K.A.R. 105-5-2.

(b) Compensation for attorneys' services in cases appealed to the Kansas supreme court or the court of appeals shall not exceed \$1,000. However, additional compensation may be approved by the board. (Authorized by and implementing K.S.A. 22-4507, as amended by L. 1998, ch. 52, sec. 5, and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended May 1, 1985; amended Aug. 20, 1999.)

105-5-6. Reasonable compensation; non-tried cases.

(a) Each appointed and assigned attorney shall be compensated for time expended in representing indigent defendants and other indigent persons at the hourly rate prescribed in K.A.R. 105-5-2. Except as provided in K.A.R. 105-5-8, reasonable compensation shall not exceed \$1,000 in the following cases:

(1) Those felony cases in the trial court that are classified as non-drug offenses of severity level 1 through 5 that are not submitted to a judge or jury, including services at a preliminary hearing and sentencing, if applicable; and

(2) those felony cases in the trial court that are classified as drug offenses, that have not been submitted to a judge or jury, and in which there have been six hours or more spent in court in defense of the indigent defendant, including services at a preliminary hearing and sentencing, if applicable.

(b) Except as provided in K.A.R. 105-5-8 and K.A.R. 105-5-6(a), reasonable compensation shall not exceed \$750 in the following cases:

(1) Those felony cases in the trial court that are not submitted to a judge or jury, including services at a pre-

liminary hearing and sentencing, if applicable, and that are classified as severity level 6 through 10 non-drug offenses; and

(2) those felony cases in the trial court that are not submitted to a judge or jury, that are classified as drug offenses, and in which there have been fewer than six hours spent in court in defense of the indigent defendant, including services at a preliminary hearing and sentencing, if applicable.

(c) Except as provided in K.A.R. 105-5-8, K.A.R. 105-5-6(a), and K.A.R. 105-5-6(b), reasonable compensation shall not exceed \$410 in the following types of cases:

(1) Habeas corpus cases as authorized by K.S.A. 1997 Supp. 22-4503 and K.S.A. 1997 Supp. 22-4506;

(2) cases filed pursuant to K.S.A. 60-1507 and K.S.A. 1997 Supp. 22-4506;

(3) habeas corpus cases as authorized by K.S.A. 22-2710;

(4) habeas corpus cases as authorized by K.S.A. 1997 Supp. 22-3428 and K.S.A. 22-3428a; and

(5) habeas corpus cases as authorized by K.S.A. 1997 Supp. 59-2965.

(d) Except as provided in K.A.R. 105-5-8, reasonable compensation shall not exceed \$200 in the following types of cases:

(1) Representation of grand jury witnesses determined to be indigent and called to testify pursuant to K.S.A. 22-3009;

(2) representation of indigent persons committed to custody as material witnesses pursuant to K.S.A. 1997 Supp. 22-2805;

(3) probation revocation hearings; and

(4) motions to modify sentence pursuant to K.S.A. 1997 Supp. 21-4603. (Authorized by and implementing K.S.A. 22-4507, as amended by L. 1998, ch. 52, sec. 5, and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended, T-105-6-13-88, July 1, 1988; amended Nov. 1, 1988; amended Oct. 30, 1989; amended July 1, 1993; amended, T-105-6-15-93, July 1, 1993; amended Aug. 16, 1993; amended Aug. 20, 1999.)

