



Kansas Register

Ron Thornburgh, Secretary of State

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City of Independence, Kansas

Notice of Proposed DBE Program

The city of Independence has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, for the Independence Municipal Airport. The city anticipates receiving federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the city will sign an assurance that it will comply with 49 CFR Part 26.

The city's project-specific goal in FY 2004 is 6.2 percent of federal financial assistance.

The proposed DBE Program is available for public inspection and comment at the Independence City Hall. The city will accept comments on the goals for 45 days from the date of this notice. Comments may be sent to Anthony Royse, City Clerk, 120 N. 6th, Independence, 67301.

Anthony D. Royse
Independence City Clerk

Doc. No. 030719

State of Kansas

State Employees Health Care Commission

Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 10 a.m. Tuesday, July 27, in Room 108, Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of a proposed regulation of the Kansas State Employees Health Care Commission on a permanent basis.

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 rule and regulation. All interested parties may submit written comments prior to the hearing to Linda DeCoursey, Health Benefits Administrator, Department of Administration, Room 920N, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612-1251. 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 that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed 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) 296-6006 or 1-800-296-4798 (TTY). The north entrance to the Landon State Office Building is accessible. Handicapped parking is located at the south end of the building, across the street from the north entrance to the building, and on Ninth Street, just around the corner from the north entrance.

Copies of the proposed regulation and the associated economic impact statement may be obtained from the Health Benefits Administrator at the address above, (785) 296-6280, or viewed at <http://da.state.ks.us/hcc/default.htm>. Summaries of the proposed regulation and its economic impact follow:

K.A.R. 108-1-1 provides the eligibility requirements for participants in the state of Kansas health care benefits program established by the Kansas State Employees Health Care Commission, including the following categories of participants: (1) active participants; (2) direct bill participants; (3) COBRA participants; and (4) eligible dependent participants. K.A.R. 108-1-1(b)(3) defines the term "active participants" to include several classes of persons, including "any person engaged in a postgraduate residency training program in medicine at the University of Kansas Medical Center, but not including student employees of a state institution of higher learning."

A proposed amendment to paragraph (b)(3) of K.A.R. 108-1-1 would specifically authorize participation in the state employee health insurance plan for postgraduate residents and interns in veterinary medicine at KSU. Although they are not explicitly listed in the current regulation, past practice at KSU has been to consider the residents and interns as unclassified "employees" who otherwise meet enrollment criteria. The College of Veterinary Medicine and KSU desire to continue providing health insurance benefits to this group to ensure recruitment equity with other postgraduate veterinary medicine programs. This amendment would offer the veterinary residents and interns benefits that are comparable to those afforded to medical residents at the University of Kansas.

In addition to the amendment recognizing the eligibility of the veterinary residents and interns, several other amendments are proposed that are nonsubstantive in nature. These amendments consist of clarifications, technical revisions or other revisions to ensure consistency and coordination between K.A.R. 108-1-1 and K.A.R. 108-1-3 and 108-1-4, but will not result in any change in policy or practice.

The substantive amendment regarding the KSU postgraduate veterinary medicine program is expected to reinforce the positive economic impact that eligibility for the state employee health insurance has on KSU's ability to recruit veterinary medicine postgraduates to positions within its residency/intern program, as well as the positive economic impact that eligibility has on the residents and interns and their dependents. As the proposed amendments are intended to confirm an existing employment practice, the amendment is not anticipated to have an economic impact on the HCC or its staff, other participants in the state health care benefits program, other state agencies or the general public.

Linda DeCoursey
Health Benefits Administrator

Doc. No. 030731

State of Kansas

Social and Rehabilitation Services

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 10 a.m. Tuesday, August 3, in the SRS board room, Docking State Office Building, 915 S.W. Harrison, Topeka, to consider the adoption of amendments to an existing rule and regulation on a permanent basis effective 15 days after publication in the Kansas Register. Telephone conference will not be available.

This 60-day notice of the public hearing shall constitute a public comment period for the proposed regulation. All interested parties may submit written comments prior to or during the public 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.

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 Hope Burns at (785) 296-3274 or by calling the Kansas Relay Center at 1-800-766-3777.

The adoption of the regulation will take place at 9 a.m. Friday, August 6, in the SRS executive conference room, 603-N, Docking State Office Building.

Copies of the regulation and the economic impact statement may be obtained by contacting Hope Burns. A summary of the proposed regulation and the economic impact follows:

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

30-5-71. Co-payment requirements. This regulation is being amended so that program recipients over age 18, but under age 21, in out-of-home placements and in state custody will be exempted from co-payment charges.

