



Kansas Register

Ron Thornburgh, Secretary of State

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State of Kansas

Law Enforcement Training Commission

Notice of Meeting

The Kansas Law Enforcement Training Commission will meet at 10:30 a.m. Tuesday, April 18, at the Kansas Law Enforcement Training Center, located 12 miles southeast of Hutchinson, south of K-96 at the Hutchinson Air Base Industrial Tract (HABIT), the former Naval Air Station, or 1 mile west and 1 mile south of Yoder. The meeting is open to the public. For further information, call (316) 694-1526.

Darrell Wilson
Chairperson

Doc. No. 024917

State of Kansas

Agriculture Advisory Board

Notice of Meeting

The Governor's Agricultural Advisory Board will conduct a conference call meeting at 8:30 a.m. Friday, March 24, at the Department of Agriculture, 109 S.W. 9th, Topeka, to discuss agency and legislative activities. A meeting agenda will be available prior to March 24 by contacting Lisa Taylor at (785) 296-3558. Individuals who would like to listen to the conference call should contact the Department of Agriculture at the telephone number listed above at least three days prior to the scheduled call to request seating in the fourth floor training room.

Jamie Clover Adams
Secretary of Agriculture

Doc. No. 024929

State of Kansas

State Employees Health Care Commission

Notice of Meeting

The State Employees Health Care Commission will meet at 1:30 p.m. Wednesday, March 22, in the board room of the Kansas Public Employees Retirement System office, 611 S. Kansas Ave., Topeka. For further information, contact the Benefits Office at (785) 296-6280.

Daniel R. Stanley
Chair

Doc. No. 024925

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. 1999 Supp, 12-1675(b)(c)(d), and K.S.A. 75-4201(l) and 75-4209(a)(1)(B).

Effective 3-13-00 through 3-19-00

Term	Rate
1-89 days	5.75%
3 months	5.83%
6 months	6.16%
9 months	6.27%
12 months	6.32%
18 months	6.53%
24 months	6.56%

Derl S. Treff
Director of Investments

Doc. No. 024923

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State of Kansas

Kansas, Inc.

Notice of Meeting

The Kansas, Inc. Board of Directors will meet from noon to 2 p.m. Friday, March 24, at the Kansas Technology Enterprise Corporation office, 214 S.W. 6th, second floor, Topeka. The meeting is open to the public. For further information, call (785) 296-1460.

Charles R. Ranson
President

Doc. No. 024937

State of Kansas

Department of Administration
Division of Personnel Services

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 10 a.m. Thursday, June 15, in Room 108, Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of a proposed rule and regulation of the Division of Personnel Services, Department of Administration, on a permanent basis.

This 60-day notice of public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rule and regulation. All interested parties may submit written comments prior to the hearing to the Secretary of Administration, Room 263-E, State Capitol, 300 S.W. 10th Ave., Topeka, 66612. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulation during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to 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 regulation and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Faith Loretto at (785) 296-6000 or (785) 296-4798 (TTY). Handicapped parking is located at the south end of Landon State Office Building, and the north entrance is accessible.

Summaries of the proposed regulation and its economic impact follow.

K.A.R. 1-9-23. Shared leave. The proposed amendments to K.A.R. 1-9-23 expand the eligibility of employees separating from state service to donate leave to another employee by exempting them from the regulation's minimum leave balance requirements.

The proposed amendments to this regulation could have a substantial economic impact on state employees and state agencies, particularly with respect to elimination of the minimum sick leave balance. Removing the required minimum balance of sick leave for employees separating from state service could result in a significant increase in the number of potential shared leave hours donated.

During FY 1999, the total number of employees who forfeited leave upon separation was 2,578. The total number of hours forfeited by those employees was 252,464.37. The proposed amendments to K.A.R. 1-9-23 would allow those 252,464.37 hours to be available for donation through the shared leave program. Based on the average hourly rate of pay for classified employees of \$13.72 as taken from the 1999 Workforce Report, those hours would have a total dollar value of \$3,463,811.15.

In FY 1999, there were 315 employees approved for shared leave, totaling 114,686 hours. The amendments to this regulation do not expand the eligibility for shared leave beyond this level. Moreover, it should be noted that the timing of the request and the donation does not always coincide, nor does the employee receiving donations always use the amount that was approved. In FY 1999, there were 90,819 hours donated and 87,140 hours used, resulting in 3,679 hours being returned to donating employees. Because donations are made to specific employees, not all employees who are approved for shared leave receive enough donated leave to cover their requests. Based on the total number of hours requested in FY 1999 (114,186), as compared to the number of hours actually used during the same time period (87,140), there was a net shortfall of 27,546 hours. Therefore, if the proposed amendments resulted in donations that met this 27,546-hour shortfall, the maximum economic impact would be \$379,931.12, using the average hourly rate of \$13.72. However, based on current experience, there is no guarantee that all shared leave needs will be met.

Because employees who separate from the state service are paid for all vacation leave balances, there is no economic impact on state agencies that would result from removing the minimum vacation leave balance requirement for these employees. If an employee chooses to donate a portion or all of the employee's vacation leave balances below the minimum of 80 hours, the employee's final paycheck will be reduced accordingly. For this reason, the amount of additional vacation leave donated under the amendments to K.A.R. 1-9-23 is expected to be minimal.

Since the approval process of the shared leave program is not being amended, the proposed amendments to this regulation will have little administrative impact from the agency perspective. Agencies will still have the authority to approve individuals for shared leave. The only difference will be that there will potentially be more leave available to requesting employees. The current shared leave donation form (DA 223) also will need to be revised and new copies made available to agencies.

Copies of the proposed regulation and the associated economic impact statement may be obtained from the Division of Personnel Services, Room 951-S, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, (785) 296-4863, or from the Internet at <http://da.state.ks.us/ps/documents/regs/proposed.htm>.

Daniel R. Stanley
Secretary of Administration

Doc. No. 024932

(Published in the Kansas Register March 16, 2000.)

City of Wichita, Kansas

Notice to Bidders

The City of Wichita will receive bids (rebid) at the Purchasing Office, 455 N. Main, 12th Floor, Wichita, 67201, until 10 a.m. Friday, April 14, for the following project:

KDOT Project No. 87 N-0121-01

Index Code 715679

Paving

Rebidding of 33rd Street North Bridge at West Drain (north of 29th Street North, west of Broadway)

Requests for the bid documents and plans should be directed to KBP Reprographics, (316) 264-9344, or Sandy Frerichs, (316) 268-4488. Other questions should be directed to the respective design engineer at (316) 268-4501.

All bids received will thereafter be publicly opened, read aloud and considered by the Board of Bids and Contracts. All work is to be done under the direction and supervision of the city manager and according to plans and specifications on file in the office of the city engineer. Bidders are required to enclose a bid bond in the amount of 5 percent with each bid as a guarantee of good faith. The Wichita City Council reserves the right to reject any and all bids.

The successful bidder may contact Marty Murphy at (316) 268-4499 or Sandy Frerichs at (316) 268-4488 for extra sets of plans and specifications.

Sandy Frerichs
Administrative Aide
City of Wichita—Engineering

Doc. No. 024918

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, 66612, 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, March 27, 2000

01278

Statewide—Pressure Sensitive Labels, Continuous and Laser

01274

University of Kansas—All Labor and Materials to Replace Damaged Ceilings

Tuesday, March 28, 2000

01268

Kansas Correctional Industries—High Pressure Laminate

01281

Department of Transportation—Asphaltic Materials

Wednesday, March 29, 2000

01275

Adjutant General's Department—Portable Secondary Containment, Various Locations

01294

Wichita State University—Middle Software for IBM VSE Environment

01300

Department of Wildlife and Parks—Fish Feed, Various Locations

Thursday, March 30, 2000

A-8790

University of Kansas—Room 308 Renovation, Dyche Hall

A-8885

Kansas School for the Deaf—HVAC Renovation, Roth Administration Building

A-8908

Department of Transportation—Sanitary Sewer Extension, Sub-Area Shop, Lawrence

A-8973

Department of Transportation—Vault Toilets, Tuttle Creek State Park, Riley County

01301

University of Kansas—Animal Enclosures

Monday, April 3, 2000

01255

Various State Agencies—Binding Services

Wednesday, April 5, 2000

A-8449 & A-8850

Atchison Juvenile Correctional Facility—Reroof Various Buildings

A-8953

University of Kansas—Install Air Conditioning, Battenfeld Hall

01290

Department of Health and Environment—Solid Waste (Shingle Deposits) Cleanup

Tuesday, April 25, 2000

01283

Department of Social and Rehabilitation Services and Various Locations Statewide—Warehouse and Delivery Services

Request for Proposals

Friday, April 14, 2000

01297

Develop and Implement Imaging/Work Flow System and Customization of Existing Applications for the Kansas Public Employees Retirement System

John T. Houlihan
Director of Purchases

Doc. No. 024935

State of Kansas

Legislature

Legislative Bills and Resolutions Introduced

The following numbers and titles of bills and resolutions were introduced March 2-8 by the 2000 Legislature. Copies of bills and resolutions are available free of charge from the Legislative Document Room, 145-N, State Capitol, 300 S.W. 10th Ave., Topeka, 66612, (785) 296-4096.

House Bills

HB 3009, An act concerning the judicial council; relating to the publications fee fund; authorizing certain fees and donations, by Committee on Appropriations.

HB 3010, An act concerning the job expansion and investment credit act of 1976; amending K.S.A. 1999 Supp. 74-50,131 and 79-32,160a and repealing the existing sections, by Committee on Appropriations.

HB 3011, An act concerning the Kansas investments in major projects and comprehensive training act; amending K.S.A. 1999 Supp. 74-50,103, 74-50,104, 74-50,106 and 74-50,111 and repealing the existing sections, by Committee on Appropriations.

HB 3012, An act concerning civil procedure; relating to contributory negligence; amending K.S.A. 60-258a and repealing the existing section, by Committee on Federal and State Affairs.

HB 3013, An act establishing the Kansas board of regents legacy scholarship program; relating to administration of awards made under such program, by Committee on Appropriations.

HB 3014, An act concerning the legislature; relating to benefits and compensation of employees of certain legislative agencies; amending K.S.A. 1999 Supp. 74-4911f and repealing the existing section, by Committee on Appropriations.

HB 3015, An act enacting the Kansas airline ticket consumer protection act, by Committee on Appropriations.

HB 3016, An act concerning crimes and punishment; relating to family and child safety and the safe storage of firearms, by Committee on Appropriations.

HB 3017, An act concerning the Kansas Statutes Annotated; relating to the distribution thereof; amending K.S.A. 77-138 and repealing the existing section, by Committee on Appropriations.

HB 3018, An act relating to state agencies; concerning the closure or relocation of certain programs or functions; concerning officers and employees laid off therefrom; prescribing certain disposition of certain property; benefits and procedures; KIB contingency fund; amending K.S.A. 75-4370, 75-4371, 75-4372, 75-4373, 75-4374, 75-4375 and 75-4376 and K.S.A. 1999 Supp. 46-233 and 75-6801 and repealing the existing sections, by Committee on Taxation.

HB 3019, An act concerning the Kansas development finance authority; authorizing the issuance of bonds for certain purposes; amending K.S.A. 1999 Supp. 74-8905 and repealing the existing section, by Committee on Appropriations.

HB 3020, An act establishing the sunflower army ammunition plant remediation trust fund; providing for administration and use of such fund, by Committee on Federal and State Affairs.

HB 3021, An act amending the Kansas tort claims act; concerning exceptions from liability; amending K.S.A. 1999 Supp. 75-6104 and repealing the existing section, by Committee on Federal and State Affairs.

HB 3022, An act concerning insurance; establishing standards for prompt, fair and equitable settlements of claims for health care and payments for health care services, by Committee on Federal and State Affairs.

HB 3023, An act concerning civil procedure; relating to liens; amending K.S.A. 60-1103 and repealing the existing section, by Committee on Federal and State Affairs.

HB 3024, An act concerning health insurance; providing coverage for osteoporosis; amending K.S.A. 1999 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, by Committee on Appropriations.

HB 3025, An act enacting the interstate compact for adult offenders supervision; repealing K.S.A. 22-4101, 22-4102 and 22-4103, by Committee on Appropriations.

HB 3026, An act concerning agriculture; relating to inspection fees; funding for plant pest activities; amending K.S.A. 2-2911 and K.S.A. 1999 Supp. 2-1012 and 2-1205 and repealing the existing sections, by Committee on Appropriations.

House Concurrent Resolutions

HCR 5070, A concurrent resolution urging the Department of Agriculture, Department of Commerce, Kansas State Research and Extension of the College of Agriculture, Kansas Cattlemen's Association, Kansas Farm Bureau, Kansas Farmers Union, Kansas Pork Producers Council, Kansas Livestock Association and the independent small locker plants to assist producers of beef, pork and poultry to market their own products.

HCR 5071, A concurrent resolution memorializing the Congress of the United States to repeal the telephone excise tax.

HCR 5072, A proposition to amend article 15 of the constitution of the state of Kansas by adding a new section thereto, relating to public retirement systems.

House Resolutions

HR 6011, A resolution requesting the State Corporation Commission to conduct a review and study of the "one-call" law and system and submit a report and recommendations to the Legislature and Governor.

HR 6012, A resolution requiring the Attorney General to prosecute an action to determine the reasonableness of attorney fees awarded to the local outside counsel in the national tobacco settlement case.

Senate Bills

SB 652, An act concerning infants; enacting the newborn infant protection act; amending K.S.A. 21-3604 and K.S.A. 1999 Supp. 38-1585 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 653, An act establishing an intergovernmental transfer program; concerning nursing facilities owned and operated by units of government; relating to the federal medical assistance (medicaid) program; establishing an intergovernmental transfer fund, a long-term care loan fund, a senior services trust fund and a senior services fund within the state treasury; authorizing certain participation agreements, loans, grants and contracts; amending K.S.A. 75-5321a and repealing the existing section, by Committee on Ways and Means.

SB 654, An act relating to property taxation; concerning the valuation of land devoted to agricultural use; amending K.S.A. 1999 Supp. 79-1476 and repealing the existing section, by Committee on Ways and Means.

SB 655, An act concerning retirement; relating to the Kansas public employees retirement system and systems thereunder; application of certain amounts recovered by the system; amending K.S.A. 1999 Supp. 74-4920 and repealing the existing section, by Committee on Ways and Means.

SB 656, An act concerning salaries and compensation for state officers and employees; amending K.S.A. 1999 Supp. 40-102, 46-137a, 46-137b, 75-3101, 75-3103, 75-3104, 75-3108, 75-3110 and 75-3111a and repealing the existing sections, by Committee on Ways and Means.

SB 657, An act concerning postsecondary education and certain institutions thereof; relating to powers and duties of the state board of regents; affecting membership of the midwestern higher education commission; amending K.S.A. 72-60b02 and K.S.A. 1999 Supp. 71-613, 72-4412, 72-4517 and 74-3202c and repealing the existing sections; also repealing K.S.A. 71-1001, 71-1002 and 71-1003 and K.S.A. 1999 Supp. 71-901 and 71-902, by Committee on Ways and Means.

SB 658, An act concerning hazardous waste; amending K.S.A. 65-3433, 65-3439, 65-3445 and 65-3458 and K.S.A. 1999 Supp. 65-3430, 65-3431 and 65-3441 and repealing the existing sections, by Committee on Federal and State Affairs.

Senate Resolutions

SR 1817, A resolution in memory of Robert Caldwell.

Doc. No. 024924

State of Kansas

Kansas State University

Notice to Bidders

Sealed bids for the item listed below will be received by the Kansas State University Purchasing Office, Manhattan, until 2 p.m. local time on the date indicated and then will be publicly opened. Interested bidders may call (785) 532-6214 or fax (785) 532-5577 for additional information.

Friday, March 31, 2000

#40018

Audit services

William H. Sesler
Director of Purchasing

Doc. No. 024919

State of Kansas

Attorney General

Opinion 2000-9

Public Health—Abortion—Prohibition Against Partial Birth Abortion; 2000 Substitute for House Bill No. 2581; Constitutionality. Representative Richard Alldritt, 105th District, Harper, February 10, 2000.

While a court could choose to uphold the definition of partial birth abortion found in 2000 Substitute for House Bill No. 2581 by ruling that it cannot be applied in any situation involving a D & E procedure, we believe it is more likely the court would find that the term "partial birth abortion" is defined in the bill in such general terms, and the exception for D & E defined so narrowly, that some versions of the D & E procedure are included within its prohibition, thus rendering it a substantial obstacle and unconstitutional because it applies to all stages of pregnancy, rather than just post-viability. Cited herein: K.S.A. 1999 Supp. 65-6721; 2000 Sub. for HB 2581. JLM

Opinion 2000-10

Roads and Bridges—State Highway—Designation of Highways in the State System; Procedure for Removing. Curtis E. Watkins, Kingman City Attorney, Kingman, February 22, 2000.

K.S.A. 1999 Supp. 68-406 authorizes the Secretary of Transportation to make changes to the state highway system when the changes are required for public safety, convenience, economy, classification or reclassification, but removal of a road from the state highway system involves a reclassification or revision that requires the secretary to rely on an engineering and traffic study and conduct a public hearing. Cited herein: K.S.A. 1999 Supp. 68-406. GE

Opinion 2000-11

Personal and Real Property—Land Surveys—Review by County Surveyor Before Recordation; Certification. Gordon B. Stull, Pratt County Counselor, Pratt, February 22, 2000.

The term "plat of survey" as used in K.S.A. 1999 Supp. 58-2005 refers to all plats derived from a survey. The term "plat of survey" may include a "subdivision plat," but also may include plats of land that have not been subdivided. While the statute does not require that a county surveyor officially certify a plat, it is clear that the Legislature intended that a county surveyor's review accomplish the same purpose as a contracted land surveyor's review and certification, to assure that the plat complies with statutory requirements. A county may not impose a fee to offset its costs of review of subdivision plats under K.S.A. 1999 Supp. 58-2005. Cited herein: K.S.A. 19-241; 58-2001; 74-7037; K.S.A. 1999 Supp. 58-2005; 74-7003; K.A.R. 66-12-1. DMV

Opinion 2000-12

State Departments; Public Officers and Employees—Kansas Tort Claims Act—Definitions; Governmental Entity; Kansas Dairy Commission.

Livestock and Domestic Animals—Kansas Dairy Commission—Kansas Dairy Commission; Powers and Duties; Whether Governmental Entity Under Kansas Tort Claims Act. Jamie Clover Adams, Secretary, Department of Agriculture, February 22, 2000.

The Kansas Dairy Commission is an "agency, authority, institution or other instrumentality" of the state for purposes of the Kansas Tort Claims Act. Commission members are considered employees of the Commission for purposes of the Kansas Tort Claims Act. Cited herein: K.S.A. 1999 Supp. 47-2302; 47-2303; 47-2304; K.S.A. 75-6101; 75-6102; 75-6103. CN

Opinion 2000-13

Cities and Municipalities—General Improvement and Assessment Law—Procedures for Certain Improvements and for Financing Cost; Assessment Plan; Classifications, Formulae and Methods of Assessments. Mary F. Carson, Bond Counsel for the City of Dodge City, Overland Park, February 23, 2000.

Land that is situated similarly to land included in an improvement district must be considered by the governing body for inclusion in the improvement district. Based on the facts presented, land that abuts a proposed street extension must be included in an improvement district comprised of nonabutting property, regardless of the current uses of the land. Cited herein: K.S.A. 12-6a01; 12-6a02; 12-6a04; 12-6a07; 12-693. NLU

Opinion 2000-14

Public Health—Solid and Hazardous Waste—Solid Waste; County's Authority to Establish a Recycling Program and Impose Fees.

Counties and County Officers—General Provisions—Powers of Home Rule; County's Authority to Establish a Recycling Program and Impose Fees. James Kaup, Counsel, Marion County Board of Commissioners, Topeka, February 28, 2000.