105-5-7. Reasonable compensation; tried cases. Each appointed and assigned attorney shall be compensated for time expended in representing indigent defendants at the hourly rate prescribed in K.A.R. 105-5-2. Except as provided in K.A.R. 105-5-8, reasonable compensation for felony cases tried on pleas of not guilty and submitted to a judge or jury for adjudication, including compensation for services at the preliminary hearing, sentencing and motions to modify the sentence, shall not exceed the following:

(a) \$1,500 for felonies classified as non-drug offenses of severity levels 5 through 10;

(b) \$2,000 for felonies classified as non-drug offenses of severity level 4 and felonies classified as drug offenses of severity levels 2 through 4; and

(c) \$5,000 for felonies classified as non-drug offenses of severity levels 1 through 3, off-grid felonies, and felonies classified as drug offenses of severity level 1. (Authorized by and implementing K.S.A. 22-4507, as amended by L. 1998, ch. 52, sec. 5, and K.S.A. 1997 Supp. 22-4522; effective

May 1, 1984; amended, T-105-6-13-88, July 1, 1988; amended Nov. 1, 1988; amended Oct. 30, 1989; amended July 1, 1993; amended, T-105-6-15-93, July 1, 1993; amended Aug. 16, 1993; amended Aug. 20, 1999.)

105-5-8. Compensation; exceptional cases. (a) Any compensation for attorneys' services in excess of the amounts set out in K.A.R. 105-5-6 and K.A.R. 105-5-7 may be approved only in exceptional cases. A finding by the court that a case is exceptional shall be subject to final approval by the board. An exceptional case means any of the following:

(1) Any case involving a felony charge in the trial court which does not appear on the sentencing range grid;

(2) any felony case tried on a not guilty plea in which there have been 25 or more hours spent in court in defense of the indigent defendant;

(3) any felony case not submitted to a judge or jury in which there have been 10 hours or more of in-court time spent in defense of the indigent defendant; or

(4) any case that has been declared an exceptional case by the court due to its complexity or other significant characteristics.

(b) Each claim for compensation in an exceptional case shall be accompanied by a specific finding in a court order setting forth the basis for the declaration that the case is exceptional.

(c) Reasonable compensation for attorneys' services in exceptional cases shall not exceed \$5,000 per case. However, additional compensation may be approved by the board if warranted by the extreme complexity of the case. (Authorized by and implementing K.S.A. 22-4507, as amended by L. 1998, ch. 52, sec. 5, and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended, T-105-6-13-88, July 1, 1988; amended Nov. 1, 1988; amended Oct. 30, 1989; amended July 1, 1993; amended, T-105-6-15-93, July 1, 1993; amended Aug. 16, 1993; amended Aug. 20, 1999.)

Article 6.—REIMBURSEMENT OF EXPENSES

105-6-2. Expenses allowed. Expense reimbursements shall include reimbursement for the following expenses:

(a) the cost of photocopying prepared briefs;

(b) the cost of binding appellate briefs for each case;

(c) in-state travel and subsistence by appointed attorneys, not to exceed the rate set by the secretary of the department of administration for state employees in accordance with K.S.A. 75-3201, *et seq.* and K.S.A. 75-4601, *et seq.*;

(d) expenses incurred by appointed attorneys in obtaining computerized legal research if the case presents a unique question of law to be researched. Such expenses shall not exceed \$200;

(e) expenses incurred by appointed attorneys in taking depositions, if found to be authorized by statute and necessary in order to provide an adequate defense and when prior approval has been obtained from the court;

(f) costs of mailing briefs; and

(g) expenses incurred by appointed attorneys which would otherwise have been approved and paid by the board directly to a third party in accordance with statute

(continued)

or rule and regulation. (Authorized by and implementing K.S.A. 22-4507, as amended by L. 1998, ch. 52, sec. 5, and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

Article 7.—INVESTIGATIVE, EXPERT OR OTHER SERVICES

105-7-2. Claims. (a) Claims for compensation for investigative, expert, or other services provided to an indigent defendant shall be made on a form approved by the board. The claims shall be signed by the payee and the judge before transmittal to the board. Claims for investigative, expert, or other services shall include a time sheet detailing time expended in the performance of these services and any compensation received for the same services from any other source.

(b) Exceptions. Claims for expert services rendered at the request of a public defender office shall be excluded from the provisions of K.A.R. 105-7-1 et seq. (Authorized by K.S.A. 22-4512a and K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 22-4508 and K.S.A. 22-4512a; effective May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended Aug. 20, 1999.)