Federal Mandate: This regulation change is not federally mandated.

Economic Impact: It is anticipated the fiscal impact would be \$1,080 FFP and \$720 SGF in both FY 2004 and 2005.

Bearer of Cost: Medicaid.

Affected Parties: Medicaid recipients and providers.

Other Methods: There were no other appropriate methods for the desired outcome.

Janet Schalansky
Secretary of Social and
Rehabilitation Services

Doc. No. 030714

(Published in the Kansas Register May 27, 2004.)

City of Marysville, Kansas

Notice of Proposed DBE Program

The city of Marysville has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, for the Marysville Municipal Airport. The city of Marysville anticipates receiving federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the city of Marysville will sign an assurance that it will comply with 49 CFR Part 26.

The city's project-specific goal for FY 2004 is 3.89 percent of federal financial assistance.

The proposed DBE Program is available for public inspection and comment at the office of the city clerk at the Marysville City Hall. The city of Marysville will accept comments on the goals for 45 days from the date of this notice. Comments may be sent to Rick Shain, City Administrator, 209 N. Eighth St., Marysville, 66508.

Rick Shain
DBE Liaison Officer

Doc. No. 030745

State of Kansas

Department of Administration
Division of Purchases

Notice to Bidders

Sealed bids for items listed will be received by the Director of Purchases until 2 p.m. on the date indicated. For more information, call (785) 296-2113:

06/07/2004	07434	Miscellaneous Groceries, Canned and Frozen Foods
06/07/2004	07439	Janitorial Services
06/09/2004	07453	Cleaning Chemicals, Supplies and Equipment
06/16/2004	07400	Subscription Library of CBT
06/16/2004	07447	Mailing of Tax Booklets

The above referenced bid documents can be downloaded at the following Web site:

<http://da.state.ks.us/purch/rfq/>

Additional files may be located at the following Web site (please monitor this Web site on a regular basis for any changes/addenda):

<http://da.state.ks.us/purch/adds/default/htm>

Contractors wishing to bid on the projects listed below must be prequalified. For more information about the prequalification process, call (785) 296-8899. The following bid documents may be obtained by calling (785) 296-8899:

06/17/2004	A-9496r	Reroofing and Parapet Repair
06/17/2004	A-9849	Reroofing and Parapet Repair

Keith Meyers
Director of Purchases

Doc. No. 030743

State of Kansas

Legislature

Interim Committee Schedule

The following committee meetings have been scheduled for May 27. Requests for accommodation to participate in committee meetings should be made at least two working days in advance of the meeting by contacting Legislative Administrative Services at (785) 296-2391 or TTY (785) 296-8430. When available, agendas can be found at <http://kslegislature.org/klrd>.

Date	Room	Time	Committee	Agenda
May 27	514-S	9:00 a.m.	Joint Committee on Administrative Rules and Regulations	Review of the rules and regulations proposed for adoption by Dept. of Agriculture, Board of Healing Arts, Behavioral Sciences Regulatory Board, Real Estate Appraisal Board, Kansas Insurance Dept., and Kansas Dept. of Health and Environment. Please note: 10:00 a.m. recess for Sine Die.
May 27	526-S	Upon adjournment of 2nd Chamber	Joint Committee on Information Technology	Review interim topics and report from Legislative Chief Information Technology Officer.
May 27	123-S	9:15 a.m.	Legislative Coordinating Council	Legislative matters.

Jeffrey M. Russell
Director of Legislative
Administrative Services

Doc. No. 030733

State of Kansas

Council on Developmental Disabilities

Notice of Available Grant Funding

The Kansas Council on Development Disabilities (KCDD) announces the availability of federal funds to be invested in State Plan activities outlined below. Projects listed may be approved for grants for up to one year. Recipients are required to provide a 25 percent nonfederal match for the project. In-kind contributions may be included as part of the 25 percent match.

Call for Investment #1—Inclusive Community Life

The council is interested in funding one or more education projects targeted to city officials and community leaders regarding accessibility and inclusive community living. Funding: A total of \$40,000 among all projects.

Call for Investment #2—Student Directed Transition Planning

The council is interested in funding a project to provide training to all transition-age students within a school district on how to direct their transition plan. Funding: A total of \$5,000 for one year.

Call for Investment #3—Expanding Self-Advocacy

The council is interested in funding one or more projects that will expand current self-advocacy efforts to reach 14-21 year olds. Funding: A total of \$50,000 for one year among all projects.