The Solid and Hazardous Waste Act, K.S.A. 65-3401 *et seq.*, does not authorize counties to establish a recycling

program and impose a charge for such service. However, a county may use its home rule power pursuant to K.S.A. 19-101a *et seq.* to establish a recycling program that includes imposing a charge for the service and assessing delinquent fees against the property, provided the county complies with K.S.A. 19-117. Finally, assuming that a resolution imposing a recycling fee is an exercise of the police power and that police power is a source of authority independent of home rule, it is our opinion that a county must follow the procedure set forth in K.S.A. 19-117 because the latter is a statute that uniformly applies to all counties and evidences an intent to require that counties follow certain procedures for imposing fees for revenue purposes. Consequently, any resolution imposing a recycling fee without complying with K.S.A. 19-117 would be invalid because it would conflict with the statute. Cited herein: K.S.A. 1999 Supp. 12-1678a; 19-101a; K.S.A. 19-117; K.S.A. 1999 Supp. 65-3402; K.S.A. 65-3410; 79-1801. MF

Opinion 2000-15

Banks and Banking; Trust Companies—Banking Code; Deposit of Public Moneys—Designation of Depositories for Municipal and Quasi-municipal Funds; Duty of Public Officers; Eligible Depositories; Exemption from Liability for Loss by Official Depository. Senator Don Steffes, 35th District, McPherson, March 8, 2000.

Local public officials may solicit and select out-of-state banks with local branches to serve as depositories for active public funds, but only after determining that the bids of Kansas banks, as defined in K.S.A. 1999 Supp. 9-1408, are not acceptable. K.S.A. 1999 Supp. 9-1401 does not direct the manner or timing of soliciting bids from either category of bank. Cited herein: K.S.A. 1999 Supp. 9-1401; 9-1408; 1997 SB 86. NLU

Carla J. Stovall
Attorney General

Doc. No. 024934

State of Kansas

Secretary of State

Executive Appointments

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's Office. A complete listing of Kansas state agencies, boards and commissions are included in the Kansas Directory, published by the Secretary of State. The directory also is available on the Secretary of State's website at www.kssos.org. The following appointments, which are effective immediately unless otherwise specified, were recently filed with the Secretary of State:

Crawford County Clerk

Kevin Anselmi, Crawford County Courthouse, 111 E. Forest, Girard, 66743. Term expires when a successor is elected and qualifies according to law. Succeeds Dan Brunetti, resigned.

Lane County Commissioner

Keith Thomas Dickey, Lane County Courthouse, 144 S. Lane, Dighton, 67839. Term expires when a successor

is elected and qualifies according to law. Succeeds Thomas J. Bennett, resigned.

Coordinating Council on Early Childhood Developmental Services

Bill Howgill, Governor's Representative, 3400 S.W. Twilight Drive, Topeka, 66614. Serves at the pleasure of the Governor. Succeeds Danielle Noe.

Interstate Compact on Juveniles

Albert Murray, Compact Administrator, Commissioner, Juvenile Justice Authority, 714 S.W. Jackson, Suite 300, Topeka, 66603. Serves at the pleasure of the Governor.

Interstate Compact on Placement of Children

Janet Schalansky, Compact Administrator, Secretary of Social and Rehabilitation Services, Room 603-N, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612. Serves at the pleasure of the Governor.

Kansas Commission on National and Community Service

Claudia Mendoza, 521 S.E. Lafayette, Topeka, 66607. Term expires March 24, 2003. Succeeds Deedra Woodbury.

Kansas Parole Board

Larry D. Woodward, 4224 S.W. Colly Creek Drive, Topeka, 66610. Term expires January 15, 2004. Reappointed.

State Board of Regents

Clay C. Blair, 3601 W. 63rd St., Mission Hills, 66208. Term expires June 30, 2001.

Stephen L. Clark, 1625 N. Gatewood St., Wichita, 67206. Term expires June 30, 2002.

Harry W. Craig, 43 Randolph Square, Topeka, 66611. Term expires June 30, 2001.

Janice B. DeBauge, 1966 Morningside Drive, Emporia, 66801. Term expires June 30, 2003.

William R. Docking, Chair, Route 3, Box 928, Arkansas City, 67005. Term expires June 30, 2001.

Floris Jean Hampton, 10716 Foothill Road, Dodge City, 67801. Term expires June 30, 2002.

Fred Kerr, 144 S.W. 19th Ave., Pratt, 67124. Term expires June 30, 2003.

Dr. Sylvia L. Robinson, 7706 Corona Ave., Kansas City, KS 66112. Term expires June 30, 2002.

Jack Wempe, 895 Main, Little River, 67457. Term expires June 30, 2003.

State Board of Tax Appeals

Dwight Keen, 1 Tam-O-Shanter Court, Winfield, 67156. Term expires January 15, 2004. Succeeds Robert Frey.

Stephen S. Richards, 9417 Hadley, Overland Park, 66212. Term expires January 15, 2004. Succeeds Wayne Vennard.

Ron Thornburgh
Secretary of State

Doc. No. 024926

State of Kansas

Kansas Development Finance Authority

Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, March 30, in the conference room in the offices of the Kansas Development Finance Authority, Suite 1000, Jayhawk Tower, 700 S.W. Jackson, Topeka, on the proposal for the Kansas Development Finance Authority to issue its Agricultural Development Revenue Bond for the project numbered below in the respective maximum principal amount. The bond will be issued to assist the respective borrower named below (who will be the owner and operator of the project) to finance the cost in the amount of the bond of acquiring the project or for the purpose of refunding a bond previously issued to finance the project. The project shall be located as shown:

Project No. 000441, Maximum Principal Amount: \$100,000. Owner/Operator: Caleb Luke Strauss. Description: Acquisition of 178 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is described as 178 acres in Section 4, Township 11 South, Range 6 East of the 6th P.M., Geary County, Kansas, approximately 1/4 mile east off of Grant Avenue on Hoover Road, north and south sides, Junction City.

The bond, when issued, will be a limited obligation of the Kansas Development Finance Authority and will not constitute a general obligation or indebtedness of the State of Kansas or any political subdivision thereof, including the Authority, nor will it be an indebtedness for which the faith and credit and taxing powers of the State of Kansas are pledged. The bond will be payable solely from amounts received from the respective borrower, the obligation of which will be sufficient to pay the principal of, interest and redemption premium, if any, on the bond when it becomes due.

All individuals who appear at the hearing will be given an opportunity to express their views, and all written comments previously filed with the Authority at its offices at Suite 1000, Jayhawk Tower, 700 S.W. Jackson, Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the Authority.

Any individual affected by the above-described project may, at or prior to the hearing, file a written request with the Authority that a local hearing be held on the proposal to issue a bond to finance said project. A local hearing, if requested, would be conducted in the county where the project in question is located.

Kenneth Frahm
President

Doc. No. 024913

State of Kansas

Kansas Development Finance Authority

Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, March 30, in the conference room in the offices of Kansas Development Finance Authority, Suite 1000, Jayhawk Tower, 700 S.W. Jackson, Topeka, on the proposal for the Kansas Development Finance Authority to issue its Agricultural Development Revenue Bond for the project numbered below in the respective maximum principal amount. Each bond will be issued to assist the respective borrower named below (who will be the owner and operator of the project) to finance the cost in the amount of the bond of acquiring the respective project or for the purpose of refunding a bond previously issued to finance the respective project. The project shall be located as shown:

Project No. 000444, Maximum Principal Amount: \$132,328. Owner/Operator: Charly Cummings. Description: Acquisition of 200 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is located at the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of Section 36, Township 24, Range 15 East of the 6th P.M., Woodson County, Kansas, approximately north on Highway 75 4 miles, east on county road 1 mile, and south 1 mile from Yates Center.

The bond, when issued, will be a limited obligation of the Kansas Development Finance Authority and will not constitute a general obligation or indebtedness of the State of Kansas or any political subdivision thereof, including the Authority, nor will it be an indebtedness for which the faith and credit and taxing powers of the State of Kansas are pledged. The bond will be payable solely from amounts received from the respective borrower, the obligation of which will be sufficient to pay the principal of, interest and redemption premium, if any, on the bond when it becomes due.

All individuals who appear at the hearing will be given an opportunity to express their views, and all written comments previously filed with the Authority at its offices at Suite 1000, Jayhawk Tower, 700 S.W. Jackson, Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the Authority.

Any individual affected by the above-described project may, at or prior to the hearing, file a written request with the Authority that a local hearing be held on the proposal to issue a bond to finance said project. A local hearing, if requested, would be conducted in the county where the project in question is located.

Kenneth Frahm
President

Doc. No. 024933

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-00-070/077

Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Dean Robson 618 1300 Ave. Abilene, KS 67410	W/2 of Section 1, T15S, R1E, Dickinson County	Smoky Hill River Basin

Kansas Permit No. A-SHDK-B014

This is a modified permit for an existing facility for 280 head (280 animal units) of cattle weighing more than 700 pounds and 320 head (160 animal units) of cattle weighing less than 700 pounds.

Wastewater Control Facilities: Wastewater will be dispersed onto bromegrass agricultural land for beneficial use and/or wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity/treatment will be provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: The approved waste management plan for the facility shall be adhered to as a condition of the permit.

Name and Address of Applicant	Legal Description	Receiving Water
Bohnert Farms Calvin Bohnert Route 2, Box 218 Jewell, KS 66949	S/2 of NW/4 of Section 25, T4S, R8W, Jewell County	Republican River Basin

Kansas Permit No. A-LRJW-SD01

This is a new permit for an existing facility for a maximum of 400 head (400 animal units) of beef cattle weighing over 700 pounds each, 900 head (360 animal units) of swine weighing over 55 pounds, and 250 head (25 animal units) of swine weighing less than 55 pounds.

Wastewater Control Facilities: Wastewater will be dispersed onto bromegrass agricultural land for beneficial use and/or wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity/treatment will be provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: The construction of the grass filter will be completed by December 1, 2000. The approved waste management plan shall be adhered to as a condition of the permit. Revisions to the plan shall be made to include handling and disposal equipment for liquid wastes, land application practices used, wastewater application rates and identification of adequate land application areas. The

revisions to the plan shall be submitted to the department by December 1, 2000, and the approved revision will become part of the permit.

Name and Address of Applicant	Legal Description	Receiving Water
Goering Land and Cattle Co. Greg Goering 1009 N. Walnut St. McPherson, KS 67460	NW/4 of Section 7, T20S, R2W, McPherson County	Little Arkansas River Basin

Kansas Permit No. A-LAMP-B003

This is a permit renewal for an existing facility for 200 head (200 animal units) of cattle weighing over 700 pounds and 240 head (96 animal units) of swine weighing greater than 55 pounds.

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 approved waste management plan shall be adhered to as a condition of the permit. Written verification of the acquisition/availability of dewatering equipment shall be submitted to the department within 30 days of the effective date of the permit and will become part of the waste management plan.

Name and Address of Applicant	Legal Description	Receiving Water
Long Farms Gerald Long 725 3rd Road Clifton, KS 66937	SW/4 of Section 18, T5S, R2E, Washington County	Republican River Basin

Kansas Permit No. A-LRWS-S018

This is a permit renewal for an existing facility for 240 head (96 animal units) of swine weighing greater than 55 pounds 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: Written verification of removal of sediment accumulations from the south lagoon shall be provided to the department by August 15, 2000. A livestock waste management plan shall be developed and submitted to the department by August 15, 2000, for approval. The approved plan will become part of the permit.

Name and Address of Applicant	Legal Description	Receiving Water
Bekemeyer Enterprises, Inc. Glenn Bekemeyer 1497 17th Road Washington, KS 66968	SE/4 of Section 5, T3S, R3E, Washington County	Big Blue River Basin

Kansas Permit No. A-BBWS-B008

This is a permit renewal for an existing facility for 650 head (650 animal units) of beef.

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: Perennial grass vegetation shall be established on all disturbed areas of the site. The approved waste management plan shall be adhered to as a condition of the permit.

Name and Address of Applicant	Legal Description	Receiving Water
Kansas State University Animal Sciences & Industry Department Purebred Beef Unit 232 Weber Hall Manhattan, KS 66506-0201	SW/4 of Section 6 T10S, R8E, Riley County	Big Blue River Basin

Kansas Certification No. A-BBRL-BA02

This is a new certification for an existing facility for 225 head (225 animal units) of cattle.

(continued)

Wastewater Control Facilities: The operation is being certified as not requiring an agricultural permit based upon application of appropriate best management practices including cleaning and land application of manure to agricultural ground and adequate control of runoff from the pens through grass buffer areas so as to prevent significant pollution potential.

Compliance Schedule: Planting of additional brome grass buffer for filtering runoff and construction of a diversion terrace for runoff control are required by November 1, 2000.

Name and Address of Applicant	Legal Description	Receiving Water
Kansas State University Animal Sciences & Industry Department Modified Early Weaning Swine Unit 232 Weber Hall Manhattan, KS 66506-0201 Kansas Permit No. A-BBRL-S016	NE/4 of Section 36, T9S, R7E, Riley County	Big Blue River Basin

This is a new permit for an existing facility for 400 head (40 animal units) of swine weighing less than 55 pounds each.

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

Compliance Schedule: A livestock waste management plan for the facility shall be developed and submitted to the Department for approval within 180 days of the effective date of the permit.

Name and Address of Applicant	Legal Description	Receiving Water
Kansas State University Animal Sciences & Industry Department Dairy, Swine, Beef & Poultry Research Units 232 Weber Hall Manhattan, KS 66506-0201 Kansas Permit No. A-BBRL-C001	E/2 of Section 36, T9S, R7E, Riley County	Big Blue River Basin

Federal Permit No. KS-0086282
This is a permit renewal, modification/expansion of an existing facility for 750 head (750 animal units) of beef weighing over 700 pounds, 750 head (375 animal units) of beef weighing less than 700 pounds, 1,364 head (545 animal units) of swine weighing greater than 55 pounds, 790 head (79 animal units) of swine weighing less than 55 pounds, 250 head (350 animal units) of dairy cattle, 125 head (62.5 animal units) of dairy heifers weighing less than 700 pounds, 125 head (125 animal units) of dairy heifers weighing more than 700 pounds, and 3,600 head (118.8 animal units) of chickens.

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 shall be developed and submitted to the department for approval within 180 days of the effective date of the permit. The approved plan will become part of the permit. Written verification of the acquisition of the required dewatering equipment and a detailed set of plan drawings shall be submitted to the department within 270 days of the effective date of the permit. Permeability tests shall be conducted after the compacted soil liner has been constructed on the south lagoon and test procedures and readings shall be approved by a KDHE representative prior to acceptance.

Public Notice No. KS-00-049/051

Name and Address of Applicant	Waterway	Type of Discharge
Norwich, City of P.O. Box 235 Norwich, KS 67118 Kansas Permit No. M-AR67-0001 Legal: NE¼, S2, T30S, R5W, Kingman Co.	Ninnescah River via Sand Creek	Treated Domestic Wastewater

Federal Permit No. KS0095494

Facility Description: The proposed action is to issue a new permit for operation of a new wastewater treatment facility treating primarily domestic wastewater. The new facility will replace the existing mechanical plant. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, and pH. Monitoring for ammonia and fecal coliform also 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 technology based.

Name and Address of Applicant	Waterway	Type of Discharge
Rose Hill, City of 306 N. Rose Hill Road P.O. Box 175 Rose Hill, KS 67133 Kansas Permit No. M-WA13-0001 Legal: SE¼, S29, T28S, R3E, Butler Co.	Walnut River via Eight Mile Creek	Treated Domestic Wastewater

Federal Permit No. KS0117048

Facility Description: The proposed action is to reissue an existing permit for 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 also 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 technology based.

Name and Address of Applicant	Waterway	Type of Discharge
St. Marys, City of P.O. Box 1302 St. Marys, KS 66536 Kansas Permit No. M-KS67-0001 Legal: SW¼, S9, T10S, R12E, Pottawatomie Co.	Kansas River via Doyle Creek	Treated Domestic Wastewater

Federal Permit No. KS0020974

Facility Description: The proposed action is to reissue an existing permit for operation of an existing and proposed new wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, and pH. Monitoring for ammonia, total residual chlorine, effluent flow, and fecal coliform also will be required. Included in this permit is a schedule of compliance requiring the permittee to make necessary improvements to achieve compliance with its NPDES permit. 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.

Public Notice No. KS-ND-00-006/010

Name and Address of Applicant	Legal Location	Type of Discharge
Collyer, City of City Hall P.O. Box 153 Collyer, KS 67631 Kansas Permit No. M-SA04-NO01	SW¼, S5, T12S, R25W, Trego Co.	Nonoverflowing

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 facility is a three-cell nondischarging wastewater stabilization lagoon system. Included in this permit is a schedule of compliance requiring the permittee to obtain the services of 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
East Side Baptist Church 4425 S.E. 29th Topeka, KS 66605 Kansas Permit No. C-KS72-NO16	NW¼, S13, T12S, R16E, Shawnee Co.	Nonoverflowing

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 facility is a one-cell nondischarging wastewater stabilization lagoon system. Discharge of wastewater from this treatment facility to the surface waters of the State of Kansas is prohibited by this permit. Included in this permit is a schedule of compliance requiring the permittee to obtain the services of 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
Munjoy Improvement District HC32, Box 93 Hays, KS 67601	SE¼, S25, T14S, R18W, Ellis Co.	Nonoverflowing

Kansas Permit No. M-SH50-NO01

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 facility is a three-cell nondischarging wastewater stabilization lagoon system. Included in this permit is a schedule of compliance requiring the permittee to obtain the services of 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
Schoenchen, City of P.O. Box 25 Schoenchen, Kansas 67667	NE¼, S13, T15S, R18W, Ellis Co.	Nonoverflowing

Kansas Permit No. M-SH34-NO01

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating domestic wastewater. The facility is a three-cell nondischarging wastewater stabilization lagoon system. Included in this permit is a schedule of compliance requiring the permittee to obtain the services of 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
Ultramar Diamond Shamrock Corp. USD/Total Petroleum, Inc. 803 S. Robison Road Texarkana, TX 75501	SW¼, S6, T14S, R12W, Russell Co.	Nonoverflowing

803 S. Robison Road
Texarkana, TX 75501

Facility Name: Bear House Caf and Truck Stop Wastewater Treatment Facility

Facility Location: I-70 and Bunker Hill Road, Bunker Hill, Kansas

Kansas Permit No. C-SA03-NO01

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 facility is a one-cell nondischarging wastewater stabilization lagoon system. Included in this permit is a schedule of compliance requiring the permittee to obtain the services of 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 April 15 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-00-070/077, KS-00-049/051, KS-ND-00-006/010) 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, is available for review at the appropriate district office:

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

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

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

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

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

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

Plans and documents for all new facilities and for expansions of existing swine facilities also may 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.

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. 024931

State of Kansas

**Department of Health
and Environment**

Public Notice

The Kansas Department of Health and Environment, Bureau of Air and Radiation, hereby gives notice that the bureau has adopted regulations to implement Section 112(g) of the Clean Air Act, as amended in 1990. Section 112(g) defines requirements for the determination of the maximum achievable control technology (MACT) for emissions control with respect to certain constructed or reconstructed sources of hazardous air pollutants (HAPs). As the permitting authority in the state, the department adopted Kansas Administrative Regulation 28-19-752a. The state regulation implements the final federal 112(g) rules at 40 C.F.R. 63.40 through 63.44. The implementing regulation, K.A.R. 28-19-752a, was adopted following public notice and a public hearing. Notice of the final regulation was published in the Kansas Register July 29, 1999, and the regulation was effective August 13, 1999.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024922

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. Penny's Concrete, Inc. has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 for a portable concrete batch plant. Emissions of particulate matter (PM) and particulate matter equal to or less than 10 microns in diameter (PM₁₀) were evaluated during the permit review process.

Penny's Concrete, Inc., Shawnee, owns and operates a portable concrete batch plant.

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 for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the Johnson County Environmental Department, 11180 Thompson Ave., Lenexa. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office, or Mike Boothe, (913) 492-0402, at the Johnson County Environmental Department. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Herbert Buckland, 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 not later than the close of business April 17.