105-7-4. Investigators. Each individual performing services as an investigator shall be compensated at a rate not to exceed \$20 per hour, unless a higher rate has been approved in advance by the director. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 22-4508 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

105-7-5. Psychiatric or psychological services. Each individual performing psychiatric or psychological services shall be compensated at a rate approved in advance by the director. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 22-4508 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Oct. 30, 1989; amended Aug. 20, 1999.)

105-7-6. Interpreters. Each individual performing services as an interpreter for the defense shall be compensated at a rate not to exceed \$15 per hour, unless a higher rate has been approved in advance by the director. No more than one interpreter per defendant may be compensated for services performed at the same stage of the proceeding. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 22-4508 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended May 1, 1987; amended Aug. 20, 1999.)

105-7-7. Other services. Each individual performing other allowable defense services shall be compensated at a rate approved in advance by the director. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 22-4508 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

105-7-8. Maximum compensation. Any claim in excess of \$300, in any one case, for investigative, expert, or other services and any claim in excess of \$1,000 for psychiatric or psychological services shall require approval of the director. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 22-4508 and K.S.A. 1997 Supp. 22-

4522; effective May 1, 1984; amended May 1, 1988; amended Aug. 20, 1999.)

105-7-9. Services not compensable. The following services shall not be compensable unless approved by the director: (a) polygraph examinations;

(b) psychological stress evaluation exams;

(c) psychiatric or other services arising out of proceedings to determine competency to stand trial;

(d) other expert tests unless the results are admissible as evidence; and

(e) any other expert services not necessary for an adequate defense of the case. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 1997 Supp. 22-4508 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

Article 8.—COURT REPORTERS; TRANSCRIPTS

105-8-1. Generally. (a) When an attorney appointed to represent an indigent defendant at trial determines that a transcript or partial transcript of the trial will be necessary to prosecute an appeal, the attorney shall request a court order for the transcript. Attorneys shall order complete transcripts only when absolutely necessary for the appeal, in accordance with supreme court rules.

(b) Each court order for a transcript shall be made on a form approved by the board. A copy of the order shall be mailed to the board promptly. The order shall specify whether a full or partial transcript is to be prepared. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 1997 Supp. 22-4505, K.S.A. 22-4509 and K.S.A. 22-4512a; effective May 1, 1984; amended May 1, 1986; amended Aug. 20, 1999.)

105-8-2. Claims. Each claim for transcript fees shall be made on a form approved by the board. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 22-4512a; effective May 1, 1984; amended Aug. 20, 1999.)

105-8-3. Compensation. (a) Court reporters shall receive compensation for one original transcript in a single-defendant case appealed to the appellate courts. In multi-defendant cases appealed to the appellate courts, court reporters shall be compensated for one original transcript and one transcript copy for each additional co-defendant.

(b) Compensation shall be at the rate set for transcripts pursuant to the rules of the supreme court relating to official court reports. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 1997 Supp. 22-4522, K.S.A. 1997 Supp. 22-4505, K.S.A. 22-4507, as amended by L. 1998, ch. 52, sec. 5, and K.S.A. 22-4509; effective May 1, 1984; amended Aug. 20, 1999.)

Article 10.—SYSTEMS FOR PROVIDING LEGAL DEFENSE SERVICES FOR INDIGENT PERSONS

105-10-1a. Public defender systems at the trial level. (a) Except as provided in K.A.R. 105-3-11, each public defender office shall provide all indigent felony and related defense services at the trial level.

(b) If the director has provided notice pursuant to K.A.R. 105-10-3, to the administrative judge of the judicial district in which a case is filed, of the board's designation of a conflicts office for a county, the designated conflicts attorney office shall be appointed and shall provide indigent felony and related defense services at the trial level for those cases that cannot be handled by the public defender office due to potential conflicts of interest, with the exception of those cases that the designated conflicts attorney office cannot handle due to a potential conflict of interest.