Call for Investment #4—Self-Employment

The council is interested in funding up to six or more small businesses owned and controlled by an individual(s) with a developmental disability. Funding: A total of \$60,000 to be shared among all projects.

Call for Investment #5—Increased Employment Outcomes

The council is interested in funding projects that will increase employment outcomes for people with developmental disabilities through advanced learning opportunities. Funding: A total of \$50,000 among all projects for one year.

Call for Investment #6—Consumer Quality Reviews

The council is interested in funding one or more projects that will train and support an independent consumer quality review system for developmental disability services. Funding: A total of \$40,000 among all projects for one year.

Full copies of the Call for Investments are available by contacting the KCDD office at (785) 296-2608 or by e-mail at kcdd@alltel.net. All grant proposals are due by 5 p.m. July 5.

Michelle R. May
Grants Manager

Doc. No. 030741

(Published in the Kansas Register May 27, 2004.)

Turkey Creek Watershed District No. 103**Notice to Bidders**

Separate sealed bids for the construction of an 11,960 cubic yard Floodwater Detention Dam, Site E-2, with plastic primary spillway pipe will be received by the Turkey Creek Watershed District No. 103 at the Canville Township Hall Community Building, 160th and Harper (Shaw Road), Chanute, until 8 p.m. June 22, and then publicly opened and read aloud at 8:05 p.m.

Parties interested in bidding must contact Agricultural Engineering Associates for bidder prequalification prior to obtaining contract documents and/or bidding. The contract documents may be examined at the Agricultural Engineering Associates, 1000 Promontory Drive, Uniontown, 66749, (620) 756-1000.

Copies of the contract documents may be obtained at the office of Agricultural Engineering Associates upon payment of \$25 per set, nonrefundable.

A pre-bid conference will be held to review any questions on the anticipated construction. Interested contractors are invited to meet at the Canville Township Hall Community Building at 10:30 a.m. June 8. A site visit will be conducted immediately following the meeting. Attendance at the conference is not mandatory for bidding on this project.

Hugo Spieker
President

Doc. No. 030744

(Published in the Kansas Register May 27, 2004.)

**Summary Notice of Bond Sale
Unified School District No. 350**

Stafford County, Kansas (St. John-Hudson)
\$1,300,000

**General Obligation School Building Bonds, Series 2004
(General obligation bonds payable from
unlimited ad valorem taxes)****Bids**

Subject to the notice of bond sale dated May 17, 2004, sealed, facsimile and electronic bids will be received by the clerk of Unified School District No. 350, Stafford County, Kansas (St. John-Hudson) (the issuer), in the case of sealed and facsimile bids, on behalf of the governing body at the office of the Board of Education, 406 N. Monroe, St. John, KS 67576, and in the case of electronic bids, through i-Deal's BiDCOMP/PARITY electronic bid submission system, until 2 p.m. June 3, 2004, for the purchase of \$1,300,000 principal amount of General Obligation School Building Bonds, Series 2004. No bid of less than 100 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated June 1, 2004, and will become due on September 1 in the years as follows:

Year	Principal Amount
2007	\$ 15,000
2008	165,000
2009	175,000
2010	185,000
2011	190,000
2012	200,000
2013	205,000
2014	165,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on March 1 and September 1 in each year, beginning March 1, 2005.

Book-Entry-Only System

The bonds shall be registered under a book-entry-only system administered through DTC.

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

Good Faith Deposit

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$26,000 (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about June 28, 2004, to DTC for the account of the successful bidder.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 2003 is \$23,825,074. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, is \$1,860,000.

Approval of Bonds

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

Additional Information

Additional information regarding the bonds may be obtained from the clerk, (620) 549-3564, fax (620) 549-3964, e-mail: cboles@usd350.k12.ks.us; or from the financial advisor, George K. Baum & Company, 100 N. Main, Suite 810, Wichita, KS 67202, Attention: Stephen E. Shogren, (316) 264-9351, fax (316) 264-9370, e-mail: shogren@gkbaum.com

Dated May 17, 2004.

Unified School District No. 350
Stafford County, Kansas
(St. John-Hudson)

Doc. No. 030723

(Published in the Kansas Register May 27, 2004.)

USDA—Natural Resources Conservation Service

Notice of Kansas Technical Committee Meeting

The Kansas Technical Committee will meet from 10 a.m. to 3 p.m. Friday, June 11, at the NRCS Conference Center, 747 S. Duvall, Salina, to review the USDA—NRCS Grasslands Reserve Program (GRP) Interim Final Rule and to discuss recommendations for the GRP delivery.