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 April 17 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024920

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. Ritchie Paving, Inc. has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 for a portable concrete batch plant. Emissions of particulate matter (PM) and particulate matter equal to or less than 10 microns in diameter (PM₁₀) were evaluated during the permit review process.

Ritchie Paving, Inc., Wichita, owns and operates a portable concrete batch plant.

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 for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE Southeast District Office, 1500 W. 7th, Chanute. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office, or Lynelle Stranghoner, (316) 431-2390, at the KDHE Southeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Herbert Buckland, 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 not later than the close of business April 17.

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 April 17 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024928

State of Kansas

Department of Health
and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed Class I air quality operating permit. Coastal Field Services Company has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 *et seq.* The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Coastal Field Services Company, Houston, Texas, owns and operates a natural gas compressor station located at S23-T25S-R36W, Haskell County, Kansas.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE Southwest District Office, 302 W. McArtor Road, Dodge City, for a period of 45 days from the date of publication of this notice. To obtain or review the proposed permit and supporting documentation, contact Michael Stewart, (785) 296-1994, at the KDHE central office, or Wayne Neese, (316) 225-0596, at the KDHE Southwest District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Michael Stewart, 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 not later than the close of business May 1.

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 May 1 in order for the Secretary of Health and Environment to consider the request.

The United States Environmental Protection Agency has a 45-day review period, until May 1, within which to object to the proposed Class I operating permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA within 60 days after the expiration of the 45-day review period to review the permit. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Gary Schlicht, EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th, Kansas

City, KS 66101, (913) 551-7097, to determine when the 60-day petition period commences.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024921

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. Ark Valley Concrete, Inc. has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to replace a concrete batch plant with a larger plant. Emissions of particulate matter (PM) and particulate matter equal to or less than 10 microns in diameter (PM₁₀) were evaluated during the permit review process.

Ark Valley Concrete, Augusta, owns and operates the stationary source located at 16063 E. 13th St., Augusta, at which the replacement concrete batch plant will 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 for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE South Central District Office, 130 S. Market, sixth floor, Wichita. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office, or Dave Butler, (316) 337-6023, at the KDHE South Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Herbert Buckland, 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 not later than the close of business April 17.

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 April 17 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024930

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 operating permit. Coastal Field Services Co. - Hugoton #6 Compressor Station has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 *et seq.* The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Coastal Field Services Company, Houston, Texas, owns and operates a natural gas compressor station located at S18-T29S-R35W, Grant County, Kansas.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE Southwest District Office, 302 W. McArtor Road, Dodge City, for a period of 45 days from the date of publication of this notice. To obtain or review the proposed permit and supporting documentation, contact Michael Stewart, (785) 296-1994, at the KDHE central office, or Wayne Neese, (316) 225-0596, at the KDHE Southwest District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Michael Stewart, 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 not later than the close of business May 1.

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 May 1 in order for the Secretary of Health and Environment to consider the request.

The United States Environmental Protection Agency has a 45-day review period, until May 1, within which to object to the proposed Class I operating permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA within 60 days after the expiration of the 45-day review period to review the permit. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Gary Schlicht, EPA, Region VII, Air Permitting and Compliance

Branch, 901 N. 5th, Kansas City, KS 66101, (913) 551-7097, to determine when the 60-day petition period commences.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024927

State of Kansas

Social and Rehabilitation Services

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 11 a.m. Wednesday, May 24, in the SRS Learning Center (formerly Staff Development), Room A, 300 S.W. Oakley, Topeka, to consider the adoption of amendments to existing rules and regulations on a permanent basis effective July 1, 2000. Telephone conference will not be available.

This 60-day notice of the public hearing shall constitute a public comment period for the proposed regulations. All interested parties may submit written comments prior to or during the hearing to Hope Burns, Office of the Secretary for SRS, Room 603-N, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612. All interested parties will be given a reasonable opportunity to present their views, but it may be necessary to request each participant to limit any oral presentation to five minutes. The phrase "Federal Mandate" following an item indicates that the change is required by federal policy. Optional changes in regulations related to federal programs are subject to approval by the U.S. Department of Health and Human Services.

Copies of the regulations and the economic impact statement may be obtained by contacting Hope Burns, (785) 296-3969.

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 Hope Burns or by calling the Kansas Relay Center at 1-800-766-3777.

The adoption of the regulations will take place at 11 a.m. Tuesday, May 30, in the SRS executive conference room, 603-N, Docking State Office Building. Telephone conference will not be available.

A summary of the proposed regulations and the economic impact follows.

**Article 5.—PROVIDER PARTICIPATION,
SCOPE OF SERVICES, AND REQUIREMENTS
FOR THE MEDICAID (MEDICAL
ASSISTANCE) PROGRAM**

K.A.R. 30-5-309 outlines the scope of and reimbursement for Medicaid home- and community-based services (HCBS). As currently written, K.A.R. 30-5-309 states that HCBS for a consumer shall be terminated when SRS or the Kansas Department on Aging for the frail elderly program determines that "the consumer no longer meets the level of care criteria due to a change in the medical condition as determined by a physician." The proposed

change would read that HCBS shall be terminated when it is determined that "the consumer no longer meets the level of care criteria."

In practice, a determination by a physician is not required in order to terminate HCBS services. This change is not required by federal law.

Anticipated Economic Impact Upon Social and Rehabilitation Services (SRS): The proposed change is considered cost neutral for SRS.

Anticipated Economic Impact Upon Other Governmental Agencies and Upon Private Business or Individuals: SRS does not anticipate an economic impact on other governmental agencies, private businesses or individuals.

Less Costly or Intrusive Methods: No other method was appropriate for the desired outcome.

Article 6.—MEDICAL ASSISTANCE PROGRAM— CLIENTS' ELIGIBILITY FOR PARTICIPATION

K.A.R. 30-6-103. Determined eligibles; protected income levels. This regulation is being amended to change the income standard for persons in the home- and community-based services (HCBS) program from 100 percent of the federal poverty income guidelines to \$475/month. In addition, an income allowance of \$95/month also is provided for to help meet the costs associated with living in the community.

Economic Impact: This change will result in a savings of approximately \$4.3 million in total funds (\$1.7 million state general funds).

Bearer of Cost: None.

Affected Parties:

- (A) This change will have a moderate administrative impact on SRS staff regarding implementation of the standard and resulting new monthly obligations.
- (B) This change will affect approximately 4,600 current HCBS consumers resulting in an average \$100/month new cost sharing obligation for some and an average \$100/month increase in current cost sharing obligations for others.
- (C) This change will impact HCBS case managers in the Area Agencies on Aging, community developmental disabilities organizations, centers for independent living and community mental health centers responsible for development and management of care plans for HCBS consumers, as such care plans will need to be revised in light of the new cost sharing obligations.

Other Methods: Other methods were considered to achieve the necessary savings incorporated in the Governor's budget plan for FY 2001 for the department. This method was approved as it was contained in the budget plan and protects the most vulnerable consumers in the program while not adversely affecting services or eligibility for all HCBS consumers.

Janet Schalansky
Secretary of Social and
Rehabilitation Services

Doc. No. 024915

State of Kansas

Board of Healing Arts

Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 10 a.m. Thursday, May 18, at the office of the Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, to consider the adoption of one proposed amended rule and regulation.

The proposed amended rule and regulation relates to designated examinations for medicine and surgery and osteopathic medicine and surgery and the passing grade.

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 amended rule and regulation. All interested parties may submit comments prior to the hearing to the Board of Healing Arts at the address above. All interested parties will be given a reasonable opportunity to present their views, orally or in writing, concerning the adoption of the proposed amended regulation during the hearing. In order to give all persons an opportunity to present their views, it may be necessary to request each participant to limit any oral presentations to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Melissa Kipp at (785) 368-6425. Handicapped parking is located at the west end of the Hutton Building, and the northwest entrance to the building is accessible.

A summary of the proposed amended rule and regulation to be considered for amendment and adoption is as follows:

K.A.R. 100-7-1. Designated examinations for medicine and surgery and osteopathic medicine and surgery; passing grade. This regulation, if amended, would identify examinations that the board accepts for meeting statutory requirements for licensing in medicine and surgery and osteopathic medicine and surgery.

Copies of the proposed amended regulation may be obtained by contacting Betty Johnson, Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, 66603, (785) 296-3680, or by visiting the board's website at <http://www.ink.org/public/boha/pubinfo.html#anchor660000>. The associated economic impact statement is available upon written or telephonic request.

Lawrence T. Buening, Jr.
Executive Director

Doc. No. 024936

State of Kansas

Board of Nursing

Permanent Administrative Regulations

Article 6.—REQUIREMENTS FOR APPROVED PROGRAMS FOR MENTAL HEALTH TECHNICIANS

60-6-101. Requirements. (a) Accreditation and approval.

(1) Each educational institution shall be approved by the appropriate state agency.

(2) Each hospital and agency providing facilities for clinical experience shall be licensed, accredited, or approved by the licensing or certifying body.

(b) Administration and organization.

(1) The educational program or the institution of which it is a part shall be a legally constituted body. The controlling body shall be responsible for general policy and shall provide for the financial support of the educational unit.

(2) Authority and responsibility for administering the program shall be vested in the director of the educational unit.

(c) Faculty for mental health technician programs. Each faculty member shall have the necessary preparation, experience, and personal qualifications to meet the specifications of the position.

(1) The director of the educational unit shall be licensed to practice as a registered professional nurse in Kansas and shall be responsible for the development and implementation of the educational program. The director shall have a baccalaureate degree, successful experience in administration or teaching, and at least two years of experience in psychiatric or developmental disability nursing.

(2) Each instructor in a mental health technician program shall meet at least one of the following requirements:

(A) Be licensed to practice as a registered professional nurse in Kansas and have at least two years of experience in psychiatric or developmental disability nursing; or

(B) be licensed to practice as a licensed mental health technician and have at least five years of experience post-licensure. Two years of work experience shall be waived for those licensed mental health technicians possessing an associate degree.

(3) Each instructor in the behavioral sciences shall have earned an academic degree with appropriate education relative to the area of instruction.

(d) Curriculum.

(1) Before implementation of the program, the institution shall submit the proposed curriculum in writing to the board for approval. The institution shall submit, in writing, any proposed changes to an approved curriculum to the board for its approval before the changes may be implemented.

(2) The curriculum shall be organized to cover both theoretical instruction and clinical instruction. The curriculum for mental health technician courses shall consist of

a minimum of 300 hours of theoretical instruction and 300 hours of clinical instruction. By July 1, 1978, the curriculum shall consist of a minimum of 450 hours of theoretical instruction and 450 hours of clinical instruction. In academic institutions, one semester hour of credit shall be equal to 15 hours of theoretical instruction or 45 hours of clinical instruction.

(3) The curriculum shall also include the following two courses, which shall be of a theoretical nature. Each course shall consist of 45 hours of instruction.

(A) Human growth and development. This course shall include aspects of growth and development from the prenatal period through senescence.

(B) Behavioral science. This course shall include human needs, group processes, family dynamics, and social, economic, and cultural factors of behavior.

(4) The curriculum shall also include the following two courses, which shall include both theoretical and clinical instruction.

(A) Basic nursing concepts. This course shall include bed making, personal hygiene, administration and effect of medications, feeding, asepsis, elimination, recognition of illness, vital signs, basic nutrition, special care of patients, first aid and emergency nursing, assisting with physical examinations, and admission and discharge of patients.

(B) Psychiatric therapeutic treatment. This course shall include interpersonal relationships, psychopathology and classifications, coping mechanisms, communication skills, therapeutic modalities, and special reporting and recording techniques.

(e) Clinical facilities and resources.

(1) All clinical facilities shall be approved by the board, and appropriate contractual agreements shall be renewed annually with all cooperating agencies.

(2) Each clinical area used for student learning experiences shall be staffed by nursing service independent of student assignments.

(3) Each clinical unit used for educational purposes shall be under the direct supervision of a registered nurse.

(f) Students.

(1) Admission. Each program shall have clearly defined policies for admission.

(2) Credit for previous study.

Each program shall have clearly defined written policies concerning credit for previous study, transfer of credits, and readmission of students. These policies shall conform to the policies of the institution.

(3) Promotion and graduation policies shall be in writing.

(g) Evaluation. A written plan for continuing program evaluation shall be developed and implemented. (Authorized by K.S.A. 1998 Supp. 65-4206 and 74-1106; implementing K.S.A. 1998 Supp. 65-4206; modified, L. 1975, Ch. 302, Sec. 7, May 1, 1975; amended March 31, 2000.)

Article 11.—ADVANCED REGISTERED NURSE PRACTITIONERS

60-11-101. Definition of advanced role; limitations; restrictions. (a) An advanced registered nurse practitioner, as defined by K.S.A. 65-1113, and amendments

thereto, shall function in an expanded role to provide primary health care to individuals, families, or groups, or some combination of these groups of clients, in a variety of settings, including homes, institutions, offices, industries, schools, community agencies, and private practice. Advanced registered nurse practitioners shall function in a collegial relationship with physicians and other health professionals in the delivery of primary health care services. Advanced registered nurse practitioners shall be authorized to make independent decisions about nursing needs of families and clients, and interdependent decisions with physicians in carrying out health regimens for families and clients. Advanced registered nurse practitioners shall be directly accountable and responsible to the consumer.

(b) "Primary health care" means the prevention of disease, promotion and maintenance of health, assessment of needs, long-term nursing management of chronic illness, and referral of clients to other resources. The contact between advanced registered nurse practitioner and client may be for an episode of illness, or it may be for continuous health care monitoring.

(c) The physical presence of the physician shall not be required when care is given by the advanced registered nurse practitioner.

(d) "Prescription order" shall have the meaning set forth in K.S.A. 65-1626, and amendments thereto.

(e) "Prescription" shall have the meaning set forth in K.S.A. 65-1626, and amendments thereto. (Authorized by and implementing K.S.A. 65-1113 and K.S.A. 1999 Supp. 65-1130; effective May 1, 1984; amended March 31, 2000.)

60-11-103. Qualifications of advanced registered nurse practitioners. (a) To be certified as an advanced registered nurse practitioner in any of the categories of advanced practice, as identified in K.A.R. 60-11-102, each applicant shall meet at least one of the following criteria:

(1) Complete a formal, post-basic nursing education program located or offered in Kansas that has been approved by the board and prepares the nurse to function in the advanced role for which application is made;

(2) complete a formal, post-basic nursing education program that is not located or offered in Kansas but is determined by the board to meet the standards for program approval established by K.A.R. 60-11-108;

(3) have completed a formal, post-basic nursing education program that may be no longer in existence but is determined by the board to meet standards at least as stringent as those required for program approval by the board at the time of graduation;

(4) hold a current certificate of authority to practice as an advanced registered nurse practitioner in the category for which application is made and that meets the following criteria:

(A) Was issued by another board of nursing; and

(B) required completion of a program meeting standards equal to or greater than those established by K.A.R. 60-11-108; or

(5) complete a formal educational program of post-basic study and clinical experience that can be demonstrated by the applicant to have sufficiently prepared the applicant for practice in the category of advanced practice for which ap-

plication is made. The applicant shall show that the curriculum of the program is consistent with public health and safety policy and that it prepared individuals to perform acts generally recognized by the nursing profession as capable of being performed by persons with post-basic education in nursing.

(b) Each applicant for certification as an advanced registered nurse practitioner in a category other than anesthesia or midwifery shall meet one of the following requirements:

(1) Have met one of the requirements of subsection (a) of this regulation before July 1, 1994;

(2) if none of the requirements in subsection (a) of this regulation have been met before July 1, 1994, meet one of the requirements of subsection (a) of this regulation and hold a baccalaureate or higher degree in nursing; or

(3) if none of the requirements in subsection (a) of this regulation are met before July 1, 2002, meet one of the requirements of subsection (a) of this regulation and hold a master's or higher degree in a clinical area of nursing.

(c) Each applicant for certification as an advanced registered nurse practitioner in the category of anesthesia shall meet one of the following requirements:

(1) Meet one of the requirements of subsection (a) of this regulation before July 1, 2002; or

(2) if none of the requirements in subsection (a) of this regulation are met before July 1, 2002, meet one of the requirements of subsection (a) of this regulation and hold a master's degree.

(d) Each applicant for certification as an advanced registered nurse practitioner in the category of midwifery shall meet one of the following requirements:

(1) Meet one of the requirements of subsection (a) of this regulation before July 1, 2000; or

(2) if none of the requirements in subsection (a) of this regulation are met before July 1, 2000, meet one of the requirements of subsection (a) of this regulation and hold a baccalaureate degree in nursing.

(e) Certification may be granted if an individual has been certified by a national nursing organization whose certification standards have been approved by the board as equal to or greater than the corresponding standards established by the board for obtaining certification to practice as an advanced registered nurse practitioner. National nursing organizations with certification standards that meet this standard shall be identified by the board, and a current list of national nursing organizations with certification standards approved by the board shall be maintained by the board. Any licensee may request that a certification program be considered by the board for approval and, if approved, included by the board on its list of national nursing organization approved certification standards.

(f) Each applicant who completes an advanced registered nurse practitioner program after January 1, 1997 shall have completed three college hours in advanced pharmacology or the equivalent.

(g) Each applicant who completes an advanced registered nurse practitioner program after January 1, 2001 in a category other than anesthesia or midwifery shall have completed three college hours in advanced pathophys-

(continued)

iology or its equivalent and three college hours in advanced health assessment or its equivalent.

(h) Refresher course. Notwithstanding the provisions of subsections (a) through (f), any applicant for a certificate to practice as an advanced registered nurse practitioner who has not gained 1,000 hours of advanced nursing practice during the five years preceding application shall be required to successfully complete a refresher course as defined by the board. (Authorized by and implementing K.S.A. 65-1130, as amended by L. 1999, Ch. 115, § 1; effective May 1, 1984; amended, T-85-16, June 5, 1984; amended May 1, 1985; amended, T-60-11-14-90, Nov. 14, 1990; amended, T-60-3-14-91, March 14, 1991; amended Sept. 2, 1991; amended March 9, 1992; amended Sept. 14, 1992; amended April 26, 1993; amended Sept. 6, 1994; amended Jan. 3, 1997; amended March 31, 2000.)

60-11-104a. Protocol requirements; prescription orders. (a) Each written protocol that an advanced registered nurse practitioner is to follow when prescribing, administering, or supplying a prescription-only drug shall meet the following requirements:

(1) Specify for each classification of disease or injury the corresponding class of drugs that the advanced registered nurse practitioner is permitted to prescribe;

(2) be maintained in either a loose-leaf notebook or a book of published protocols. The notebook or book of published protocols shall include a cover page containing the following data:

(A) The names, telephone numbers, and signatures of the advanced registered nurse practitioner and a responsible physician who has authorized the protocol; and

(B) the date on which the protocol was adopted or last reviewed; and

(3) be kept at the advanced registered nurse practitioner's principal place of practice.

(b) Each advanced registered nurse practitioner shall ensure that each protocol is reviewed by the advanced registered nurse practitioner and physician at least annually.

(c) Each prescription order in written form shall meet the following requirements:

(1) Include the name, address, and telephone number of the practice location of the advanced registered nurse practitioner;

(2) include the name, address, and telephone number of the responsible physician;

(3) be signed by the advanced registered nurse practitioner with the letters A.R.N.P.;

(4) be from a class of drugs prescribed pursuant to protocol; and

(5) contain any D.E.A. registration number issued to the advanced registered nurse practitioner when a controlled substance, as defined in K.S.A. 65-4101(e) and amendments thereto, is prescribed.

(d) Nothing in this regulation shall be construed to prohibit any registered nurse or licensed practical nurse or advanced registered nurse practitioner from conveying a prescription order orally or administering a drug if acting under the lawful direction of a person licensed to practice either medicine and surgery or dentistry, or certified as an advanced registered nurse practitioner.