(c) Each trial court shall appoint the public defender to provide felony defense services in all felony and other cases set forth in K.A.R. 105-1-1(a), with the following exceptions:

(1) if the director has not designated a public defender office to provide defense services in the county;

(2) if the director has designated a public defender office to provide defense services in only selected felony severity levels;

(3) if K.A.R. 105-10-2 requires the appointment of the state appellate defender;

(4) if a conflict of interest will not permit the public defender to represent the defendant and the conflicts attorney office or contract attorney designated to handle conflicts cases is not available; or

(5) if the public defender office withdraws from the case or declines the case as provided in K.A.R. 105-21-3.

(d) If one of the exceptions stated above prevents the appointment of the public defender, the court shall appoint an attorney as provided in K.A.R. 105-3-11 on a form approved by the board. (Authorized by and implementing K.S.A. 1997 Supp. 22-4522; effective March 28, 1994; amended Aug. 20, 1999.)

105-10-3. Implementation schedule for public defender system. (a) The district court judge shall appoint the public defender, or any other attorney under the system established by the board, to represent all persons entitled to counsel under K.S.A. 22-4501, *et seq.* who have not, before the system implementation date, had counsel appointed in the action pending before the court. The system implementation date in a particular county shall be the date provided in written notice by the director to the following persons:

(1) the judicial administrator for the Kansas unified judicial branch; and

(2) the district court administrative judge.

(b) The district court judge shall appoint the public defender, or any other attorney under the system established by the board, to represent any persons entitled to counsel under K.S.A. 22-4501, *et seq.* who have, before the system implementation date, had counsel appointed in the action pending before the court if appointed private counsel withdraws or is removed from the case after the implementation date.

(c) The district court judge shall appoint the public defender to cases with matters pending before notice of the change in the indigents' defense system if the public defender requests the appointment and appointed private counsel does not object.

(d) The district court judge may appoint the public defender to cases with matters pending before notice of the

change in the indigents' defense system if it is the judgment of the court that it is in the best interests of the defendant to do so and if the public defender consents to the appointment.

(e) Until notice is given pursuant to the provisions of this regulation that a county shall be served by a public defender office, the district court judge has discretion to appoint counsel under the previously existing system for the county or district. (Authorized by and implementing K.S.A. 1997 Supp. 22-4522; effective March 28, 1994; amended Aug. 20, 1999.)

105-10-5. Assigned counsel contracts. A public defender, the state appellate defender, and the designated conflicts office may, upon written authorization by the director, contract for services with qualified attorneys to undertake representation of indigent defendants to which each office has been appointed. (Authorized by and implementing K.S.A. 1997 Supp. 22-4522; effective March 28, 1994; amended Aug. 20, 1999.)

Article 21.—PUBLIC DEFENDER GUIDELINES

105-21-3. Withdrawing from cases. (a) Any public defender may withdraw from any court-appointed case when that defender determines that there exists a possible conflict of interest in further representation of the defendant.

(b) The public defender may refuse to accept court-appointed cases when it is determined jointly by the public defender and the director that the current active caseload would preclude the public defender from providing adequate representation to new clients.

(c) When a decision is made to withdraw from a case or to not accept cases due to current caseloads, the public defender shall communicate this decision to the administrative judge of the district, who shall appoint attorneys, in sequence, from the panel for a period established by the director. (Authorized by and implementing K.S.A. 22-4501 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

105-21-6. Records and reports. Each public defender shall keep accurate records of cases assigned and make reports in the form and with the content prescribed by the director. (Authorized by and implementing K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

Article 31.—CONTRACT COUNSEL GUIDELINES

105-31-4. (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4505, 22-4522; effective May 1, 1984; revoked Aug. 20, 1999.)