For more information, contact Steve Parkin, Assistant State Conservationist for Programs, USDA—NRCS, 760 S. Broadway, Salina, 67401-4604, (785) 823-4568, fax (785) 823-4540, e-mail: steve.parkin@ks.nrcs.usda.gov.

Mary D. Shaffer
Public Affairs Specialist

Doc. No. 030718

(Published in the Kansas Register May 27, 2004.)

Statutory Notice of Bond Sale City of Mission Hills, Kansas

\$1,250,000

General Obligation Bonds, Series 2004-A

Dated June 15, 2004

(General obligations payable from
unlimited ad valorem taxes)

Sealed and Electronic Bids

Bids will be received by the undersigned city administrator of the city of Mission Hills, Kansas, 6300 State Line Road, Mission Hills, KS 66208, until 1 p.m. Tuesday, June 8, 2004, for the purchase of all of the city's General Obligation Bonds, Series 2004, in the principal amount of \$1,250,000, as hereinafter described. All bids will be publicly opened and read at said time and place and will be acted upon by the city council at 6 p.m. on the date of sale. No bid of less than the par value of the bonds and accrued interest thereon to the date of delivery of the bonds will be considered.

Bidders may mail or deliver a bid in person to the city administrator at 6300 State Line Road, Mission Hills, KS 66208, or they may telefax it to the city prior to the said time and date. Telefax transmissions must be sent to the following number: (913) 362-0673. The city assumes no responsibility or liability for inaccurate bids submitted through the telefax, including garbled transmissions, or the inability of a bidder to access the telefax number prior to the indicated sale time. No oral or auction bids will be considered. Arrangements may be made with the city's financial advisor, George K. Baum & Company, 435 Nichols Road, Suite 200, Kansas City, MO 64108, (816) 283-5137, Attention: David Arteberry, to deliver a sealed bid for the bonds to the city.

Electronic bids will be accepted through BiDCOMP/PARITY electronic bid submission system. Each bidder shall be solely responsible for making the necessary arrangements to access PARITY for the purpose of submitting its electronic bid in a timely manner and in compliance with the requirements of the complete notice of bond sale. If any provisions in this statutory notice of bond sale

conflict with information provided by PARITY, this statutory notice of bond sale will control. Further information about PARITY, including any fee charged and registration requirements, may be obtained from PARITY, 40 W. 23rd, 5th Floor, New York, NY 10010, Customer Support, (212) 404-8102. The city assumes no responsibility or liability for bids submitted through PARITY. The city is using the services of PARITY solely as a communication mechanism to conduct the electronic bidding for the bonds. PARITY is not an agent of the city.

Bond Details

The bonds will be issued in book-entry form only. The bonds will be issued in the denomination of \$5,000 or any integral multiple thereof, will be dated June 15, 2004, and will become due serially on September 1 in each of the years as follows:

Maturity Schedule

September 1	Principal Amount
2005	\$100,000
2006	100,000
2007	100,000
2008	100,000
2009	100,000
2010	100,000
2011	100,000
2012	100,000
2013	100,000
2014	100,000
2015	100,000
2016	150,000

The bonds will bear interest from their dated date at the rates to be determined when the bonds are sold as provided herein and in the complete notice of bond sale, which interest will be payable semiannually on March 1 and September 1 in each year, commencing March 1, 2005.

Delivery and Payment

The bonds will be delivered to the successful bidder properly prepared, executed and registered without cost on or about June 29, 2004, through the facilities of the Depository Trust Company in New York, New York.

Good Faith Deposit

A good faith deposit for each bid for the bonds in the form of a certified or cashier's check or financial surety bond in the amount of \$25,000 must be furnished at or prior to the time of sale.

Costs

The city will pay the cost of printing the bonds and the expense of all legal services, including the opinion of Stinson Morrison Hecker LLP, Overland Park, Kansas, bond counsel, approving the legality of the bonds and the exclusion of the interest thereon (with specified minor exceptions) from federal and Kansas gross income taxes.

Assessed Valuation and Indebtedness

For the computation of the debt limitation relating to the bonds, the assessed valuation of the taxable tangible property within the city as of November 2003 is \$129,454,249. The total general obligation indebtedness of the city, as of the date of the bonds, including the bonds,

(continued)

is \$3,321,300, of which \$2,711,720 principal amount is exempt from the general obligation debt limit.