(e) When used in this regulation, terms shall be construed to have the meanings set forth in the pharmacy act of the state of Kansas, K.S.A. 65-1626, and amendments thereto. (Authorized by and implementing K.S.A. 1999 Supp. 65-1130; effective, T-60-9-12-88, Sept. 12, 1988; effective Feb. 13, 1989; amended May 7, 1990; amended Jan. 3, 1995; amended March 31, 2000.)

60-11-106. Functions of the advanced registered nurse practitioner; nurse anesthetist. The functions that may be performed by any advanced registered nurse practitioner functioning in the expanded role of registered nurse anesthetist shall be those functions defined in K.S.A. 65-1158, and amendments thereto. (Authorized by and implementing K.S.A. 65-1113, 65-1130, as amended by L. 1999, ch. 115, § 1; effective May 1, 1984; amended, T-85-16, June 5, 1984; amended May 1, 1985; amended March 31, 2000.)

60-11-108. (Authorized by and implementing K.S.A. 65-1133; effective May 1, 1984; amended, T-85-16, June 5, 1984; amended May 1, 1985; amended Aug. 6, 1990; amended Sept. 27, 1993; amended Sept. 6, 1994; amended Feb. 16, 1996; revoked March 31, 2000.)

Article 17.—ADVANCED NURSING EDUCATION PROGRAM

60-17-101. Definitions. (a) An "advanced nursing education program" may be housed within a part of any of the following organizational units within an academic institution:

- (1) A college;
- (2) a school;
- (3) a division;
- (4) a department; or
- (5) an academic unit.

(b) "Affiliating agency" means an agency that cooperates with the advanced nursing education program to provide clinical facilities and resources for selected student experiences.

(c) "Clinical learning" means an active process in which the student participates in advanced nursing activities while being guided by a member of the faculty.

(d) "Contractual agreement" means a written contract or letter signed by the legal representatives of the advanced nursing education program and the affiliating agency.

(e) "Preceptor" means an advanced registered nurse practitioner or physician who provides clinical supervision for advanced registered nurse practitioner students as a part of nursing courses taken during the advanced nursing education program.

(f) "Satellite program" means an existing, accredited advanced nursing education program provided at a location geographically separate from the parent program. The students may spend a portion or all of their time at the satellite location. The curricula in all locations shall be the same, and each credential shall be conferred by the parent institution.

(g) "Transfer student" means an individual who is permitted to apply advanced nursing courses completed at another institution to a different advanced nursing edu-

education program of study. (Authorized by and implementing K.S.A. 65-1133; effective March 31, 2000.)

60-17-102. Requirements for initial accreditation.

(a) Each hospital and agency serving as an affiliating agency and providing facilities for clinical experience shall be licensed or accredited by the appropriate credentialing groups.

(b) Administration and organization.

(1) The advanced nursing education program or the institution of which it is a part shall be a legally constituted body. The controlling body shall be responsible for general policy and shall provide the financial support for the advanced nursing education program.

(2) Authority and responsibility for administering the advanced nursing education program shall be vested in the nurse administrator of the advanced nursing education program.

(c) Each new advanced nursing education program shall submit, at least 60 days before a scheduled board meeting, an initial application, which shall include all of the following:

- (1) The course of study and credential to be conferred;
- (2) the rationale for the establishment of the program;
- (3) the potential effect on other advanced nursing programs in the area;
- (4) the name and title of the nurse administrator of the advanced nursing education program;
- (5) the name of the controlling body;
- (6) the name and title of the administrator for the controlling body;
- (7) the organizational chart;
- (8) all sources of financial support, including a three-year budget;
- (9) a proposed curriculum, indicating the total number of hours of both theoretical and clinical instruction;
- (10) the program objectives or outcomes;
- (11) the number, qualifications, and assignments of faculty;
- (12) the faculty policies;
- (13) the admission requirements;
- (14) a copy of the current school bulletin or catalog;
- (15) a description of clinical facilities and client census data;
- (16) contractual agreements by affiliating agencies for clinical facilities, signed at least three months before the first date on which students may enroll;
- (17) the program evaluation plan; and
- (18) a proposed date of initial admission of students to the program.

(d) Each advanced nursing education program shall be surveyed for accreditation by the board, with the exception of nurse anesthesia programs, as determined by K.A.R. 60-13-103(e)(4).

(1) During a survey, the nurse administrator of the program shall make available all of the following:

- (A) Administrators, prospective faculty and students, affiliating agencies, representatives, preceptors, and support services personnel to discuss the advanced nursing education program;
- (B) minutes of faculty meetings;
- (C) faculty and student handbooks;

- (D) policies and procedures;
- (E) curriculum materials;
- (F) a copy of the advanced nursing education program's budget; and

(G) affiliating agency contractual agreements.

(2) The nurse administrator of the advanced nursing education program or designated personnel shall take the survey team to inspect the nursing educational facilities, including satellite program facilities and library facilities.

(3) Upon completion of the survey, the nurse administrator shall be asked to correct any inaccurate statements contained in the survey report, limiting these comments to errors, unclear statements, or omissions.

(e) Each institution contemplating the establishment of an advanced nursing education program shall be surveyed and accredited by the board before the admission of students.

(f) If an advanced nursing education program fails to meet requirements of the board within a designated period of time, the program shall be notified by the board's designee of the board's intent to deny accreditation. This notification shall be made pursuant to K.S.A. 77-512, and amendments thereto, and shall inform the program of its right to a hearing pursuant to the Kansas administrative procedures act. (Authorized by and implementing K.S.A. 65-1133; effective March 31, 2000.)

60-17-103. Reaccreditation requirements. (a) Based on the annual report required by K.A.R. 60-17-109, each advanced nursing education program shall be reviewed for reaccreditation by the board every two years.

(b) Each advanced nursing education program shall be resurveyed every 10 years.

(1) A survey may be conducted if there is consistent evidence indicating deficiencies in meeting requirements.

(2) A survey of each nurse anesthesia program shall be conducted as required by K.A.R. 60-13-103(e)(4).

(c) The nurse administrator of each advanced nursing education program shall make available all of the following information during a survey:

- (1) Data about the program, including the following:
 - (A) The number of students;
 - (B) the legal body responsible for establishing program policies and for support of the program;
 - (C) an organizational chart; and
 - (D) a description of the budgetary process;
- (2) a description of the nurse administrator's responsibilities;
- (3) information about the faculty and preceptors, including the following:
 - (A) A description of the responsibilities of each position;
 - (B) the selection policies;
 - (C) the orientation plan;
 - (D) faculty organization by-laws; and
 - (E) the number of full-time and part-time faculty and nonnursing faculty with academic credentials and assignments;
- (4) the faculty degree plan;
- (5) a copy of the current curriculum with the date of last revision;
- (6) a description of education facilities, including classrooms, offices, library, and computers;

(continued)

- (7) a list of clinical facilities;
- (8) the number of students enrolled; and
- (9) policies for students as listed in K.A.R. 60-2-107.

(d) During a survey, the nurse administrator of the advanced nursing education program shall make available all of the following:

- (1) Educational institution administrators, faculty, support services personnel, preceptors, and students;
- (2) staff at selected clinical facilities;
- (3) faculty minutes for at least the previous three years;
- (4) faculty and student handbooks;
- (5) student records;
- (6) policies and procedures;
- (7) curriculum materials;
- (8) a copy of the advanced nursing education program's budget; and

(9) affiliating agency contractual agreements.

(e) The nurse administrator of the advanced nursing education program or designated personnel shall take the survey team to the nursing educational facilities, including satellite program facilities, library facilities, and affiliating or clinical facilities.

(f) Upon completion of the survey, the nurse administrator shall correct any inaccurate statements contained in the survey report, limiting these comments to errors, unclear statements, or omissions.

(g) If an advanced nursing education program fails to meet requirements of the board within a designated period of time, the program shall be notified by the board's designee of the board's intent to deny reaccreditation. This notification shall be made pursuant to K.S.A. 77-512, and amendments thereto, and shall inform the program of its right to a hearing pursuant to the Kansas administrative procedures act. (Authorized by and implementing K.S.A. 65-1133; effective March 31, 2000.)

60-17-104. Faculty and preceptor qualifications.

(a) Each nurse faculty member shall be licensed as a registered professional nurse in Kansas.

(b) Each preceptor shall be licensed or certified in the state in which the preceptor is currently practicing. Each preceptor shall complete a preceptor orientation that includes information about the pedagogical aspects of the student-preceptor relationship.

(c) For advanced nursing education programs in the category of nurse anesthesia, each nurse faculty member shall have the following academic preparation and experience:

(1) The nurse administrator who is responsible for the development and implementation of the advanced nursing education program shall have had experience in administration or teaching and shall have a graduate degree.

(2) Each nurse faculty member who is assigned the responsibility of a course shall hold a graduate degree.

(3) Each nurse faculty member responsible for clinical instruction shall possess a certificate as an advanced registered nurse practitioner and a graduate degree.

(d) For advanced nursing education programs in any category other than nurse anesthesia and nurse midwifery, each nurse faculty member shall have the following academic preparation and experience:

(1) The nurse administrator who is responsible for the development and implementation of the advanced nursing

education program shall have had experience in administration or teaching and shall have a graduate degree in nursing.

(2) Each nurse faculty member who is assigned the responsibility of a course shall hold a graduate degree. Any person who is hired as a nurse faculty member after July 1, 2005 shall have a graduate degree in nursing, except for any person whose graduate degree is conferred before July 1, 2005.

(3) Each nurse faculty member responsible for clinical instruction shall possess a certificate as an advanced registered nurse practitioner and shall have a graduate degree. Any person who is hired as a nurse faculty member after July 1, 2005 shall have a graduate degree in nursing, except for any person whose graduate degree is conferred before July 1, 2005.

(4) Each preceptor or adjunct faculty shall be certified as an advanced registered nurse practitioner or shall be licensed as a physician in the state in which the individual is currently practicing. Each preceptor shall complete a preceptor orientation including information about the pedagogical aspects of the student-preceptor relationship.

(e) The nonnursing faculty of each advanced nursing education program shall have graduate degrees in the area of expertise.

(f) The nurse administrator of each advanced nursing education program shall submit to the board a faculty qualification report for each faculty member who is newly employed by the program. (Authorized by and implementing K.S.A. 65-1133; effective March 31, 2000.)

60-17-105. Curriculum requirements.(a) Faculty in each advanced nursing education program shall fulfill these requirements:

(1) Identify the competencies of the graduate for each category of advanced nursing practice for which the program provides instruction;

(2) determine the approach and content for learning experiences;

(3) direct clinical instruction as an integral part of the program; and

(4) provide for learning experiences of the depth and scope needed to fulfill the objectives or outcomes of advanced nursing courses.

(b) The curriculum in each advanced nursing education program shall include all of the following:

(1) Role alignment related to the distinction between practice as a registered professional nurse and the expanded role of an advanced registered nurse practitioner as set out in K.A.R. 60-11-101;

(2) classroom and theoretical instruction in the category or categories of advanced nursing practice for which the program provides instruction;

(3) the health care delivery system;

(4) the ethical and legal implications of advanced nursing practice;

(5) three college hours in advanced pharmacology or the equivalent;

(6) if completing an advanced registered nurse practitioner program after January 1, 2001, three college hours in advanced pathophysiology or its equivalent and three college hours in advanced health assessment or its equivalent

for certification as an advanced registered nurse practitioner in a category other than nurse anesthesia and nurse midwifery; and

(7) clinical instruction in the area of specialization, which shall include the following:

(A) Performance of or ordering diagnostic procedures;
(B) evaluation of diagnostic and assessment findings; and

(C) the prescription of medications and other treatment modalities for client conditions.

(c) Minimum length of program.

(1) The program shall consist of nine months of study or one academic year of full-time study or its equivalent, as defined by the sponsoring academic institution.

(2) The clinical component shall consist of at least 260 hours of clinical learning. After January 1, 2003, the clinical component shall consist of at least 500 hours of clinical learning.

(d) The nurse administrator shall meet the following requirements:

(1) Develop and implement a written plan for program evaluation; and

(2) submit any major revision to the curriculum of advanced nursing courses for board approval at least 30 days before a meeting of the board. The following shall be considered major revisions to the curriculum:

(A) Any significant change in the plan of curriculum organization; and

(B) any change in content requiring a change of clock or credit hours in any course.

(e) The nurse administrator shall submit minor revisions to the curriculum of an advanced nursing course's content, title, objectives, or outcomes to the education specialist for accreditation. (Authorized by and implementing K.S.A. 65-1133; effective March 31, 2000.)

60-17-106. Clinical resources. (a) Each advanced nursing education program shall have appropriate written contractual agreements with each affiliating agency. Each signed contract shall be kept on file in the advanced nursing education program office.

(b) Clinical learning experiences and sites shall be selected to provide learning opportunities necessary to achieve the advanced nursing education program objectives or outcomes.

(c) Faculty shall facilitate and evaluate student learning experiences in the clinical area.

(d) Preceptors shall be responsible for assessing performance in the clinical setting.

(e) The advanced nursing education program shall provide verification that each agency used for clinical instruction has clinical facilities that are adequate for the number of students served in terms of space, equipment, and other necessary resources, including an adequate number of patients or clients necessary to meet the program objectives or outcomes.

(f) The advanced nursing education program shall contract with an adequate number of appropriate affiliating agencies so that there will be appropriate clinical experiences to meet curriculum objectives or outcomes. The advanced nursing education program faculty shall provide the affiliating agency staff with the organizing curriculum

framework and either the objectives or outcomes for that clinical learning experience. A sufficient number and variety of patients representing appropriate age groups shall be available to provide learning experiences to meet curriculum objectives or outcomes. If more than one advanced nursing education program uses the same affiliating agency, each advanced nursing education program shall document the availability of appropriate learning experiences for all of its students. (Authorized by and implementing K.S.A. 65-1133; effective March 31, 2000.)

60-17-107. Educational facilities. (a) Classrooms, laboratories, and conference rooms shall be available at the time needed and shall be adequate in size, number, and type, according to the number of students and the educational purposes for which the rooms are to be used.

(b) The advanced nursing education program shall provide all of the following:

(1) A physical facility that is safe and conducive to learning;

(2) space that is available and adequate in size, amount, and type to provide faculty with privacy in counseling students; and

(3) secured space for nursing student records.

(c) Library holdings, instructional media, and materials shall be of sufficient recency, pertinence, level of content, and quantity as indicated by the curriculum to meet the needs of nursing students and faculty. (Authorized by and implementing K.S.A. 65-1133; effective March 31, 2000.)

60-17-108. Student policies. Each advanced nursing education program shall have clearly defined written policies for all of the following:

(a) Admission, including a requirement that each student in the program must have a current license to practice as a registered professional nurse in Kansas;

(b) transfer students;

(c) readmission;

(d) counseling and guidance;

(e) progression criteria;

(f) student representation in faculty governance; and

(g) graduation. (Authorized by and implementing K.S.A. 65-1133; effective March 31, 2000.)

60-17-109. Reports. (a) Each advanced nursing education program shall submit an annual report to the board on or before June 15 of each year, which shall include all of the following data:

(1) Any changes in program policies, the organizing framework for the curriculum, and program objectives or outcomes;

(2) a description of faculty responsibilities for required advanced nursing courses;

(3) the name, license number, academic credentials, employment date, and full- or part-time status of each member of the program faculty;

(4) the name, license number, academic credentials, professional experience, and place of practice for each preceptor;

(5) a description of the nurse administrator's teaching responsibilities;

(6) the name and address of each affiliating agency;

(continued)

(7) student enrollment, retention, and graduation statistics;

(8) faculty hiring, retention, and separation statistics;

(9) the total number of library holdings and the number of holdings regarding nursing;

(10) for the most recent year, either a list of new library and audiovisual acquisitions or the budget spent on library and audiovisual acquisitions;

(11) a response to the recommendations and requirements identified by the board based on the program's last annual report or the last survey visit; and

(12) any proposed changes to the program.

(b) If the advanced nursing education program fails to meet requirements of the board or to submit required reports within a designated period of time, the program shall be removed from the list of accredited nursing education programs after it has received notice and has been given an opportunity to be heard. These proceedings shall be conducted in accordance with the provisions of K.S.A. 77-512 and amendments thereto. (Authorized by and implementing K.S.A. 65-1133; effective March 31, 2000.)

60-17-110. Discontinuing an advanced registered nurse practitioner program. Any school terminating its program shall submit, for board approval, the school's plan for disposition of its records. (Authorized by and implementing K.S.A. 65-1133; effective March 31, 2000.)

60-17-111. Requirements for advanced registered nurse practitioner refresher course. (a) Refresher course.

(1) Each refresher course that prepares advanced registered nurse practitioners (ARNP) who have not been actively engaged in advanced nursing practice for more than five years shall be accredited by the board.

(2) If a formal refresher course is not available, an individualized course may be designed for a nurse. Each individualized course shall be accredited by the education specialist.

(b) Each refresher course student shall meet both of the following conditions:

(1) Be licensed currently as a Kansas registered professional nurse; and

(2) have been licensed or certified as an advanced registered nurse practitioner in Kansas or another state.

(c) Continuing nursing education contact hours may be awarded for completion of ARNP refresher courses. A contact hour shall equal a 50-minute hour of instruction.

(d) The objectives and outcomes of the refresher course shall be stated in behavioral terms and shall describe the expected competencies of the applicant.

(e) Each instructor for an ARNP refresher course shall be certified as an ARNP and shall show evidence of recent professional education and competency in teaching.

(f) Each provider that has been accredited by the board to offer an ARNP refresher course shall provide the following classroom and clinical experiences, based on the length of time that the student has not been actively engaged in advanced nursing practice:

(1) For students who have not engaged in advanced nursing practice for more than five years, but less than or equal to 10 years, 150 didactic hours and 350 clinical hours; and

(2) for students who have not engaged in advanced nursing practice for more than 10 years, 200 didactic hours and 500 clinical hours.

(g) The content, methods of instruction, and learning experiences shall be consistent with the objectives and outcomes of the course.

(h) The refresher course for the categories of nurse practitioner, clinical nurse specialist, and nurse midwife shall contain the following content:

(1) Didactic:

(A) Role alignment related to recent changes in the area of advanced nursing practice;

(B) the ethical and legal implications of advanced nursing practice;

(C) the health care delivery system;

(D) diagnostic procedures for the area of specialization; and

(E) prescribing medications for the area of specialization; and

(2) clinical:

(A) Conducting diagnostic procedures for the area of specialization;

(B) prescribing medications for the area of specialization;

(C) evaluating the physical and psychosocial health status of a client;

(D) obtaining a comprehensive health history;

(E) conducting physical examinations using basic examination techniques, diagnostic instruments, and laboratory procedures;

(F) planning, implementing, and evaluating care;

(G) consulting with clients and members of the health care team;

(H) managing the medical plan of care prescribed based on protocols or guidelines;

(I) initiating and maintaining records, documents, and other reports;

(J) developing teaching plans; and

(K) counseling individuals, families, and groups on the following issues:

(i) Health;

(ii) illness; and

(iii) the promotion of health maintenance.

(i) Each student in nurse midwife refresher training shall also have clinical hours in the management of the expanding family throughout pregnancy, labor, delivery, postdelivery care, and gynecological care.

(j) The provider of the course shall provide official evidence of completion to each individual who successfully completes the refresher course of study. (Authorized by and implementing K.S.A. 65-1113; effective March 31, 2000.)

Mary Blumbaugh, MSN, RN
Executive Administrator

Doc. No. 024914

(Editor's Note: The following opinions, which are published pursuant to K.S.A. 46-254, were inadvertently omitted from publication upon their filing with the Secretary of State's Office last year.)

State of Kansas

Governmental Ethics Commission

Opinion No. 1999-21

Written May 20, 1999, to John T. Houlihan, Director of Purchases, Topeka.

This opinion is in response to your letter dated May 19, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the State level governmental ethics laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you request this opinion in your capacity as Director of Purchases for the Department of Administration. We understand that you are an unclassified state employee whose salary is subject to the approval of the Governor. You have explained that the State of Kansas is a member of the National Association of State Procurement Officials (NASPO) and that you attend NASPO meetings twice a year as a representative of the State. NASPO wishes to solicit and accept corporate sponsorships for their marketing meetings to help offset the costs of the meetings.