Patricia A. Scalia
Executive Director

Doc. No. 024118

State of Kansas

Secretary of State

Permanent Administrative
RegulationsArticle 40.—REVISED KANSAS
TRADEMARK ACT

7-40-1. Classification of goods and services under the revised Kansas trademark act. The schedule of classes of goods and services for registration of trademarks and service marks with the secretary of state, pursuant to the revised Kansas trademark act, shall be the "international schedule of classes of goods and services," as published in 37 C.F.R. 6.1 on July 1, 1997, which is hereby adopted by reference. (Authorized by and implementing L. 1999, ch. 85, § 11; effective Aug. 20, 1999.)

Ron Thornburgh
Secretary of State

Doc. No. 024148

State of Kansas

Kansas Insurance Department

Permanent Administrative
Regulations

Article 4.—ACCIDENT AND HEALTH INSURANCE

40-4-35. Medicare supplement policies; minimum standards; requirements. Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24 and appendices A, B, and C of the national association of insurance commissioners' "model regulation to implement the national association of insurance commissioners' medicare supplement insurance minimum standards model act," July 1998 edition, are hereby adopted by reference, subject to the following additions or exceptions:

(a) Section 3 is hereby amended to read as follows: "B. This regulation shall not apply to:

"(1) Individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this regulation."

(b) Section 3 is hereby amended by the addition of subsection C, which shall read: "This regulation shall supersede any other Kansas insurance department administrative regulation to the extent the regulation or any provision of it is inconsistent with or contrary to this regulation."

(c) Section 4(H) is not adopted by reference and is replaced with the following language: "Insolvency" means that as an issuer, licensed to transact the business of insurance in this state, is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of:

"(1) any capital and surplus required by law for its organization; or

"(2) the total par of stated value of its authorized and issued capital stock.

"For the purposes of this subsection 'liabilities' shall include, but not be limited to, reserves required by statute or by insurance department general regulations or by specific requirement imposed by the commissioner upon a subject company at the time of admission or subsequent thereto."

(d) Section 7(A)(3) is hereby amended by replacing the last sentence of this paragraph with the following language: "Premiums may be modified to correspond with such changes, subject to the requirements of Section 15(B) of this regulation or any applicable statutory requirements."

(e) Section 7(B)(2) is not adopted by reference and shall be replaced with the following language: "Coverage for all of the medicare part A inpatient hospital deductible amount."

(f) Section 8(A)(3) is hereby amended by replacing the last sentence of this paragraph with the following language: "Premiums may be modified to correspond with such changes, subject to the requirements of Section 15(B) of this regulation or any applicable statutory requirements."

(g) Section 11(A) is not adopted by reference and is replaced with the following language: "An issuer shall not deny or condition the issuance or effectiveness of any medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of a policy or certificate because of health status, claims experience, receipt of health care or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is both 65 years of age or older and enrolled for benefits under medicare part B, or becomes enrolled for benefits under medicare part B without regard to age. An issuer shall not deny coverage to an applicant under 65 years of age who enrolled for benefits under medicare part B prior to the effective date of this regulation when the applicant applies for coverage during the six-month period beginning with the effective date of this regulation. Each medicare supplement policy and certificate currently available from an issuer shall be made available to all applicants who qualify under this subsection without regard to age."

(h) Section 12(B)(1), (2) and (3) are not adopted by reference and shall be replaced with the following language: "Eligible persons. An eligible person is an individual described in any of the following paragraphs:

"(1) The individual is enrolled as an employee, retiree or dependent under an employee welfare benefit plan including federal or state that provides health benefits that supplement the benefits under medicare and the plan terminates or the plan ceases to provide some or all such supplemental health benefits to the individual; or the individual is enrolled as an employee, retiree or dependent under an employee welfare benefit plan including federal or state plans that is primary to medicare and the plan terminates or the plan ceases to provide some or all health benefits to the individual because the individual leaves the plan.