Additional Information

A complete notice of bond sale, preliminary official statement and bid forms approved by the city will be mailed to all interested parties. Bidders may be required to be qualified in a manner established by the city before submitting a bid. Additional information regarding the bonds may be obtained from the city administrator at (913) 362-9620; from George K. Baum, financial advisor, at (816) 474-1100; or from Janet Garns, Stinson Morrison Hecker LLP, bond counsel, at (913) 344-6738.

Dated May 27, 2004.

City of Mission Hills, Kansas
 By: Courtney Christensen
 City Administrator
 6300 State Line Road
 Mission Hills, KS 66208

Doc. No. 030732

(Published in the Kansas Register May 27, 2004.)

**Summary Notice of Bond Sale
 Russell County, Kansas
 \$5,500,000
 General Obligation Hospital Bonds, Series 2004
 (General obligation bonds payable from
 unlimited ad valorem taxes)**

Bids

Subject to the notice of bond sale dated May 3, 2004, sealed, facsimile and electronic bids will be received by the clerk of Russell County, Kansas (the issuer), in the case of sealed and facsimile bids, on behalf of the governing body at the Russell County Courthouse, 401 N. Main, Russell, Kansas, and in the case of electronic bids, through i-Deal's BiDCOMP/PARITY electronic bid submission system, until 10:30 a.m. June 7, 2004, for the purchase of \$5,500,000 principal amount of General Obligation Hospital Bonds, Series 2004. No bid of less than 96.65 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated July 1, 2004, and will become due on October 1 in the years as follows:

Year	Principal Amount
2006	\$205,000
2007	210,000
2008	215,000
2009	225,000
2010	230,000
2011	235,000
2012	245,000
2013	255,000
2014	265,000
2015	275,000
2016	285,000
2017	300,000

2018	315,000
2019	330,000
2020	345,000
2021	365,000
2022	380,000
2023	400,000
2024	420,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on April 1 and October 1 in each year, beginning April 1, 2005.

Optional Book-Entry-Only System

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

Paying Agent and Bond Registrar

UMB National Bank of America, Wichita, Kansas.

Good Faith Deposit

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$110,000 (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about July 1, 2004, to DTC for the account of the successful bidder or at such bank or trust company in the contiguous United States as may be specified by the successful bidder, or elsewhere at the expense of the successful bidder.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 2003 is \$61,936,340. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, is \$5,500,000.

Approval of Bonds

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

Additional Information

Additional information regarding the bonds may be obtained from the clerk, Russell County Courthouse, 401 N. Main, Russell, KS 67665, (785) 483-4641, fax (785) 483-5725, e-mail: RS_County_Clerk@wan.kdor.state.ks.us; or from the financial advisor, Ranson Financial Consultants, L.L.C., 209 E. William, Suite 401, Wichita, KS 67202, Attention: John Haas, (316) 264-3400, fax (316) 265-5403, e-mail: jhaas@ransonfinancial.com.

Dated May 3, 2004.

Russell County, Kansas

Doc. No. 030742

**State of Kansas
Criminal Justice Coordinating Council**

Notice of Grant Award Meeting

The Kansas Criminal Justice Coordinating Council will meet at 10 a.m. Friday, June 25, in Conference Room 530, Curtis State Office Building, 1000 S.W. Jackson, Topeka, to determine final grant awards for the Federal Edward Byrne Memorial State & Local Law Enforcement grant program. For more information, call (785) 291-3205.

Julienne Maska
Federal Grants Program Administrator

Doc. No. 030717

(Published in the Kansas Register May 27, 2004.)

**Summary Notice of Bond Sale
Unified School District No. 440
Harvey County, Kansas (Halstead-Bentley)
\$9,830,000**

**General Obligation School Building Bonds, Series 2004
(General obligation bonds payable from
unlimited ad valorem taxes)**

Bids

Subject to the notice of bond sale dated May 13, 2004, sealed, facsimile and electronic bids will be received by the clerk of Unified School District No. 440, Harvey County, Kansas (Halstead-Bentley) (the issuer), in the case of sealed and facsimile bids, on behalf of the governing body at the office of the Board of Education, 520 W. 6th St., Halstead, KS 67056, and in the case of electronic bids, through i-Deal's BiDCOMP/PARITY electronic bid submission system, until 2 p.m. June 8, 2004, for the purchase of \$9,830,000 principal amount of General Obligation School Building Bonds, Series 2004. No bid of less than 100 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated June 1, 2004, and will become due on August 1 in the years as follows:

Year	Principal Amount
2006	\$ 45,000
2007	135,000
2008	150,000
2009	170,000
2010	190,000
2011	215,000
2012	235,000
2013	260,000
2014	285,000
2015	310,000
2016	335,000
2017	360,000
2018	390,000
2019	420,000
2020	450,000

2021	485,000
2022	520,000
2023	560,000
2024	600,000
2025	645,000
2026	690,000
2027	740,000
2028	790,000
2029	850,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on February 1 and August 1 in each year, beginning February 1, 2005.