Question

May the Director of Purchases for the Kansas Department of Administration attend an NASPO conference to which corporate donations have been made?

Opinion

The State level governmental ethics laws (K.S.A. 46-215 *et seq.*) prohibit state employees from soliciting or accepting gifts under certain circumstances. Because the corporate donations you have discussed are being solicited by and given to NASPO and not by you or to you as a state employee, you would not be prohibited from attending the NASPO functions.

It should be recognized, however, that as an unclassified state employee whose salary is subject to the approval of the Governor, you will not be able to accept promotional items provided by these sponsors unless they are contained in a registration packet provided to all conference attendees and covered by the costs of the registration fee. See K.S.A. 1998 Supp. 46-237a(b) and Commission Opinion 1997-20.

In closing, we note that this opinion deals solely with the issue of donations solicited by and given to NASPO. If, at some point in time, you or another Kansas state employee desire to solicit donations on behalf of NASPO, a separate opinion should be requested.

Opinion No. 1999-22

Written June 4, 1999, to Robert G. Suelter, City Attorney, Great Bend.

This opinion is in response to your letter of June 1, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the local conflict of interest laws (K.S.A. 75-4301 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 75-4301 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you request this opinion in your capacity as the Great Bend City Attorney. You have informed us that David Thill is a Great Bend City Council member and that he and his wife have an ownership interest in a tract of real estate located within the city limits of Great Bend. You have explained that the Thills and the other owners of this land have entered into an option contract for the sale of this land to Garrison Hassenflu. Prior to consummating this contract, Mr. Hassenflu must successfully be granted income tax credits for low income residential housing programs by the Kansas Department of Commerce and Housing. In order to obtain these tax credits, the Great Bend City Council must pass a resolution supporting the development of low income housing on the property and approving the use of the income tax credits for this development. The Great Bend City Council is scheduled to vote on this resolution on Monday, June 7, 1999.

Question

May Mr. Thill participate in the discussion and vote on this resolution?

Opinion

In his capacity as a Great Bend City Council member, Mr. Thill is governed by the local level conflict of interest laws (K.S.A. 75-4301 *et seq.*). Two sections of the local conflict of interests law must be reviewed to answer your question. K.S.A. 75-4304 prohibits a local official from participating in the capacity as a local official in the making of contracts in which that official has a substantial interest. It states in pertinent part:

"(a) No local governmental officer or employee shall, in the capacity of such an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest.

"(b) No person or business shall enter into any contract where any local governmental officer or employee, acting in that capacity, is a signatory to or a participant in the making of the contract and is employed by or has a substantial interest in the person or business.

"(c) A local governmental officer or employee does not make or participate in the making of a contract if the officer or employee abstains from any action in regard to the contract.

"(d) This section shall not apply to the following:

"(1) Contracts let after competitive bidding has been advertised for by published notice; and

"(2) contracts for property or services for which the price or rate is fixed by law."

K.S.A. 75-4305 requires disclosure of actions other than contracts which affect a local government official's private business interests. It states:

(continued)

"(a) Any local governmental officer or employee who has not filed a disclosure of substantial interests shall, before acting upon any matter which will affect any business in which the officer or employee has a substantial interest, file a written report of the nature of the interest with the county election officer of the county in which is located all or the largest geographical part of the officer's or employee's governmental subdivision.

"(b) A local governmental officer or employee does not pass or act upon any matter if the officer or employee abstains from any action in regard to the matter."

The absolute abstention requirement of K.S.A. 75-4304 is triggered only in situations where the local governmental officer, in the capacity as a governmental officer, makes or participates in the making of a contract with a person or business by which the officer is employed or in whose business the officer has a substantial interest. This Commission has consistently held that K.S.A. 75-4304 does not generally cover legislative decisions or administrative decisions such as those made by Planning Commissions, Board of Zoning Appeals, or city councils dealing with rezoning applications. See Commission Opinion 1999-05, 1998-20 and 1994-38. Because Mr. Thill is contracting with Mr. Hassenflu in Mr. Thill's capacity as a private individual and not as a governmental officer, the absolute abstention requirement of K.S.A. 75-4304 does not apply.

Thus, K.S.A. 75-4305 is the section that applies to the situation you describe. Under that section, prior to taking any action upon any matter which will affect his interest, Mr. Thill must file a written disclosure of substantial interests which details the nature of his interest that will be affected by the resolution.

Finally, we would note that, while Mr. Thill may legally participate and vote on the resolution once an appropriate statement of substantial interest has been filed, the better course of action would be to abstain from voting so as to avoid the appearance of impropriety.

Opinion No. 1999-23

Written July 15, 1999, to Jennifer R. Cook, Office of the Governor, Topeka.

This opinion is in response to your letter of June 10, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission (GEC) concerning the Campaign Finance Act (K.S.A. 25-4142 *et seq.*). We note at the outset that the Commission's jurisdiction concerning your question is limited to the application of K.S.A. 25-4142 *et seq.* Thus, whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

You question whether campaign funds may be donated to a charity after termination of the campaign and prior to the filing of a termination report and if so what restrictions apply.

Question

I. May campaign funds may be donated to a charity?

Opinion

K.S.A. 1998 Supp. 25-4157a is applicable to your question. In pertinent part, that statute states:

"(a) No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be

made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for:

"(4) any membership dues or donations paid to a community service or civic organization in the name of the candidate or candidate committee of any candidate;

"(d) At the time of the termination of any campaign and prior to the filing of a termination report in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds otherwise not obligated for the payment of expenses incurred in such campaign or the holding of office shall be contributed to a charitable organization, as defined by the laws of the state, contributed to a party committee or returned as a refund in whole or in part to any contributor or contributors from whom received or paid into the general fund of the state."

The statute authorizes donations at any time of campaign funds to community service or civic organizations. Contributions may thus be made to charities which are either community service or civic organizations. Further, contributions may be made to civic organizations at the time of the termination of any campaign and prior to the filing of a termination report.

Opinion No. 1999-24

Written July 15, 1999, to Jennifer R. Cook, Office of the Governor, Topeka.

This opinion is in response to your letter of June 29, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission (GEC) concerning the Campaign Finance Act (K.S.A. 25-4142 *et seq.*). We note at the outset that the Commission's jurisdiction concerning your question is limited to the application of K.S.A. 25-4142 *et seq.* Thus, whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that the College Republican National Committee (CRNC) has requested that Governor Bill Graves sponsor their upcoming convention as a Gubernatorial Sponsor. CRNC is a youth organization dedicated to political education and activism for the Republican Party. The convention will bring together college students from across the nation with elected officials, presidential hopefuls, and esteemed scholars. Gubernatorial sponsors receive a complimentary registration to the convention for a gubernatorial intern or Kansas college student, as well as complimentary attendance for the Governor at the 1999 Lee Atwater Awards Gala.

Question

I. May the Governor use campaign funds to sponsor the CRNC Convention?

Opinion

K.S.A. 1998 Supp. 25-4157a is applicable to your question. In pertinent part, that statute states:

"(a) No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for:

"(4) any membership dues or donations paid to a community service or civic organization in the name of the candidate or candidate committee of any candidate;

"(d) At the time of the termination of any campaign and prior to the filing of a termination report in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds otherwise not obligated for the payment of expenses incurred in such campaign or the holding of office shall be contributed to a charitable organization, as defined by the laws of the state, contributed to a party committee or returned as a refund in whole or in part to any contributor or contributors from whom received or paid into the general fund of the state."

Pursuant to K.S.A. 1998 Supp. 25-4157a(a)(4), the Governor may use campaign funds to sponsor the CRNC Convention if it is a "community service or civic organization." CRNC is a national political organization, and not a "community service" organization. In addition, it is not a "civic" organization and, therefore, the Governor may not use campaign funds to sponsor the CRNC Convention pursuant to this subsection.

Subsection (d), however, allows campaign funds to be contributed to a "party committee" at the time of the termination of any campaign and prior to the filing of a termination report. K.S.A. 25-4143(i) defines "party committee" as:

"(i) 'Party committee' means:

"(1) The state committee of a political party regulated by article 3 of chapter 25 of the Kansas Statutes Annotated;

"(2) the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated;

"(3) the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated;

"(4) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the senate; or

"(5) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the house of representatives."

Because Governor Graves is prohibited from running for re-election, he may donate his campaign funds to the CRNC convention, if the CRNC is a "party committee" as defined by K.S.A. 25-4143(i).

Opinion No. 1999-24 (Revised)

Written August 19, 1999, to Jennifer R. Cook, Office of the Governor, Topeka.

This opinion is in response to your letter of June 29, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission (GEC) concerning the Campaign Finance Act (K.S.A. 25-4142 *et seq.*). We note at the outset that the Commission's jurisdiction concerning your question is limited to the application of K.S.A. 25-4142 *et seq.* Thus, whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that the College Republican National Committee (CRNC) has requested that Governor Bill Graves sponsor their upcoming convention as a Gubernatorial Sponsor. CRNC is a youth organization dedicated to political education and activism for the Republican Party. The convention will bring together college students from across the nation with elected officials, presidential hopefuls, and esteemed scholars. Gubernatorial sponsors receive a complimentary registration to

the convention for a gubernatorial intern or Kansas college student, as well as complimentary attendance for the Governor at the 1999 Lee Atwater Awards Gala.

Question

I. May the Governor use campaign funds to sponsor the CRNC Convention?

Opinion

K.S.A. 1998 Supp. 25-4157a, is applicable to your question. In pertinent part, that statute states:

"(a) No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for:

"(4) any membership dues or donations paid to a community service or civic organization in the name of the candidate or candidate committee of any candidate;

"(d) At the time of the termination of any campaign and prior to the filing of a termination report in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds otherwise not obligated for the payment of expenses incurred in such campaign or the holding of office shall be contributed to a charitable organization, as defined by the laws of the state, contributed to a party committee or returned as a refund in whole or in part to any contributor or contributors from whom received or paid into the general fund of the state."

Pursuant to K.S.A. 1998 Supp. 25-4157a(a)(4), the Governor may use campaign funds to sponsor the CRNC Convention if it is a "community service or civic organization." CRNC is a national political organization, and not a "community service" organization. In addition, it is not a "civic" organization and, therefore, the Governor may not use campaign funds to sponsor the CRNC Convention pursuant to this subsection.

Subsection (d), however, allows campaign funds to be contributed to a "party committee" at the time of the termination of any campaign and prior to the filing of a termination report. K.S.A. 25-4143(i) defines "party committee" as:

"(i) 'Party committee' means:

"(1) The state committee of a political party regulated by article 3 of chapter 25 of the Kansas Statutes Annotated;

"(2) the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated;

"(3) the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated;

"(4) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the senate; or

"(5) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the house of representatives."

Because Governor Graves is prohibited from running for re-election, and has thus terminated his campaign, but has not yet filed his termination report in accordance with K.S.A. 25-4157, he may donate his campaign funds to the CRNC convention, if the CRNC is a "party committee" as defined by K.S.A. 25-4143(i).

(continued)

Opinion No. 1999-25

Written August 19, 1999, to all interested persons.

Pursuant to K.S.A. 46-254, the Kansas Governmental Ethics Commission takes the opportunity to issue its opinion as to the definition of niece and nephew pursuant to K.A.R. 19-40-4(b)(1).

Opinion

K.A.R. 19-40-4(b)(1) states:

"As used in this regulation, 'family member' means:

"(A) a spouse, parent, child, or sibling;

"(B) a sibling, as denoted by the prefix 'half';

"(C) a parent, child, or sibling, as denoted by the prefix 'step';

"(D) a foster child;

"(E) a uncle, aunt, nephew, or niece;

"(F) any parent or child of a preceding or subsequent generation, as denoted by the prefix of 'grand' or 'great'; or

"(G) parent, child or sibling related by marriage as denoted by the suffix of 'in-law.'"

A question has arisen as to whether a "niece-in-law" or a "nephew-in-law" is a niece or nephew pursuant to K.A.R. 19-40-4(b)(1)(E). The Commission now determines that the natural or adopted children of your sibling or of your spouse's siblings will be considered nieces or nephews pursuant to K.A.R. 19-40-4(b)(1)(E).

Opinion No. 1999-26

Written August 19, 1999, to the Honorable Sandy Praeger, State Senator, 2nd District, Lawrence.

This opinion is in response to your letter of July 30, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the state level conflict of interest laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory, or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand you request this opinion in your capacity as a Kansas State Senator. You have been asked to deliver the keynote address at the annual meeting for the American Academy of Pediatrics (AAP) in Washington, D.C. regarding the current status of the Children's Health Insurance Program (CHIP) in the states and the activity of Congress affecting CHIP and Medicaid. You have explained that you spent numerous hours interviewing people in other states, reading materials, and communicating with national groups familiar with Congressional efforts in these areas. In addition, you spent a great deal of time on the actual preparation of the speech during the month prior to the presentation.

AAP has offered you a \$1,000.00 honorarium which they indicated was a reflection of the amount of time they believed that you spent preparing for this presentation. Since you are aware that legislators are limited to accepting no more than \$200.00 without the approval of the Commission, you are seeking this opinion before accepting the honorarium.

Question

Is it permissible for you to accept the \$1,000.00 honorarium for delivering the keynote presentation at the American Academy of Pediatrics annual meeting?

Opinion

K.S.A. 46-237(f) applies to your question. That subsection states:

"No state officer or employee shall accept any payment of honoraria for any speaking engagement except that a member of the state legislature or a part-time officer or employee of the executive branch of government shall be allowed to receive reimbursement in the preparation for and the making of a presentation at a speaking engagement in an amount fixed by the Kansas commission on governmental standards and conduct prior to the acceptance of the speaking engagement. Nothing in this section shall be construed to prohibit the reimbursement of state officers and employees for reasonable expenses incurred in attending seminars, conferences and other speaking engagements."

In Commission Opinion No. 1997-51, the Commission opined that the amount of honorarium that could be paid to a legislator for the preparation and presentation of materials at a speaking engagement would depend on the following factors: the amount of preparation, the complexity of issues, the qualifications of the presenter and the extent of the presenter's participation in the event. The Commission stated that it would "... presume a maximum of \$100 for preparation and a maximum of \$100 for presentation. ..." Anyone seeking an additional amount "... shall request a waiver from the Commission."

Applying the factors outlined in Commission Opinion No. 1997-51 to the information you provided in your opinion request, the Commission believes the monetary limits set out in that opinion should not be waived for the reason that the statute requires that your application for a waiver be made prior to your acceptance of the speaking engagement. Thus, you could accept up to \$200.00 for delivering the keynote presentation.

In closing, the Commission notes that since you are providing a bona fide speaking service at the meeting, AAP could pay for all of your reasonable expenses.

Opinion No. 1999-27

Written August 19, 1999, to Randall J. Forbes, Frieden, Haynes & Forbes, Topeka.

This opinion is in response to your letter of July 21, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the state level conflict of interest laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you request this opinion in your capacity as counsel for the Kansas Board of Pharmacy (KBP or the Board). You have presented us with a hypothetical situation in which a board member, who is regularly employed by a large chain drug store, attends a national conference of State Boards' of Pharmacy in his capacity as a KBP Board Member. While attending this conference, the board member is invited to a dinner which is not a part of the conference. The dinner is hosted by an organization made up of chain pharmacies, and only pharmacists from the conference who are employed by chain pharmacies are invited to the dinner. The topics

of discussion are issues of interest to chain pharmacies and pharmacists employed by chain pharmacies.

Question

May the KBP Board Member attend and consume the dinner without violating the State level conflict of interest laws?

Opinion

K.S.A. 1998 Supp. 46-237a is applicable to your question. This section applies only to the governor, the lieutenant governor, the governor's spouse, all classified employees, those unclassified employees in the executive branch whose compensation is subject to approval by the governor pursuant to K.S.A. 75-2935b, and all members of boards, commissions and authorities of the executive branch of state government. It states in pertinent part:

"(c) No person subject to the provisions of this section shall solicit or accept free or special discount meals from a source outside of state government, except:

"(1) Meals, the provision of which is motivated by a personal or family relationship or provided at events that are widely attended. An occasion is 'widely attended' when it is obvious to the person accepting the meal that the reason for providing the meal is not a pretext for exclusive or nearly exclusive access to the person;

"(2) meals provided at public events in which the person is attending in an official capacity;

"(3) meals provided to a person subject to this act when it is obvious such meals are not being provided because of the person's official position; and

"(4) food such as soft drinks, coffee or snack foods not offered as part of a meal."

Persons subject to this statute are prohibited from accepting any meals from a source outside of state government, unless one of the four enumerated exceptions apply. Under the factual scenario you have provided, none of the exceptions would apply, therefore, the board member would be prohibited from accepting the meal.

Opinion No. 1999-28

Written August 19, 1999, to Richard S. Wetzler, Leawood City Attorney, Holman Hansen Colville & Coates, P.C., Prairie Village.

This opinion is in response to your letter of August 6, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the local conflict of interest law (K.S.A. 75-4301 *et seq.*). We note at the outset that the Commission's jurisdiction concerning your question is limited to the application of K.S.A. 75-4301 *et seq.* Thus, whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you are requesting this opinion in your capacity as the Leawood City Attorney on behalf of City Councilman Gary Bussing. You have explained that Mr. Bussing is the Executive Director of Business for Benchmark Insurance Companies (Benchmark). Mr. Bussing is a salaried individual who does not receive additional compensation as a result of business associations with Benchmark clients.

You have also explained that the City of Leawood is currently involved in litigation with Super Market Developers, Inc. (SMDI) over a proposed zoning application that was rejected by the City Council prior to Mr. Bus-

sing's election. Both SMDI and Benchmark are wholly owned subsidiaries of Associated Wholesale Grocers of Kansas City (AWG). In addition, Benchmark provides automobile insurance to SMDI. It should be noted that Mr. Bussing is not involved in the automobile insurance department and has no contact with anyone at SMDI.

Finally, you have informed us that the law firm of Blackwell Sanders represents SMDI in the lawsuit against the City of Leawood. Mr. Bussing's wife is employed by this law firm as an associate attorney. She is not directly involved with the case and will not receive any type of commission or compensation based upon her firm's representation of SMDI.

It is possible that a settlement could be reached between SMDI and the City requiring an approval of the settlement by the City Council, or that the City Council, under either court order or its independent decision, could reconsider its prior decision regarding SMDI's zoning request.

You have informed us that Mr. Bussing has filed a statement of substantial interests which discloses the nature of his interest in Benchmark, and the nature of his wife's interest in the Blackwell Sanders law firm.

Questions

I. May Mr. Bussing participate and vote on issues involving SMDI's zoning request?

II. May Mr. Bussing participate and vote on matters where his wife's law firm appears before the Council on behalf of its clients with zoning applications?

III. May Mr. Bussing participate and vote on an approval of a settlement agreement reached between the City and SMDI?

Opinion

In his capacity as a Leawood City Council member, Mr. Bussing is governed by the local level conflict of interest laws (K.S.A. 75-4301 *et seq.*). Three sections of the local conflict of interests law must be reviewed to answer your questions. K.S.A. 75-4304 prohibits a local official, in his official capacity, from participating in the making of contracts in which that official has a substantial interest. It states in pertinent part:

"(a) No local governmental officer or employee shall, in the capacity of such an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest."

K.S.A. 75-4305 requires disclosure of actions other than contracts which affect a local government official's private business interests. It states:

"(a) Any local governmental officer or employee who has not filed a disclosure of substantial interests shall, before acting upon any matter which will affect any business in which the officer or employee has a substantial interest, file a written report of the nature of the interest with the county election officer of the county in which is located all or the largest geographical part of the officer's or employee's governmental subdivision.

"(b) A local governmental officer or employee does not pass or act upon any matter if the officer or employee abstains from any action in regard to the matter."

In order for either of these statutes to apply, Mr. Bussing must have a substantial interest in SMDI.