"(2) The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan

under part C of medicare, and any of the following circumstances apply:

“(A) The organization’s or plan’s certification has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

“(B) The individual is no longer eligible to elect the plan because of a change in the individual’s place of residence or other change in circumstances specified by the secretary, but not including termination of the individual’s enrollment on the basis described in section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856), or the plan is terminated for all individuals within a residence area;

“(C) The individual demonstrates, in accordance with guidelines established by the secretary that:

“(i) The organization offering the plan substantially violated a material provision of the organization’s contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

“(ii) The organization, or agent or other entity acting on the organization’s behalf, materially misrepresented the plan’s provisions in marketing the plan to the individual; or

“(D) The individual meets such other exceptional conditions as the secretary may provide.

“(3)(a) The individual is enrolled with:

“(1) An eligible organization under a contract under section 1876 (medicare risk or cost);

“(2) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

“(3) An organization under an agreement under section 1833(a)(1)(A) (health care prepayment plan); or

“(4) An organization under a medicare select policy; and

“(b) The enrollment ceases under the same circumstances that would permit discontinuance of an individual’s election of coverage under section 12(B)(2).”

(i) Section 12(B)(6) is not adopted by reference and is replaced with the following language: “The individual upon first becoming enrolled in Medicare part B for benefits, enrolls in a Medicare+Choice plan, and disenrolls from the plan by not later than twelve (12) months after the effective date of enrollment.”

(j) Section 12(B)(7) is new and reads as follows: “An individual who loses eligibility for health benefits under Title XIX of the Social Security Act (Medicaid).”

(k) Section 12(C)(3) is amended to read as follows: “Section 12B(6) and (7) shall include any medicare supplement policy offered by any issuer.”

(l) Section 15(B) is hereby amended by the addition of the following language: “An issuer shall not charge individuals who become eligible for medicare by reason of disability or End Stage Renal Disease (ESRD) after April 28, 1996, who were enrolled in any medicare supplement plan and who are under age 65, premium rates for any

medicare supplement insurance benefit plan offered by the issuer that exceed the issuer’s premium rates charged for such plan to individuals who are age 65. Individuals under age 65 who become eligible for medicare by reason of disability or End Stage Renal Disease (ESRD) prior to April 28, 1996 and who enrolled in any medicare supplement plan prior to October 28, 1996, shall be charged premium rates for any medicare supplement insurance benefit plan as follows:

“(1) On the insured’s first policy anniversary date on or after April 29, 1999, premium rates which do not exceed the rate charged for such plan to medicare supplement insureds who are age 80.

“(2) On the insured’s first policy anniversary date on or after April 29, 2000, premium rates for any medicare supplement insurance benefit plan that do not exceed the rate charged for such plan to medicare supplement insureds who are age 65.”

(m) Section 15(C)(2) is not adopted by reference and is replaced with the following language: “With the approval of the commissioner, any issuer may offer up to three (3) additional policy forms or certificate forms of the same type for the same standard medicare supplement benefit plan. One additional form may be offered for each of the following cases:

“(a) The inclusion of new or innovative benefits;

“(b) The addition of either direct response or agent marketing methods; or

“(c) The addition of either guaranteed issue or underwritten coverage.”

(n) Section 17(A)(5) is hereby adopted by reference in its entirety, with the following language added: “Any refund made pursuant to this section shall be paid directly to the applicant by the insurer in a timely manner. The notice shall be printed in not less than 10-point type and shall be printed in boldface type or in some other manner that distinguishes it from the print otherwise appearing in the policy.”

(o) Section 17(C) is hereby amended by the addition of the following:

“(5) Issuers shall provide a description of policy provisions relating to renewability, cancellation, or continuation of coverage, including any reservation of rights to change premium.

“(6) The amount of premium for this policy. The premiums for the policy or certificate shall be shown separately from the premiums for any optional or supplemental riders.

“(7) The name and address of the insurance agent, or the employee of the insurer who assumes responsibility for completing the outline.”

(p) Section 18(E) is hereby amended by the deletion of paragraphs (1) and (2), relating to preexisting conditions, in their entirety.