Book-Entry-Only System

The bonds will be registered under a book-entry-only system administered through DTC.

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

Good Faith Deposit

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$196,600 (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about June 29, 2004, to DTC for the account of the successful bidder.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 2003 is \$33,308,507. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, is \$9,830,000.

Approval of Bonds

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

Additional Information

Additional information regarding the bonds may be obtained from the clerk, (316) 835-2641, fax (316) 835-2305, e-mail: ssgwing@usd440.com; or from the financial advisor, George K. Baum & Company, 100 N. Main, Suite 810, Wichita, KS 67202, Attention: Stephen E. Shogren, (316) 264-9351, fax (316) 264-9370, e-mail: shogren@gkbaum.com.

Dated May 13, 2004.

Unified School District No. 440
Harvey County, Kansas
(Halstead-Bentley)

Doc. No. 030730

State of Kansas

Wichita State University

Request for Bids

Sealed bids for the following project will be received by the Wichita State University Office of Purchasing, Room 021, Morrison Hall, 1845 Fairmount, Wichita, 67260-0012, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (316) 978-3782 for additional information:

Thursday, June 10, 2004

Request for Bid Number 040121-2

Installation of Global Learning System

Margaret A. Haddock
Interim Director of Purchasing

Doc. No. 030722

State of Kansas

Real Estate Appraisal Board

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 10 a.m. Friday, August 6, in the lower level conference room at 1100 S.W. Wanamaker Road, Topeka, to consider the adoption of K.A.R. 117-2-2, 117-3-2 and 117-4-2.

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 regulations. All interested parties may submit written comments prior to the hearing to the Kansas Real Estate Appraisal Board, 1100 S.W. Wanamaker Road, Suite 104, Topeka, 66604. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request 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 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 Sally Pritchett at (785) 271-3373 or cheryl.magathan@kreab.state.ks.us.

The proposed regulation amendments are for adoption on a permanent basis. A summary of the proposed amendments to the regulations and the economic impact follows:

117-2-2. Licensed classification; experience requirement. This regulation is being amended to clarify the calculation of experience hours by applicants for the licensed classification.

117-3-2. General classification; experience requirement. This regulation is being amended to clarify the calculation of experience hours by applicants for the general classification.

117-4-2. Residential classification; experience requirement. This regulation is being amended to clarify the calculation of experience hours by applicants for the residential classification.

Copies of the regulations and the economic impact statement may be obtained by contacting the Kansas Real Estate Appraisal Board at the address above, (785) 271-3373, fax (785) 271-3370, e-mail: cheryl.magathan@kreab.state.ks.us, or by accessing the board's Web site at www.accesskansas.org/kreab.

Sally Pritchett
Executive Director

Doc. No. 030716

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. Castle Rock Marketing, LLC has applied for a Class II operating permit in accordance with the provisions of K.A.R. 28-19-540. Emissions of particulate matter equal to or less than 10 microns in diameter (PM₁₀) were evaluated during the permit review process. The purpose of a Class II permit is to limit the potential-to-emit for this pollutant to below major source thresholds.

Castle Rock Marketing, LLC, WaKeeney, owns and operates a terminal grain elevator located at HCI, Box 11A, Ogallah, Trego County.

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 for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE Northwest District Office, 2301 E. 13th, Hays. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office; and to review the proposed permit only, contact Rick Robinson, (785) 625-5663, at the KDHE Northwest 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, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business June 28.

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 Brie Wilkins, Bureau of Air and Radiation, not later than the close of business June 28 in order for the Secretary of Health and Environment to consider the request.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 030735

State of Kansas

**Department of Health
and Environment****Notice of Hearing**

A public hearing will be conducted at 3 p.m. Tuesday, June 29, in the Azure Conference Room of the Curtis State office Building, 1000 S.W. Jackson, fourth floor, Topeka, to discuss the Kansas Public Water Supply Loan Fund (KPWSLF) Intended Use Plan (IUP) for the 2005 program year. Copies of the IUP can be obtained by calling Linda White at (785) 296-5514, fax (785) 296-5509.