K.S.A. 75-4301a provides the definition of a substantial interest:

(continued)

"(a) If an individual or an individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5% of any business, whichever is less, the individual has a substantial interest in that business.

"(b) If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$2,000 from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.

"(c) If an individual or an individual's spouse, either individually or collectively, has received directly or indirectly in the preceding 12 months, gifts or honoraria having an aggregate value of \$500 or more from any person, the individual has a substantial interest in that person. If a gift is received for which the value is unknown, the individual shall be deemed to have a substantial interest in the donor. A substantial interest does not exist under this subsection by reason of: (1) a gift or bequest received as the result of the death of the donor; (2) a gift from a spouse, parent, grandparent, sibling, aunt or uncle; or (3) acting as a trustee of a trust for the benefit of another.

"(d) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.

"(e) If an individual or an individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of \$2,000 or more in the preceding calendar year.

"As used in this subsection, 'client or customer' means a business or combination of businesses."

Based upon the information provided, it does not appear that Mr. Bussing has a substantial interest in SMDI. Therefore, he may participate and vote on issues involving SMDI's zoning requests.

With regard to your second question, it is clear that Mr. Bussing has a substantial interest in the Blackwell Sanders law firm by virtue of his wife's position in that firm. The absolute abstention requirement of K.S.A. 75-4304, however, is triggered only in situations where the local governmental officer, in the capacity as a governmental officer, makes or participates in the making of a contract with a person or business by which the officer is employed or in whose business the officer has a substantial interest. This Commission has consistently held that K.S.A. 75-4304 does not generally cover legislative decisions or administrative decisions such as those made by Planning Commissions, Board of Zoning Appeals, or city councils dealing with zoning applications. See Commission Opinion 1999-05, 1998-20 and 1994-38.

Thus, K.S.A. 75-4305 is the section that generally applies to the type of situation you describe. Because Mr. Bussing's disclosure statement detailing the nature of his interest in Blackwell Sanders has been filed with the County Election Officer, and provided that his wife's compensation is not tied to the outcome of this matter, the law does not preclude Mr. Bussing from participating and voting on zoning applications presented in this matter by his wife's law firm.

Because Mr. Bussing does not have a substantial interest in SMDI, he may also participate and vote on the settlement agreement reached between the City and SMDI.

It should be noted that although the settlement may be presented by Blackwell Sanders, it will actually be a contract between the City and SMDI, and therefore no conflict exists for Mr. Bussing.

In conclusion, the law does not preclude Mr. Bussing from participating and voting on issues involving SMDI's zoning request and on any settlement agreement which may be reached between the City and SMDI. In addition, he may participate and vote on matters where his wife's law firm appears before the Council on behalf of its clients with zoning applications.

Finally, we would note that, while Mr. Bussing may legally participate and vote on these matters, the better course of action would be to abstain from voting so as to avoid the appearance of impropriety.

Opinion No. 1999-29

Written August 19, 1999, to all interested persons.

Pursuant to K.S.A. 46-254, the Kansas Governmental Ethics Commission takes the opportunity to issue its opinion as to whether a consultant fits the definition of "employee, independent contractor or subcontractor" pursuant to K.S.A. 46-233(a)(2).

Opinion

K.S.A. 46-233(a)(2) states in pertinent part:

"Except as otherwise provided in this subsection, whenever any individual has participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business as an *employee, independent contractor or subcontractor* until two years after performance of the contract is completed or until two years after the individual terminates employment as a state officer or employee, whichever is sooner." (Emphasis added.)

A question has arisen as to whether a consultant is an employee, independent contractor or subcontractor. The Commission now determines that a consultant is either an employee, an independent contractor or a subcontractor for the purposes of K.S.A. 1998 Supp. 46-233(a)(2).

Opinion No. 1999-30

Written August 19, 1999, to Richard D. Olsson, Wichita.

This opinion is in response to your letter of August 9, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the state level conflict of interest laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you are asking for this opinion in your capacity as a former EDRII Field Representative for the Kansas Department of Commerce and Housing (KDOCH). In this position, you contacted regional businesses and communities and identified relevant local, state and federal assistance programs that might be of benefit to the company or community. In addition, you provided technical assistance, education and training on various economic development program alternatives. You have informed us that you do not actually complete the paperwork for the company or community, and you

have no influence or authority to decide whether they are accepted into the programs. In addition, you have informed us that you are not involved in any contracts with these entities.

After leaving state employment, you are considering establishing a business in which you would provide consultation services to Kansas companies. In this capacity, you would perform an in-depth evaluation to determine if the company is eligible for any local, state, or federal programs, incentives, or grants. You would also provide them with the assistance necessary to follow through with the required paperwork and procedures to secure the benefit.

Question

I. Is it a violation of the State Governmental Ethics laws for you to work as a consultant for Kansas companies applying for local, state, or federal programs, incentives, or grants after you leave state employment?

II. May you work as a consultant for organizations with which you had contact while employed by the State?

Opinion

Two statutes apply to the first question you have raised: K.S.A. 1998 Supp. 46-233(a), which involves participation in the making of contracts; and K.S.A. 46-241 which involves the use of confidential information. Both of these statutes will be addressed in turn.

K.S.A. 1998 Supp. 46-233 states in pertinent part:

"(a)(2) Except as otherwise provided in this subsection, whenever any individual has participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business as an employee, independent contractor or subcontractor until two years after performance of the contract is completed or until two years after the individual terminates employment as a state officer or employee, whichever is sooner."

Under this provision, you are prohibited from accepting employment as an employee, independent contractor, or subcontractor with a business with which you have contracted in your capacity as a state employee for two years after performance of the contract is completed or until two years after you terminate state employment, whichever is sooner. In Commission Opinion 1999-29, the Commission determined that a consultant is always an employee, an independent contractor or a subcontractor for the purposes of K.S.A. 1998 Supp. 46-233(a)(2). Therefore, if, in your capacity as a state employee, you participated in the making of a contract with a business, you would be prohibited from providing consulting services to that business until two years after performance of the contract was completed or until two years after you terminated state employment, whichever is sooner. If, in your capacity as a state employee, you were not involved in the making of any contracts with the business, K.S.A. 1998 Supp. 46-233 would not prohibit you from providing consulting services to that business.

Finally, K.S.A. 46-241 states:

"No state officer or employee shall disclose or use confidential information acquired in the course of his or her official duties in order to further his or her own economic interest or those of any other person."

This section is self-explanatory. Confidential information obtained during your official duties with the state

may not be used for your financial gain or the financial gain of another.

With regard to your second question, nothing in K.S.A. 46-215 *et seq.* prohibits you from performing consulting services for entities you have come into contact with while a state employee, so long as the provisions of K.S.A. 1998 Supp. 46-233(a)(2), noted above, are followed. See Commission Opinion 1994-01.

In conclusion, K.S.A. 1998 Supp. 46-233(a)(2) does not prohibit you from providing consulting services to businesses, so long as you did not, in your capacity as a state employee, participate in the making of any contracts between the state and that business. Finally, confidential information obtained during your official duties with the state may not be used for your financial gain or the financial gain of another.

Opinion No. 1999-31

Written August 19, 1999, to the Honorable Vaughn L. Flora, State Representative, Topeka.

This opinion is in response to your letter of August 16, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the State level governmental ethics laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you request this opinion in your capacity as a Kansas State Representative. You have explained that you are the general/managing partner and the general contractor and co-developer for an organization that wishes to apply for Federal Low Income Housing Tax Credits (LIHTC) administered by the Kansas Department of Commerce and Housing (KDOC&H). In addition, you wish to apply with the local taxing authorities for property tax abatements through the Neighborhood Revitalization Act (NRA).

Question

May a state representative, acting in his personal business capacity, apply for and receive federal tax credits administered by the KDOC&H and property tax abatements through the NRA?

Opinion

In your capacity as a state representative, you are governed by the state level conflict of interest laws (K.S.A. 46-215 *et seq.*). We have reviewed these laws, and find nothing in K.S.A. 46-215 *et seq.* which prohibits the situation you have described.

Opinion No. 1999-32

Written August 19, 1999, to JoAnn Stevens-Baptiste, LMSW, Kansas Department of Social and Rehabilitation Services, Wichita.

This opinion is in response to your letter of July 30, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the state

(continued)

level conflict of interest laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you are asking for this opinion in your capacity as a Rehabilitation Counselor II for the Rehabilitation Services Division of the Kansas Department of Social and Rehabilitation Services (SRS). In this position, you locate employment for the disabled. You have explained that you are attempting to complete your Licensed Special Clinical Social Worker (LSCSW) degree and are currently performing your practicum work at the Transitional Adult Program (TAP) where you perform individual and group therapy and program activities for mentally ill young adults aged 17 to 24. You have explained that the TAP program is under the direction of the Breakthrough Club which serves mentally ill adults aged 25 to 60 in a separate facility. In fact, you have explained during a telephone conversation that you are actually employed and paid by the Breakthrough Club.

In a telephone conversation with this office, you and your supervisor informed us that you will not refer any of your SRS clients to TAP or the Breakthrough Club, and you will not be involved in the preparation of, nor participate in the making of, any contracts with TAP or the Breakthrough Club.

Questions

I. Is it a violation of the State Governmental Ethics laws for you to work as a therapist for TAP while employed by SRS as a Rehabilitation Counselor II?

II. May you, in your capacity as an SRS employee, serve clients who are also clients of the Breakthrough Club?

Opinion

Three statutes apply to the question you have raised: K.S.A. 1998 Supp. 46-233(a), which involves participation in the making of contracts; K.S.A. 1998 Supp. 46-235, which governs restrictions on compensation of state employees; and K.S.A. 46-241, which involves the use of confidential information. Each of these statutes will be addressed in turn.

K.S.A. 1998 Supp. 46-233 states in pertinent part:

"(a)(1) No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with any person or business by which such officer or employee is employed. . . ."

Under this provision, you are prohibited, as a state employee, from being substantially involved in the preparation of, or participating in the making of, a contract with the business by which you are employed. Because your supervisor is willing to shield you from any involvement in such contracts with TAP or the Breakthrough Club, your employment with TAP does not violate K.S.A. 1998 Supp. 46-233(a).

K.S.A. 1998 Supp. 46-235 states in pertinent part:

"No state officer or employee shall accept compensation for performance of official duties, other than that to which such person is entitled for such performance. . . . The receipt of wages or salary from an individual's non-state employer during a period of service

as a state officer or employee shall not be construed as compensation for performance of official duties."

Pursuant to this statute, so long as it is not part of your current state duties to perform individual and group therapy and program activities for SRS, K.S.A. 1998 Supp. 46-235 would not prohibit you from accepting compensation for performing these services for TAP.

Finally, K.S.A. 46-241 states:

"No state officer or employee shall disclose or use confidential information acquired in the course of his or her official duties in order to further his or her own economic interest or those of any other person."

This section is self-explanatory. Confidential information obtained during your official duties with the state may not be used for your financial gain or the financial gain of another.

With regard to your second question, nothing in the state level conflict of interest laws (K.S.A. 46-215 *et seq.*) prohibits you, in your capacity as a state employee, from serving clients who are also clients of TAP or the Breakthrough Club.

In conclusion, K.S.A. 1998 Supp. 46-233(a)(1) does not prohibit you from performing individual and group therapy and programming activities for TAP, so long as you do not, in your capacity as a state employee, participate in the making of any contracts between the state and TAP or the Breakthrough Club. Pursuant to K.S.A. 46-235, as long as it is not part of your current state duties to perform individual and group therapy and program activities for SRS, you would not be prohibited from accepting compensation for performing these services for TAP. Finally, confidential information obtained during your official duties with the state may not be used for your financial gain or the financial gain of another.

Opinion No. 1999-33

Written August 19, 1999, to all interested persons.

Pursuant to K.S.A. 46-254, the Kansas Governmental Ethics Commission takes the opportunity to issue its opinion on the application of K.S.A. 46-233(d)(1) to renegotiated renewal contracts.

Opinion

K.S.A. 46-233 states in pertinent part:

"(a)(1) No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with any person or business by which such officer or employee is employed or in whose business such officer or employee or any member of such officer's or employee's immediate family has a substantial interest. . . ."

"(2) Except as otherwise provided in this subsection, whenever any individual has participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business as an employee, independent contractor or subcontractor until two years after performance of the contract is completed or until two years after the individual terminates employment as a state officer or employee, whichever is sooner. . . ."

"(d) Subsections (a) and (b) shall not apply to the following:

"(1) Contracts let after competitive bidding has been advertised for by published notice. . . ."

It often occurs that an original contract let after a competitive bidding process contains a provision for renewal

at a specific point in time. In dealing with such contracts, the question is whether the renewed contract will be considered to be let after competitive bid pursuant to K.S.A. 46-233(d), if any of the material terms are changed. The Commission determines that if the original contract is simply renewed with no material changes, the "renewed" contract will still be considered to have been let after a competitive bid process. If, however, there are material changes which are made to the renewal contract, the renewal contract will be considered to be a negotiated contract and not a contract let after a competitive bidding process.

Opinion No. 1999-34

Written August 18, 1999, to J. A. Robertson, Administrator, Child Support Enforcement Program, Topeka.

This opinion is in response to your letter of August 18, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the state level conflict of interest laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you request this opinion in your capacity as the Administrator for the Child Support Enforcement Program (CSE) of the Kansas Department of Social and Rehabilitation Services (SRS). You have explained that the CSE is working with the Office of Judicial Administration (OJA) to establish the Kansas Payment Center (KPC) which will be a new statewide unit designed to receive and disburse court ordered child support payments. A Procurement Negotiating Committee (the Committee) has been established to select a vendor and negotiate a contract on behalf of the state. This committee consists of Jim Robertson, the Administrator of CSE; John Oliver, from the Division of Information Services (DISC); and Fran Welch, purchasing Officer for the Department of Administration. A Proposal Review Team (the review team) has been organized to analyze the technical aspects of the submitted proposals. The review team will prepare a report to the Committee and make recommendations as to which proposals are suitable for further negotiations. The review team consists of two CSE employees, Jamie Corkhill and Monica Becker, as well as four representatives from OJA.

You have indicated that some concerns have arisen involving one of the proposals and three current SRS employees: Dennis and Gina Hoffman, who are husband and wife, and Jamie Corkhill. One of the proposals indicates that Gina Hoffman has been interviewed, qualified, and given a contingent offer of employment, should that particular contractor receive the contract for the KPC. You have informed us that Ms. Hoffman is currently employed by SRS in the Administrative Services Commission as director of a project to enhance the CSE mainframe computer system. Although she works closely with the CSE program and its staff, she is not within the CSE hierarchy and did not participate in drafting the terms, nor

did she furnish information for the request for proposals. In addition, she will not be involved in the award of the contract.

In Ms. Hoffman's current position with SRS, she is responsible for authorizing her staff to prepare Task Proposal Requests (TPR) to obtain needed services from prospective bidders. Under this procedure the TPR is sent to qualified vendors who then submit bids to the purchasing agent. The purchasing agent then arranges them based on cost and a selection team reviews the bids to determine if the candidates are qualified. The qualified lowest bid receives the contract. One of the vendors who has submitted a proposal for the KPC contract has been awarded a TPR contract in the past. You have informed us that Ms. Hoffman has not been involved in the preparation of any TPR's other than to authorize her staff to proceed, and she has not participated in the selection process involving this KPC bidder.

Dennis Hoffman, Gina Hoffman's husband, is the Director of the CSE Field Operations. He is not, however, a part of the Committee or the review team, and he did not participate in drafting the terms, nor did he furnish information for the request for proposals. At the time the requests for proposals were opened, however, Mr. Hoffman did supervise Monica Becker, who is a key person on the review team. SRS took immediate steps to transfer supervision of Ms. Becker from Mr. Hoffman to Jim Robertson, the CSE administrator. Jim Robertson now supervises both Ms. Becker and Mr. Hoffman.

Finally, Jamie Corkhill is a CSE attorney who is a member of the review team. Ms. Corkhill's role has been to help draft the request for proposal and to participate in analyzing the proposals for the Committee. She is not a member of the actual Committee which will select the successful bidder. One of the KPC proposals lists four companies, otherwise unaffiliated with the bidder, that the bidder has selected as "strategic business partners." The bidder does not give specifics about these relationships or use conventional terms such as "supplier" or "subcontractor." When Ms. Corkhill reviewed the list of names this vendor furnished, she realized that she has a "substantial interest," as defined by K.S.A. 46-229, in one of the bidder's proposed strategic business partners. Her interest consists entirely of corporate stock valued at more than \$5,000 but far less than 5% of the company.

Questions

I. Do either Gina or Dennis Hoffman have a substantial interest, as defined in K.S.A. 46-229, in the bidder's business by virtue of the bidder's contingent offer of employment to Gina Hoffman?

II. Have either Gina or Dennis Hoffman been substantially involved in the preparation of or participated in the making of this contract?

III. May Gina Hoffman accept immediate employment with this bidder if it were to receive the KPC contract?

IV. Has SRS adequately addressed the need to separate Mr. Hoffman from the procurement process?

V. Is it permissible for Jim Robertson to continue to serve on the Committee while continuing to supervise Dennis Hoffman?

(continued)

VI. Does Ms. Corkhill's interest in the "strategic business partner" prohibit her from being a member of the review team?

Opinion

K.S.A. 1998 Supp. 46-233(a), which involves participation in the making of contracts, applies to this situation. It states in pertinent part:

"(a) (1) No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with any person or business by which such officer or employee is employed or in whose business such officer or employee or any member of such officer's or employee's immediate family has a substantial interest and no such person or business shall enter into any contract where any state officer or employee, acting in such capacity, is a signatory to, has been substantially involved in the preparation of or is a participant in the making of such contract and is employed by such person or business or such officer or employee or any member of such officer's or employee's immediate family has a substantial interest in such person or business.

"(2) Except as otherwise provided in this subsection, whenever any individual has participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business as an employee, independent contractor or subcontractor until two years after performance of the contract is completed or until two years after the individual terminates employment as a state officer or employee, whichever is sooner. . . .

"(d) Subsections (a) and (b) shall not apply to the following:

"(1) Contracts let after competitive bidding has been advertised for by published notice; and

"(2) Contracts for property or services for which the price or rate is fixed by law."

Because you intend to issue this contract pursuant to the advertised competitive bid process, the restrictions listed in subsection (a), above, do not apply. Therefore, the Commission finds no prohibitions to the scenarios you have described.

In closing, the Commission notes that although the SRS employees may not be prohibited from participating in this contract or accepting employment with this bidder, they may wish to consider that their actions may have an appearance of impropriety.

Opinion No. 1999-35

Written September 16, 1999, to the Honorable John T. Edmonds, State Representative, Great Bend.

This opinion is in response to your letter dated August 5, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the State level governmental ethics laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you request this opinion in your capacity as a Kansas State Representative. You have informed us that you have been accepted into the Kansas University Economics Institute for Kansas Leaders (the conference) which is being organized by the Robert J. Dole Institute for Public Service and Public Policy (the

Institute) and the Law and Organizational Economics Center at the University of Kansas (the Center). The Conference will be a four day event held November 3-7, 1999. The "Facts and Information" sheet you provided indicates that the Center will cover the tuition, textbooks and other materials, group meals, and lodging at the Eldridge Hotel in Lawrence, Kansas. This conference is designed to be a "tuition-free leadership education program for Kansas Legislators" and will focus on the "foundations of market-based solutions."

We have been informed by the University that the Institute intends, over the course of the next several years, to provide this tuition-free program to a large number of public officials including legislators and their key staff personnel, city commissioners and council members, and possibly state agency employees.

Question

I. May a state legislator accept the invitation and attend the tuition-free Kansas University Economics Institute for Kansas Leaders without violating State governmental ethics laws?

Opinion

K.S.A. 46-237 applies to your question. It states in pertinent part:

"(a) No state officer or employee, candidate for state office or state officer elect shall accept, or agree to accept any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$40 or more in any calendar year from any one person known to have a special interest, under circumstances where such person knows or should know that a major purpose of the donor is to influence such person in the performance of their official duties or prospective official duties.