(q) An issuer shall not apply more stringent underwriting standards to individuals under the age of 65 who are applying for medicare supplement coverage outside of their open enrollment period than would be applied to individuals over the age of 65 who are applying for coverage outside of their open enrollment period. (Authorized by K.S.A. 40-103, K.S.A. 1998 Supp. 40-2221; imple-

(continued)

menting K.S.A. 1998 Supp. 40-2221; effective May 1, 1982; amended May 1, 1984; amended May 1, 1986; effective, T-40-12-16-88, Dec. 16, 1988; amended, T-40-3-31-89, March 31, 1989; amended June 5, 1989; amended Oct. 15, 1990; amended April 1, 1992; amended May 24, 1996;

amended, T-40-3-18-99, April 29, 1999; amended Aug. 20, 1999.)

Kathleen Sebelius
Kansas Insurance Commissioner

Doc. No. 024134

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Reg. No.	Action	Register
100-24-3	New	V. 18, p. 483

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Reg. No.	Action	Register
102-4-10a	Amended (T)	V. 18, p. 1035

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	Amended	V. 18, p. 773
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
111-3-1	Amended	V. 18, p. 95
111-3-14	Amended	V. 18, p. 957
111-3-21	Amended	V. 18, p. 958
111-3-22	Amended	V. 18, p. 958
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
111-4-1384	Amended	V. 18, p. 958
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
111-4-1444 through 111-4-1468	New	V. 18, p. 773-779
111-4-1457	Amended	V. 18, p. 958
111-4-1469 through 111-4-1485	New	V. 18, p. 959-963
111-5-24	Amended	V. 18, p. 130
111-5-28	Amended	V. 18, p. 130
111-5-31	Amended	V. 18, p. 457
111-7-66	Amended	V. 18, p. 963
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
111-9-103 through 111-9-108	New	V. 18, p. 963, 964