Any individual with a disability may request accommodation to participate in the public hearing. Requests for accommodation should be made at least five working days before the hearing by contacting Linda White.

Comments may be presented at the hearing or in writing prior to the hearing. Written comments should be addressed to Linda White, Bureau of Water, Kansas Department of Health and Environment, 1000 S.W. Jackson, Suite 420, Topeka, 66612.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 030739

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. Kansas Brick & Tile Co., Inc. has applied for a Class II operating permit in accordance with the provisions of K.A.R. 28-19-540. Emissions of hazardous air pollutants (HAPs) were evaluated during the permit review process. The purpose of a Class II permit is to limit the potential-to-emit for these pollutants to below major source thresholds.

Kansas Brick & Tile Co., Inc., Hoisington, owns and operates a brick manufacturing facility located at 767 N. 281, Hoisington.

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 for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE Northwest District Office, 2301 E. 13th, Hays. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office; and to review the proposed permit only, contact Rick Robinson, (785) 625-5663, at the KDHE Northwest 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, 1000 S.W. Jackson, Suite 310, Topeka,

66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business June 28.

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 Brie Wilkins, Bureau of Air and Radiation, not later than the close of business June 28 in order for the Secretary of Health and Environment to consider the request.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 030736

State of Kansas

**Department of Health
and Environment****Notice of Hearing**

A public hearing will be conducted by the Kansas Department of Health and Environment at 6 p.m. Wednesday, June 16, at the Abilene Public Library, 209 N.W. 4th, Abilene, to receive comments prior to final action on the proposed issuance of a Class II air quality operating permit. All comments should be presented in oral and/or written form at the public hearing or submitted in writing to Brie Wilkins, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366, on or before June 28, unless extended by the hearing officer.

KDHE is proposing to issue the permit in accordance with the provisions of K.A.R. 28-19-540, Class II operating permits. Emissions of particulate matter equal to or less than 10 microns in diameter were evaluated during the permit review process. The purpose of a Class II permit is to limit the potential-to-emit for this pollutant to below major source thresholds. The permit authorizes DeBruce Grain, Inc. to operate a grain elevator at 513 W. 1st, Abilene. The facility is owned and operated by DeBruce Grain, Inc., Kansas City, Missouri.

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, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE North Central District Office, 2501 Market Place, Suite D, Salina. To obtain or review the proposed permit and supporting documentation, contact Brie Wilkins, (785) 296-6422, at the KDHE central office; and to review the proposed permit only, contact Craig Forsberg, (785) 827-9639, at the KDHE North Central District Office, or Mark Arbuthnot, (785) 263-2550, at the city of Abilene. The standard departmental cost will be assessed for any copies requested.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 030734

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. Charloma, Inc. has applied for a Class II operating permit in accordance with the provisions of K.A.R. 28-19-540. Emissions of hazardous air pollutants (HAPs) were evaluated during the permit review process. The purpose of a Class II permit is to limit the potential-to-emit for these pollutants to below major source thresholds.

Charloma, Inc., Cherryvale, owns and operates a fiberglass products facility located at 1127 N. Liberty, Cherryvale.

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 for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed 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; and to review the proposed permit only, contact Doug Cole, (620) 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, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business June 28.

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 Brie Wilkins, Bureau of Air and Radiation, not later than the close of business June 28 in order for the Secretary of Health and Environment to consider the request.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 030737

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. WindRiver Grain, L.L.C. has applied for a Class II operating permit in accordance with the provisions of K.A.R. 28-19-540. Emissions of particulate matter equal to or less than 10 microns in diameter (PM₁₀)

were evaluated during the permit review process. The purpose of a Class II permit is to limit the potential-to-emit for this pollutant to below major source thresholds.

WindRiver Grain, L.L.C., Garden City, owns and operates a terminal grain elevator located at 2750 E. Hwy. 50, Garden City, Finney County.

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 for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE South Central District Office, 130 S. Market, Suite 6050, Wichita. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office; and to review the proposed permit only, contact Don Mies, (316) 337-6107, 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, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business June 28.