"(b) No person with a special interest shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of \$40 or more in any calendar year to any state officer or employee, candidate for state office or state officer elect with a major purpose of influencing such officer or employee, candidate for state office or state officer elect in the performance of official duties or prospective official duties."

Three elements must be shown before the prohibitions in these sections apply. First, the value of the gift must be \$40.00 or greater. Second, the person giving the gift must have a special interest in the person accepting the gift. And finally, the person accepting the gift must know or should have known that a major purpose of the donor was to influence such person in the performance of their official duties or prospective official duties. If any element is not met, the restrictions in the statute do not apply.

Based upon the facts presented to the Commission, it is clear that the University of Kansas intends to present the members of the Kansas Legislature with an educational opportunity consistent with its public service duties. There has been no evidence presented to the Commission to suggest that the donor has a major purpose of influencing the legislators in the performance of their official duties or prospective official duties. Therefore, the Commission determines that state legislators may accept the invitation and attend the tuition-free Kansas University Economics Institute for Kansas Leaders without violating State governmental ethics laws.

Opinion No. 1999-36

Written September 16, 1999, to the Honorable Tim Carmody, State Representative, Overland Park.

This opinion is in response to your letter of August 17, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the Campaign Finance Act (K.S.A. 25-4142 *et seq.*). We note at the outset that the Commission's jurisdiction concerning your question is limited to the application of K.S.A. 25-4142 *et seq.* Thus, whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you request this opinion in your capacity as a member of the Board of Directors of the Kansas Conservative Caucus, Inc. (the Caucus) and as a State Representative from the 16th District. You have explained that the Caucus was incorporated on August 10, 1999, as a not-for-profit corporation whose purpose is to provide research capability for legislators on issues which are the subject of legislation. The corporation has applied for federal tax exempt status under the Internal Revenue Code Section 501(c)(4). In order to receive tax exempt status under this section, the corporation must be not-for-profit and devoted only to charitable, educational, or recreational purposes. You have informed us that membership with voting rights will be limited to members and members-elect of the House of Representatives and the Senate of the State of Kansas.

Question

I. May members and members-elect of the House of Representatives and the Senate use campaign funds to pay membership dues to the Kansas Conservative Caucus, Inc.?

Opinion

K.S.A. 1998 Supp. 25-4157a is applicable to your question. In pertinent part, that statute states:

"(a) No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for:

"(2) expenses of holding political office;

"(4) any membership dues or donations paid to a community service or civic organization in the name of the candidate or candidate committee of any candidate;"

Pursuant to K.S.A. 1998 Supp. 25-4157a(a)(2), the members and members-elect of the House of Representatives and the Senate may use campaign funds to pay the membership dues if the membership dues are an expense of holding political office. Because the Legislature has at its disposal the use of Legislative Services for any research its members require, the use of the services provided by the Caucus are not a necessary expense of holding public office. Therefore, the membership dues could not be considered an expense of public office pursuant to subsection (a)(2) of K.S.A. 1998 Supp. 25-4157a.

In addition, pursuant to subsection (a)(4) of K.S.A. 1998 Supp. 25-4157a, the members and members-elect of the House of Representatives and the Senate may use campaign funds to pay the membership dues if the Caucus is a "community service or civic organization." The Caucus is a political organization, and not a "community service" or "civic" organization. Therefore, pursuant to this subsection, the legislators may not use campaign funds to pay the membership dues of the Caucus.

Opinion No. 1999-37

Written September 16, 1999, to Carl M. Anderson, Assistant Attorney General, Kansas Lottery, Topeka.

This opinion is in response to your letter of August 20, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the state level conflict of interest laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you request this opinion in your capacity as the Attorney for the Kansas Lottery. You have explained that a certain Lottery employee was a member of a twelve (12) person team that supplied information for a Request for Proposal (RFP) which was issued in July of 1996. A contract was awarded to the successful bidder on April 18, 1997. The employee at issue has now been offered employment by this contractor. You have informed a member of our staff in a telephone conversation that the eventual contract at issue was let after a competitive bid procedure pursuant to K.S.A. 74-8705(b).

Question

May this employee of the Kansas Lottery accept employment with this contractor?

Opinion

K.S.A. 1998 Supp. 46-233(a), which involves participation in the making of contracts, applies to this situation. It states in pertinent part:

"(a) (2) Except as otherwise provided in this subsection, whenever any individual has participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business as an employee, independent contractor or subcontractor until two years after performance of the contract is completed or until two years after the individual terminates employment as a state officer or employee, whichever is sooner.

"(d) Subsections (a) and (b) shall not apply to the following:

"(1) Contracts let after competitive bidding has been advertised for by published notice; and

"(2) Contracts for property or services for which the price or rate is fixed by law."

Because the contract at issue was let pursuant to an advertised competitive bid process, the restrictions listed in subsection (a)(2), above, do not apply. Therefore, the Commission finds no prohibitions to the scenario you have described.

(continued)

Opinion No. 1999-38

Written September 16, 1999, to Randall J. Forbes, Frieden, Haynes & Forbes, Topeka.

This opinion is in response to your letter of August 18, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the state level conflict of interest laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you request this opinion in your capacity as counsel for the Kansas Board of Pharmacy (KBP or the Board). You have presented us with several hypothetical situations. The basic scenario involves a situation in which a KBP board member, who is regularly employed by a large chain drug store, attends a pharmacy conference. While attending this conference, the board member is invited to a dinner hosted by an organization made up of chain pharmacies. The topics of discussion are issues of interest to chain pharmacies and pharmacists employed by chain pharmacies.

You have described several variations to this scenario:

1. In the first, the board member attends this conference in his capacity as a state board member and all other attendees are members of state boards.

2. In the second, the board member attends in his capacity as a member of the Board, but other attendees are a mix of state board members and private pharmacists.

3. Finally, the board member attends in his capacity as a private pharmacist and the other attendees are a mix of board members and private pharmacists.

For each of these scenarios you add the following variables:

1. The dinner the board member is invited to is provided as part of the convention, but sponsored by a large chain drug store.

2. The dinner is not a part of the convention, but is provided by a large chain drug store and only members of state boards are invited.

3. The dinner is not a part of the convention, but is provided by a large chain drug store and private pharmacists and members of state boards are invited.

Questions

For each of the scenarios listed above, may the KBP board member attend and consume the dinner without violating the State level conflict of interest laws?

Opinion

K.S.A. 1998 Supp. 46-237a is applicable to your question. This section applies only to the governor, the lieutenant governor, the governor's spouse, all classified employees, those unclassified employees in the executive branch whose compensation is subject to approval by the governor pursuant to K.S.A. 75-2935b, and all members of boards, commissions and authorities of the executive branch of state government. It states in pertinent part:

"(c) No person subject to the provisions of this section shall solicit or accept free or special discount meals from a source outside of state government, except:

"(1) Meals, the provision of which is motivated by a personal or family relationship or provided at events that are widely attended. An occasion is 'widely attended' when it is obvious to the person accepting the meal that the reason for providing the meal is not a pretext for exclusive or nearly exclusive access to the person;

"(2) meals provided at public events in which the person is attending in an official capacity;

"(3) meals provided to a person subject to this act when it is obvious such meals are not being provided because of the person's official position; and

"(4) food such as soft drinks, coffee or snack foods not offered as part of a meal."

As a general rule, persons subject to this statute are prohibited from accepting free or special discounted meals from a source outside of state government, unless one of the four enumerated exceptions apply. If the dinner, however, is provided as part of the convention, the board member may attend and consume the meal under any of the scenarios you have provided, so long as the meal is paid for by his registration fee. If, however, the dinner is not provided as part of the convention and therefore not covered by the registration fee, one of the enumerated exceptions to K.S.A. 1998 Supp. 46-237a(c) must apply.

In the situation where the dinner is not provided for by the registration fee and only members of state boards are invited, none of the enumerated exceptions apply. Therefore, the board member may not accept the free meal, regardless of the capacity in which he attends the conference. He may, however, attend the meeting and pay for the cost of the meal.

In the situation where the dinner is not provided for by the registration fee and a combination of private pharmacists and members of state boards are invited, the reason the board member is invited and attending will be a factor. If the board member was invited and is attending in his official capacity as a KBP Board member, he may not accept the free meal. In this situation, although he is attending in his official capacity, the function is not open to the "public." See K.S.A. 1998 Supp. 46-237a(c)(2) and Commission Opinion 97-24. Because he was invited in his official capacity, the board member may not accept the free meal, but again, may pay for the cost of the meal if he chooses to attend the dinner.

If the board member was invited and is attending in his private pharmacist capacity, and some of the other invitees are not members of State Boards, he may accept the free meal, so long as it is obvious that the meal is not being provided because of his official position. See K.S.A. 1998 Supp. 46-237a(c)(3).

It should also be noted that if the board member is invited to attend this meeting, and the foods served are beverages or snack foods which are not served as part of a "meal," pursuant to K.S.A. 1998 Supp. 46-237a(c)(4), the board member may accept the food served without violating the state ethics laws.

Opinion No. 1999-39

Written September 16, 1999, to Mary S. Hoover and Betsy Thompson, Topeka.

This opinion is in response to your letter of August 27, 1999, which was received by this office on September 9, 1999, and in which you request an opinion from the Kansas

Governmental Ethics Commission concerning the state level conflict of interest laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you are asking for this opinion in your capacities as executive level employees with the Kansas Department of Social and Rehabilitation Services (SRS). You state that in your current positions with the state, managers report directly to you concerning grants and contracts, purchasing and inventory, audit services, and information technology/project management.

You have explained that you intend to establish a part-time consulting business while continuing your employment with SRS. Your new business entity will offer consulting, training, and referral services in information technology/project management, business process re-engineering management, accounting/auditing, and elder care.

Question

May you operate this private consulting business while still employed by the State without violating any of the State Governmental Ethics laws?

Opinion

Three statutes apply to the question you have raised: K.S.A. 1998 Supp. 46-233(a), which involves participation in the making of contracts; K.S.A. 1998 Supp. 46-235, which governs restrictions on compensation of state employees; and K.S.A. 46-241, which involves the use of confidential information. Each of these statutes will be addressed in turn.

K.S.A. 1998 Supp. 46-233(a) states in pertinent part:

"(a)(1) No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with any person or business by which such officer or employee is employed. . . ."

"(2) Except as otherwise provided in this subsection, whenever any individual has participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business as an employee, independent contractor or subcontractor until two years after performance of the contract is completed or until two years after the individual terminates employment as a state officer or employee, whichever is sooner. . . ."

Under subsection (a)(1) of this provision, you would be prohibited, as state employees, from being substantially involved in the preparation of or participation in the making of a non-competitively bid contract with the business by which you will be employed. Additionally, under subsection (a)(2) you would be prohibited from accepting employment as an employee, independent contractor, subcontractor or as a consultant with a company, if either of you, as state employees, had participated in the making of any non-competitively bid contract with that company during the preceding two years.

K.S.A. 1998 Supp. 46-235 states in pertinent part:

"No state officer or employee shall accept compensation for performance of official duties, other than that to which such person is entitled for such performance. . . . The receipt of wages or salary from an individual's non-state employer during a period of service as a state officer or employee shall not be construed as compensation for performance of official duties."

Pursuant to this statute, so long as it is not part of your current state duties to perform the type of services you plan to offer in your new enterprise, K.S.A. 1998 Supp. 46-235 would not prohibit you from operating this business.

Finally, K.S.A. 46-241 states:

"No state officer or employee shall disclose or use confidential information acquired in the course of his or her official duties in order to further his or her own economic interest or those of any other person."

This section is self-explanatory. Confidential information obtained during your official duties with the state may not be used for your financial gain or the financial gain of another.

In conclusion, K.S.A. 1998 Supp. 46-233(a)(1) would prohibit you, as state employees, from being substantially involved in the preparation of or participation in the making of a contract between the state and the business by which you will be employed. Additionally, under subsection (a)(2), you would be prohibited from accepting employment as an employee, independent contractor, subcontractor or as a consultant with a company, if either of you, as state employees, had participated in the making of any contract with that company during the preceding two years. Pursuant to K.S.A. 46-235, so long as it is not part of your current state duties to perform the type of services you plan to offer in your new enterprise, K.S.A. 1998 Supp. 46-235 would not prohibit you from operating this business. Finally, confidential information obtained during your official duties with the state may not be used for your financial gain or the financial gain of another.

Opinion No. 1999-40

Written September 16, 1999, to Micki Healy, City Administrator, Towanda.

This opinion is in response to your letter of September 8, 1999, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the local conflict of interest laws (K.S.A. 75-4301 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 75-4301 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

We understand that you request this opinion in your capacity as the Towanda City Administrator. You have informed us that a Towanda City Council member has been elected as a member of the local U.S.D. 375 school board. In addition, this city council member is employed by U.S.D. 375 as a secretary to one of the school administrators. In the summer of 1998, the City entered into a contract agreement with U.S.D. 375 for a school resource officer. Pursuant to this agreement, the City provides a commissioned officer to the school. The City and U.S.D. 375 are now renegotiating the terms of this contract.

In addition, the City initiated a unilateral annexation process after this member was sworn into office on the school board. One of the four tracts of land presented to the council for annexation consideration contained land owned by U.S.D. 375. This council member participated in the vote concerning annexation of this land.

Finally, you note that the City and U.S.D. 375 have overlapping taxation jurisdictions and, therefore, you question

(continued)

whether this council member may participate in the discussion of and vote on the City's budgets.

Questions

I. May the Towanda City Council member participate in the discussion of and vote on the contract between the City and U.S.D. 375 for a resource officer?

II. May the Towanda City Council member participate in the discussion of and vote on the annexation of land owned by U.S.D. 375?

III. May the Towanda City Council member participate in the discussion of and vote on the City's budgets?

IV. May this person legally be elected to both the City Council and the School Board at the same time?

Opinion

In this individual's capacity as a Towanda City Council member and as a U.S.D. 375 Board Member, he or she is governed by the local level conflict of interest laws (K.S.A. 75-4301 *et seq.*). K.S.A. 75-4304 prohibits a local official from participating in his or her capacity as a local official in the making of contracts in which that official has a substantial interest. It states in pertinent part:

"(a) No local governmental officer or employee shall, in the capacity of such an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest." (Emphasis added.)

The absolute abstention requirement of K.S.A. 75-4304 is triggered only in situations where the local governmental officer, in the capacity as a governmental officer, makes or participates in the making of a contract with a person or business by which the officer is employed or in whose business the officer has a substantial interest. K.S.A. 75-4301a(b) defines a "business" as "any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income." This definition does not include a "governmental agency unit" or "governmental subdivision" and the term "person" is not defined in the local conflict laws.

Thus, this Commission has consistently held that under the local level conflict of interest laws a "substantial interest" cannot be held in units of government.

Because this person does not have a substantial interest in either the City Council or the School Board, the prohibitions in K.S.A. 75-4304 do not apply. Therefore, there are no statutory restrictions which prohibit this person from voting on contractual issues between the City and the School Board or participating in discussions of, and voting on, the annexation of land owned by U.S.D. 375.

In addition, this Commission has consistently held that K.S.A. 75-4304 does not generally cover legislative decisions or administrative decisions such as those made by Planning Commissions, Boards of Zoning Appeals, or City Councils dealing with legislative matters. (See Commission Opinions 1999-05, 1998-20 and 1994-38.) Therefore, there are no prohibitions against this person voting as a City Council member or as a School Board member on either entity's budget or other legislative matter.

Finally, you have asked whether this person may legally be elected to both the City Council and the School Board at the same time. We have reviewed the local level conflict of interest laws in K.S.A. 75-4301 *et seq.*, and found nothing which would prohibit the scenario you have described. We would remind you, however, that whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

In conclusion, because this person does not have a substantial interest in either the City Council or the School Board, and because K.S.A. 75-4304 does not generally cover legislative decisions, there are no prohibitions against this person voting on contractual issues between the City and the School Board; participating in discussions of and voting on the annexation of land owned by U.S.D. 375; or participating in discussions of and voting on either entity's budget or other legislative matters.

Daniel Severt
Chairman

Doc. No. 024916

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the index to the 1997 Volumes of the *Kansas Administrative Regulations* and the 1999 Supplement to the *Kansas Administrative Regulations*.

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1-2-30	Amended	V. 18, p. 1337
1-2-74	New	V. 18, p. 1337

1-2-84	Amended	V. 18, p. 1337
1-2-84a	New	V. 18, p. 1337
1-2-84b	New	V. 18, p. 1338
1-4-8	Amended	V. 18, p. 1338
1-5-22	Amended	V. 18, p. 1338
1-6-25	Amended	V. 18, p. 1338
1-6-32	Amended	V. 18, p. 1339
1-8-6	Amended	V. 18, p. 1339
1-9-2	Amended	V. 18, p. 1340
1-9-7b	Amended (T)	V. 18, p. 1748
1-9-14	Amended (T)	V. 18, p. 1390
1-9-19a	Amended	V. 18, p. 1341
1-9-23	Amended (T)	V. 19, p. 243
1-9-25	Amended	V. 18, p. 1342
1-10-10	New	V. 18, p. 1344
1-10-11	New	V. 18, p. 1345
1-16-18	Amended	V. 18, p. 869
1-16-18a	Amended	V. 18, p. 869
1-18-1a	Amended	V. 18, p. 871

AGENCY 4: DEPARTMENT OF AGRICULTURE

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4-7-216	New	V. 19, p. 118
4-20-11	Amended	V. 18, p. 418
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7-35-1	Amended	V. 18, p. 1879
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7-35-2	Amended	V. 18, p. 1879
7-40-1	New	V. 18, p. 1148

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11-7-10	Amended	V. 18, p. 1811
11-7-11 through 11-7-15	New	V. 18, p. 1811, 1812
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AGENCY 17: STATE BANK COMMISSIONER

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17-24-2	New	V. 18, p. 956

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22-19-4a	New	V. 18, p. 1171

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26-2-7	Amended	V. 18, p. 1880
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26-3-1	Amended	V. 18, p. 1881
26-3-3	Revoked	V. 18, p. 1882
26-3-5	Amended	V. 18, p. 1882
26-8-4	Revoked	V. 18, p. 1882

AGENCY 27: STATE CORPORATION COMMISSION (KANSAS ENERGY OFFICE)

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28-39-145	Revoked	V. 18, p. 1395
28-39-145a	New	V. 18, p. 1395
28-39-152	Amended	V. 18, p. 1397
28-39-160	Amended	V. 18, p. 1399
28-39-161	Amended	V. 18, p. 1400
28-39-162a	Amended	V. 18, p. 1401
28-39-162c	Amended	V. 18, p. 1405
28-39-163	Amended	V. 18, p. 1410
28-39-240	Amended	V. 18, p. 1412
28-39-245	Amended	V. 18, p. 1413
28-39-247	Amended	V. 18, p. 1414
28-39-275 through 28-39-291	New	V. 18, p. 1416-1423
28-39-300 through 28-39-312	Revoked	V. 18, p. 1423
28-39-425 through 28-39-437	New	V. 18, p. 1423-1429
28-50-1	Amended	V. 18, p. 1353
28-50-2	Amended	V. 18, p. 1355
28-50-4	Amended	V. 18, p. 1356
28-50-5	Amended	V. 18, p. 1356
28-50-6	Amended	V. 18, p. 1356
28-50-7	Revoked	V. 18, p. 1358
28-50-8	Amended	V. 18, p. 1358
28-50-9	Amended	V. 18, p. 1359
28-50-10	Amended	V. 18, p. 1363
28-50-14	Amended	V. 18, p. 1363
28-65-1	Amended	V. 18, p. 682
28-65-2	Amended	V. 18, p. 683
28-65-3	Amended	V. 18, p. 683
28-72-1	New(T)	V. 18, p. 1459
28-72-1	New	V. 18, p. 1888
28-72-2	New (T)	V. 18, p. 1462
28-72-2	New	V. 18, p. 1891
28-72-3	New (T)	V. 18, p. 1462
28-72-3	New	V. 18, p. 1891
28-72-4	New (T)	V. 18, p. 1463
28-72-4	New	V. 18, p. 1892
28-72-4a	New (T)	V. 18, p. 1466
28-72-4a	New	V. 18, p. 1895
28-72-4b	New (T)	V. 18, p. 1468
28-72-4b	New	V. 18, p. 1897
28-72-4c	New (T)	V. 18, p. 1470
28-72-4c	New	V. 18, p. 1898
28-72-5	New (T)	V. 18, p. 1471
28-72-5	New	V. 18, p. 1900
28-72-6	New (T)	V. 18, p. 1473
28-72-6	New	V. 18, p. 1902
28-72-7	New (T)	V. 18, p. 1475
28-72-7	New	V. 18, p. 1904
28-72-8	New (T)	V. 18, p. 1476