AGENCY 112: KANSAS RACING AND GAMING COMMISSION

Reg. No.	Action	Register
112-10-6	Amended	V. 18, p. 954

AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

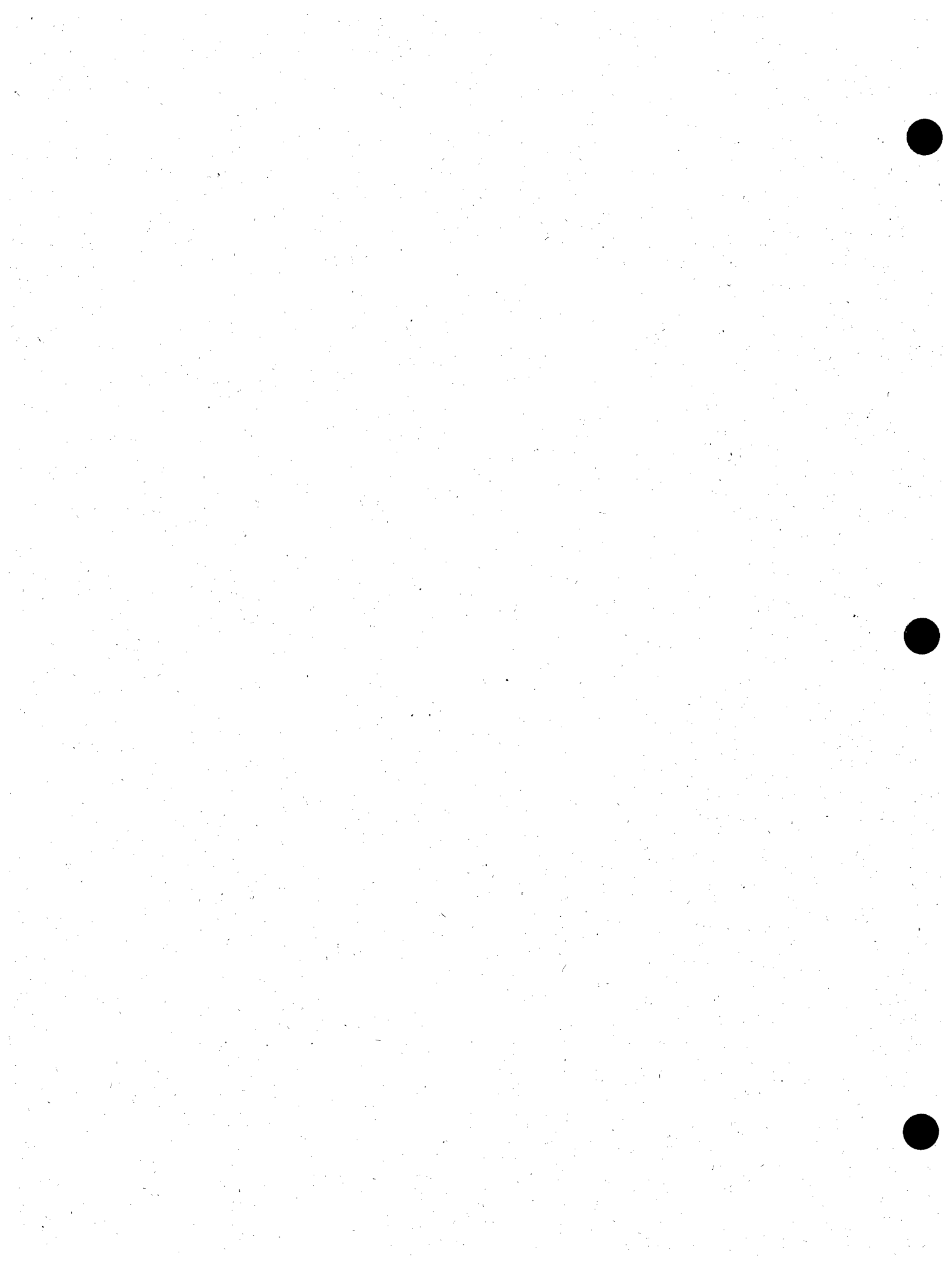
Reg. No.	Action	Register
115-2-1	Amended	V. 18, p. 1019
115-4-13	Amended	V. 18, p. 1020
115-11-2	Amended	V. 18, p. 484
115-16-4	Amended	V. 18, p. 780
115-17-21	New	V. 18, p. 781
115-30-10	Amended	V. 18, p. 781

AGENCY 117: REAL ESTATE APPRAISAL BOARD

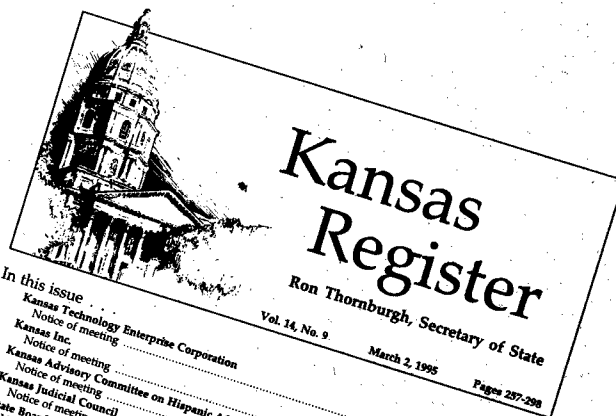
Reg. No.	Action	Register
117-2-1	Amended	V. 18, p. 294
117-2-2	Amended	V. 18, p. 295
117-3-1	Amended	V. 18, p. 296
117-3-2	Amended	V. 18, p. 296
117-4-1	Amended	V. 18, p. 297
117-4-2	Amended	V. 18, p. 298
117-6-1	Amended	V. 18, p. 955
117-8-1	Amended	V. 18, p. 995

AGENCY 118: KANSAS STATE HISTORICAL SOCIETY

Reg. No.	Action	Register
118-4-1 through 118-4-4	New	V. 18, p. 672, 673



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