28-72-8	New	V. 18, p. 1905
28-72-9	New (T)	V. 18, p. 1478
28-72-9	New	V. 18, p. 1907
28-72-10	New (T)	V. 18, p. 1480
28-72-10	New	V. 18, p. 1909
28-72-11	New (T)	V. 18, p. 1481
28-72-11	New	V. 18, p. 1910
28-72-12	New (T)	V. 18, p. 1482
28-72-12	New	V. 18, p. 1911
28-72-13	New (T)	V. 18, p. 1483
28-72-13	New	V. 18, p. 1912
28-72-14	New (T)	V. 18, p. 1483
28-72-14	New	V. 18, p. 1912
28-72-15	New (T)	V. 18, p. 1484
28-72-15	New	V. 18, p. 1913
28-72-16	New (T)	V. 18, p. 1484
28-72-16	New	V. 18, p. 1913
28-72-17	New (T)	V. 18, p. 1485
28-72-17	New	V. 18, p. 1914
28-72-18	New (T)	V. 18, p. 1486
28-72-18	New	V. 18, p. 1915
28-72-18a	New (T)	V. 18, p. 1487
28-72-18a	New	V. 18, p. 1916
28-72-18b	New (T)	V. 18, p. 1487
28-72-18b	New	V. 18, p. 1916
28-72-18c	New (T)	V. 18, p. 1488
28-72-18c	New	V. 18, p. 1917
28-72-18d	New (T)	V. 18, p. 1489
28-72-18d	New	V. 18, p. 1918
28-72-18e	New (T)	V. 18, p. 1490
28-72-18e	New	V. 18, p. 1919
28-72-19	New (T)	V. 18, p. 1491
28-72-19	New	V. 18, p. 1920
28-72-20	New (T)	V. 18, p. 1491
28-72-20	New	V. 18, p. 1920
28-72-21	New (T)	V. 18, p. 1491
28-72-21	New	V. 18, p. 1920
28-72-22	New (T)	V. 18, p. 1491
28-72-22	New	V. 18, p. 1920

AGENCY 30: SOCIAL AND REHABILITATION SERVICES

Reg. No.	Action	Register
30-2-12	Amended	V. 18, p. 271
30-2-16	Amended	V. 18, p. 895
30-4-64	Amended	V. 18, p. 1722
30-6-59	Revoked	V. 18, p. 895
30-6-86	Amended	V. 18, p. 895
30-6-103	Amended	V. 18, p. 896
30-14-30	Amended	V. 18, p. 896
30-44-2	Amended	V. 18, p. 1843

AGENCY 36: DEPARTMENT OF TRANSPORTATION (BY DEPARTMENT OF EDUCATION)

Reg. No.	Action	Register
36-13-20	Revoked	V. 18, p. 1823
36-13-30 through 36-13-35	Revoked	V. 18, p. 1823
36-13-37	Revoked	V. 18, p. 1823
36-13-38	Revoked	V. 18, p. 1823
36-13-39	Revoked	V. 18, p. 1823

AGENCY 40: KANSAS INSURANCE DEPARTMENT

Reg. No.	Action	Register
40-2-26	Amended	V. 18, p. 1058
40-3-33	Amended	V. 18, p. 1016
40-4-34	Amended	V. 18, p. 124
40-4-35	Amended (T)	V. 18, p. 358
40-4-35	Amended	V. 18, p. 1148
40-4-42	New	V. 18, p. 1883
40-4-42a	New	V. 18, p. 1883
40-4-42b	New	V. 18, p. 1884
40-4-42c	New	V. 18, p. 1884
40-4-42d	New	V. 18, p. 1885
40-4-42e	New	V. 18, p. 1886
40-4-42f	New	V. 18, p. 1887
40-4-42g	New	V. 18, p. 1887

AGENCY 44: DEPARTMENT OF CORRECTIONS

Reg. No.	Action	Register
44-1-103	Amended	V. 18, p. 390

AGENCY 45: KANSAS PAROLE BOARD

Reg. No.	Action	Register
45-9-1	Amended	V. 18, p. 1597
45-9-2	Amended	V. 18, p. 1597

(continued)

45-9-3 Amended V. 18, p. 1598
 45-9-4 New (T) V. 18, p. 1034
 45-9-4 New V. 18, p. 1599

AGENCY 51: DEPARTMENT OF HUMAN RESOURCES—DIVISION OF WORKERS COMPENSATION

Reg. No.	Action	Register
51-9-7	Amended	V. 18, p. 1170

AGENCY 60: BOARD OF NURSING

Reg. No.	Action	Register
60-3-101	Amended	V. 18, p. 51
60-3-106	Amended	V. 18, p. 51
60-7-101	Amended	V. 18, p. 52
60-16-101	Amended	V. 18, p. 1558
60-16-102	Amended	V. 18, p. 1558
60-16-104	Amended	V. 18, p. 1559

AGENCY 63: BOARD OF MORTUARY ARTS

63-4-1	Amended	V. 18, p. 1650
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AGENCY 65: BOARD OF EXAMINERS IN OPTOMETRY

Reg. No.	Action	Register
65-5-10	Amended	V. 18, p. 1727
65-9-1	Amended	V. 18, p. 357
65-10-2	Amended	V. 18, p. 357
65-11-3	Amended	V. 18, p. 357

AGENCY 66: BOARD OF TECHNICAL PROFESSIONS

Reg. No.	Action	Register
66-6-4	Amended	V. 19, p. 69
66-6-6	Amended	V. 19, p. 70
66-7-2	Amended	V. 19, p. 70
66-8-7	New	V. 19, p. 70
66-9-4	Amended	V. 19, p. 71
66-9-6	New	V. 19, p. 71
66-10-12	Amended	V. 19, p. 71
66-10-13	New	V. 19, p. 71
66-11-4	New	V. 19, p. 72
66-12-1	Amended	V. 19, p. 72
66-14-1	Amended	V. 19, p. 72
66-14-6	Amended	V. 19, p. 72

AGENCY 68: BOARD OF PHARMACY

Reg. No.	Action	Register
68-2-12a	Amended	V. 18, p. 1813
68-2-20	Amended	V. 18, p. 1813
68-2-22	Amended	V. 18, p. 1814
68-3-5	New	V. 18, p. 1309
68-3-6	New	V. 18, p. 1309
68-5-15	New	V. 18, p. 993
68-7-11	Amended	V. 18, p. 1814
68-7-12	Amended	V. 18, p. 1815
68-7-18	Amended	V. 18, p. 994
68-7-19	Amended	V. 18, p. 994
68-11-1	Amended	V. 18, p. 81
68-14-1	Amended	V. 18, p. 1019
68-14-2 through 68-14-5	Amended	V. 18, p. 996, 997
68-14-7	Amended	V. 18, p. 997
68-14-8	New	V. 18, p. 998
68-15-1	New	V. 18, p. 998
68-15-2	New	V. 18, p. 1309
68-15-4	New	V. 18, p. 1309
68-20-10	Amended	V. 18, p. 1816
68-20-10a	Amended	V. 18, p. 1819
68-20-15a	Amended	V. 18, p. 1819
68-20-16	Amended	V. 18, p. 1820
68-20-17	Amended	V. 18, p. 1820
68-20-18	Amended	V. 18, p. 1820
68-20-19	Amended	V. 18, p. 1821
68-20-21	Amended	V. 18, p. 1822

AGENCY 71: KANSAS DENTAL BOARD

Reg. No.	Action	Register
71-1-18	Amended	V. 18, p. 1844
71-3-7	New	V. 18, p. 104
71-6-1 through 71-6-6	New	V. 18, p. 104, 105

AGENCY 74: BOARD OF ACCOUNTANCY

Reg. No.	Action	Register
74-4-10	Amended	V. 18, p. 1238
74-5-103	Amended	V. 18, p. 1238

74-5-104 Amended V. 18, p. 1238
 74-5-202 Amended V. 18, p. 1239
 74-5-203 Amended V. 18, p. 1240
 74-5-406 Amended V. 18, p. 1240
 74-11-6 Amended V. 18, p. 1240
 74-12-1 Amended V. 18, p. 1271

AGENCY 80: KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

Reg. No.	Action	Register
80-1-1	Amended	V. 18, p. 1230
80-1-2	Amended	V. 18, p. 1230
80-1-3	Amended	V. 18, p. 1230
80-1-4	Revoked	V. 18, p. 1230
80-1-5	Amended	V. 18, p. 1230
80-1-6	Amended	V. 18, p. 1231
80-1-9	Amended	V. 18, p. 1231
80-1-10	Amended	V. 18, p. 1231
80-1-11	Amended	V. 18, p. 1231
80-1-12	Revoked	V. 18, p. 1231
80-2-1	Amended	V. 18, p. 1231
80-3-1	Revoked	V. 18, p. 1232
80-3-2	Revoked	V. 18, p. 1232
80-3-4	Amended	V. 18, p. 1232
80-3-5	Revoked	V. 18, p. 1232
80-3-6	Revoked	V. 18, p. 1232
80-3-8	Revoked	V. 18, p. 1232
80-3-9	Amended	V. 18, p. 1232
80-3-13	Revoked	V. 18, p. 1232
80-3-15	Amended	V. 18, p. 1232
80-3-16	Amended	V. 18, p. 1232
80-4-1	Amended	V. 18, p. 1233
80-4-2	Revoked	V. 18, p. 1233
80-4-3	Revoked	V. 18, p. 1233
80-4-4	Amended	V. 18, p. 1233
80-4-5	Revoked	V. 18, p. 1233
80-4-6	Revoked	V. 18, p. 1233
80-5-1	Amended	V. 18, p. 1233
80-5-2	Revoked	V. 18, p. 1233
80-5-3	Revoked	V. 18, p. 1233
80-5-6	Amended	V. 18, p. 1233
80-5-7	Revoked	V. 18, p. 1234
80-5-9	Amended	V. 18, p. 1234
80-5-10	Amended	V. 18, p. 1234
80-5-11	Amended	V. 18, p. 1234
80-5-12	Revoked	V. 18, p. 1234
80-5-13	Amended	V. 18, p. 1234
80-5-14	Revoked	V. 18, p. 1234
80-5-15	Amended	V. 18, p. 1234
80-5-16	Amended	V. 18, p. 1235
80-5-18	Amended	V. 18, p. 1235
80-7-1	Amended	V. 18, p. 1235
80-8-2	Amended	V. 18, p. 1236
80-8-7	Amended	V. 18, p. 1236
80-50-1	Revoked	V. 18, p. 1236
80-50-2	Amended	V. 18, p. 1236
80-50-3	Amended	V. 18, p. 1236
80-50-4	Revoked	V. 18, p. 1236
80-50-5	Revoked	V. 18, p. 1236
80-50-6	Amended	V. 18, p. 1236
80-50-8	Revoked	V. 18, p. 1237
80-51-1	Revoked	V. 18, p. 1237
80-51-2	Revoked	V. 18, p. 1237
80-51-3	Revoked	V. 18, p. 1237
80-51-4	Amended	V. 18, p. 1237
80-51-5	Revoked	V. 18, p. 1237
80-51-7	Revoked	V. 18, p. 1237
80-52-1	Revoked	V. 18, p. 1237
80-52-2	Revoked	V. 18, p. 1237
80-52-3	Revoked	V. 18, p. 1237
80-53-2 through 80-53-6	Revoked	V. 18, p. 1237
80-54-1 through 80-54-4	Revoked	V. 18, p. 1237
80-55-1 through 80-55-4	Revoked	V. 18, p. 1237
80-55-8	Amended	V. 18, p. 1237

AGENCY 82: STATE CORPORATION COMMISSION

Reg. No.	Action	Register
82-1-221a	New	V. 18, p. 231
82-1-221b	New	V. 18, p. 232
82-1-228	Amended	V. 18, p. 232
82-1-235	Amended	V. 18, p. 233
82-3-101	Amended	V. 18, p. 273

82-3-401b New V. 18, p. 276
 82-3-408 Amended V. 18, p. 276
 82-3-900 through 82-3-908 New V. 18, p. 276, 277
 82-4-3 Amended (T) V. 18, p. 1391
 82-4-3 Amended V. 19, p. 208
 82-11-3 Amended V. 18, p. 234
 82-11-4 Amended V. 18, p. 234
 82-11-9 Amended V. 18, p. 238
 82-11-10 Amended V. 18, p. 239
 82-11-11 New V. 18, p. 239
 82-12-2 Amended V. 18, p. 239

AGENCY 86: REAL ESTATE COMMISSION

Reg. No.	Action	Register
86-1-11	Amended	V. 18, p. 1291

AGENCY 88: BOARD OF REGENTS

Reg. No.	Action	Register
88-23-1 through 88-23-6	New	V. 19, p. 41-43

AGENCY 91: DEPARTMENT OF EDUCATION

Reg. No.	Action	Register
91-31-16	Amended	V. 18, p. 1171
91-31-18	Amended	V. 18, p. 1172
91-31-19	Amended	V. 18, p. 1309
91-31-24	Amended	V. 18, p. 1173
91-38-1 through 91-38-10	New	V. 18, p. 1823-1828

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

Reg. No.	Action	Register
99-25-1	Amended	V. 18, p. 189

AGENCY 100: BOARD OF HEALING ARTS

Reg. No.	Action	Register
100-6-2	Amended (T)	V. 18, p. 1747
100-6-2	Amended	V. 19, p. 241
100-10a-1	Amended	V. 19, p. 241
100-10a-3	Amended	V. 19, p. 241
100-11-5	Revoked	V. 18, p. 1230
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
102-4-10a	Amended	V. 18, p. 1556
102-5-7a	Amended	V. 18, p. 1520

AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES

Reg. No.	Action	Register
105-1-1	Amended	V. 18, p. 1141
105-2-1	Amended	V. 18, p. 1142
105-3-1	Amended	V. 18, p. 1142
105-3-2	Amended	V. 18, p. 1142
105-3-4	Revoked	V. 18, p. 1143
105-3-5	Amended	V. 18, p. 1143
105-3-8	Revoked	V. 18, p. 1143
105-3-9	Amended	V. 18, p. 1143
105-3-11	Amended	V. 18, p. 1144
105-3-12	Amended	V. 18, p. 1144
105-5-2	Amended	V. 18, p. 1144
105-5-3	Amended	V. 18, p. 1144
105-5-6	Amended	V. 18, p. 1144
105-5-7	Amended	V. 18, p. 1145
105-5-8	Amended	V. 18, p. 1145
105-6-2	Amended	V. 18, p. 1145
105-7-2	Amended	V. 18, p. 1146
105-7-4 through 105-7-9	Amended	V. 18, p. 1146
105-8-1	Amended	V. 18, p. 1146
105-8-2	Amended	V. 18, p. 1146
105-8-3	Amended	V. 18, p. 1146
105-10-1a	Amended	V. 18, p. 1147
105-10-3	Amended	V. 18, p. 1147
105-10-5	Amended	V. 18, p. 1147
105-21-3	Amended	V. 18, p. 1147
105-21-6	Amended	V. 18, p. 1147
105-31-4	Revoked	V. 18, p. 1147

AGENCY 108: STATE EMPLOYEES HEALTH CARE COMMISSION

Reg. No.	Action	Register
108-1-3	New (T)	V. 18, p. 1392
108-1-3	New	V. 19, p. 68

AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES

Reg. No.	Action	Register
109-1-1	Amended	V. 18, p. 1650
109-5-1	Amended	V. 18, p. 1653
109-5-2	Amended	V. 18, p. 1654
109-5-3	Amended	V. 18, p. 1654
109-5-4	Amended	V. 18, p. 1655
109-6-2	Amended	V. 18, p. 1655
109-9-1	Amended	V. 18, p. 1656
109-9-2	Revoked	V. 18, p. 1656
109-4-4	Amended	V. 18, p. 1656
109-9-5	Revoked	V. 18, p. 1657
109-10-1	Amended	V. 18, p. 1657
109-10-2	Amended	V. 18, p. 1658
109-10-6	New	V. 18, p. 1660
109-11-1	Amended	V. 18, p. 1662
109-11-2	Revoked	V. 18, p. 1662
109-11-3	Amended	V. 18, p. 1662
109-11-4	Amended	V. 18, p. 1663
109-11-5	Amended	V. 18, p. 1664
109-11-6	Amended	V. 18, p. 1664
109-12-1	Revoked	V. 18, p. 1665
109-12-2	Revoked	V. 18, p. 1665
109-13-1	Amended	V. 18, p. 1666
109-13-3	Revoked	V. 18, p. 1666

AGENCY 111: KANSAS LOTTERY

A complete index listing all regulations filed by the Kansas Lottery from 1988 through 1999 can be found in the Vol. 18, No. 52, December 30, 1999 Kansas Register. The regulations listed below were published after December 31, 1999.

Reg. No.	Action	Register
111-2-66	Revoked	V. 19, p. 14
111-2-84	Revoked	V. 19, p. 14

111-2-95	Amended	V. 19, p. 174
111-2-100	New	V. 19, p. 14
111-2-101	New	V. 19, p. 15
111-2-102	New	V. 19, p. 174
111-2-104	New	V. 19, p. 15
111-2-105	New	V. 19, p. 16
111-2-106	New	V. 19, p. 16
111-2-107	New	V. 19, p. 174
111-2-108	New	V. 19, p. 175
111-2-109	New	V. 19, p. 175
111-3-1	Amended	V. 19, p. 176
111-3-12	Amended	V. 19, p. 16
111-3-20	Amended	V. 19, p. 17
111-3-35	Amended	V. 19, p. 177
111-4-1594	Amended	V. 19, p. 17
111-4-1595	Amended	V. 19, p. 17
111-4-1597	Amended	V. 19, p. 18
111-4-1598	Amended	V. 19, p. 18
111-4-1621		
through		
111-4-1636	New	V. 19, p. 177-181
111-4-1617	Amended	V. 19, p. 19
111-4-1637		
through		
111-4-1649	New	V. 19, p. 19-22

AGENCY 112: KANSAS RACING AND GAMING COMMISSION

Reg. No.	Action	Register
112-6-4a	New	V. 18, p. 1458
112-7-21	Amended	V. 19, p. 118
112-10-6	Amended	V. 18, p. 954
112-10-38	Amended	V. 19, p. 119
112-18-22	Amended	V. 19, p. 119

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

115-5-2	Amended	V. 18, p. 1723
115-7-1	Amended	V. 18, p. 1334
115-7-5	Amended	V. 18, p. 1334
115-8-6	Amended	V. 18, p. 1724
115-11-2	Amended	V. 18, p. 484
115-15-1	Amended	V. 18, p. 1724
115-15-2	Amended	V. 18, p. 1725
115-16-4	Amended	V. 18, p. 780
115-17-21	New	V. 18, p. 781
115-18-4	Amended	V. 18, p. 1334
115-18-7	Amended	V. 18, p. 1335
115-18-13	Amended	V. 18, p. 1336
115-18-14	Amended	V. 18, p. 1336
115-18-16	New (T)	V. 19, p. 242
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
117-7-1	Amended	V. 19, p. 41
117-8-1	Amended	V. 18, p. 995
117-9-1	Amended	V. 19, p. 41

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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