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 Brie Wilkins, Bureau of Air and Radiation, not later than the close of business June 28 in order for the Secretary of Health and Environment to consider the request.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 030738

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-04-148
Application(s) for New or Expansion of Existing Swine Facilities

Name and Address of Applicant	Owner of Property Where Facility Will Be Located	Receiving Water
Nelson Hog Farms LLC Site E Route 1, Box 54B Almena, KS 67622	Terry Nelson P.O. Box 8 Long Island, KS 67647	Upper Republican River Basin
Legal Description SW/4 of Section 08, T01S, R21W, Norton County	Receiving Water Upper Republican River Basin	
Kansas Permit No. A-URNT-H007	Federal Permit No. KS0094901	

This is a new permit for an existing facility for construction of a mortality composting site. The proposed construction will not change the permitted animal capacity of 7,680 head (3,072 animal units) of swine weighing greater than 55 pounds each. A new or modified permit will not be issued without additional public notice.

Public Notice No. KS-AG-04-149/160
Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Randy Pfizenmaier 2169 Frontier Road Morganville, KS 67468	NW/4 of Section 23, T07S, R01E, Clay County	Lower Republican River Basin
Kansas Permit No. A-LRCY-S054		

This is a new permit for modification of an existing facility having a maximum capacity of 1,026 head of swine weighing more than 55 pounds (410.4 animal units), 660 head of swine weighing 55 pounds or less (66 animal units), 52 head of cattle weighing more than 700 pounds (52 animal units) and 50 head of cattle weighing 700 pounds or less (25 animal units), for a total of 1,686 head (476.4 animal units) of swine and 102 head (77 animal units) of cattle. The modification will involve directing runoff from a concrete floor to an existing retention structure and replacing the existing swine open lots with three new hoop structures. There will be no change in the facility's animal capacity.

Name and Address of Applicant	Legal Description	Receiving Water
Deere Creek Farm Russell Duerksen 326 140th Road Hillsboro, KS 67063	SW/4 of Section 28, T20S, R01E, Marion County	Neosho River Basin
Kansas Permit No. A-NEMN-M027		

This is a new permit for an existing facility for a maximum capacity of 55 head of dairy cattle (77 animal units), 30 head of heavyweight replacement heifers weighing greater than 700 pounds (30 animal units) and 40 head of lightweight replacement heifers weighing less than 700 pounds (20 animal units), for a total of 125 head (127 animal units) of dairy cattle. A concrete storage tank is being added to control runoff from the milking parlor and manure dry stack area.

Name and Address of Applicant	Legal Description	Receiving Water
John and Donald Lower Dairy 2120 Iowa Road Humboldt, KS 66748	SE/4 of Section 20, T25S, R19E, Allen County	Neosho River Basin
Kansas Permit No. A-NEAL-M015		

This is a new permit for the expansion of an existing, certified dairy facility. The expansion consists of adding a waste management system and increasing the facility capacity from 80 head (112 animal units) to a maximum of 100 head (140 animal units) of mature dairy cattle with no change in the milking facilities.

Name and Address of Applicant	Legal Description	Receiving Water
Riedel Feedyard Don D. Riedel Route 2, Box 14 G WaKeeney, KS 67672	NE/4 of Section 27, T12S, R23W, Trego County	Smoky Hill River Basin

Kansas Permit No. A-SHTR-B001
 This is a renewal permit for an existing facility for a maximum of 800 head (800 animal units) of cattle weighing greater than 700 pounds each.

Name and Address of Applicant	Legal Description	Receiving Water
Spring Creek Farms Kevin Newcomer HC 1, Box 17 Ogallah, KS 67656	SW/4 of Section 07, T12S, R22W, Trego County	Smoky Hill River Basin

Kansas Permit No. A-SHTR-S006
 This is a renewal permit for an existing facility with a maximum of 100 head (40 animal units) of swine weighing more than 55 pounds and a maximum of 400 head (40 animal units) of swine weighing 55 pounds or less, for a total of 500 head (80 animal units) of swine.

Name and Address of Applicant	Legal Description	Receiving Water
Eugene Bontrager 8604 S. Obee Road Haven, KS 67543	NW/4 of Section 23, T24S, R05W, Reno County	Lower Arkansas River Basin

Kansas Permit No. A-ARRN-M043
 This is a renewal permit for an existing facility for 30 head (42 animal units) of dairy cattle.

Name and Address of Applicant	Legal Description	Receiving Water
Bruce Kershner Route 1, Box 31 Rush Center, KS 67575	SE/4 of Section 22, T18S, R19W, Rush County	Upper Arkansas River Basin

Kansas Permit No. A-UARH-B015
 This is a renewal permit for an existing facility for a maximum of 100 head (100 animal units) of cattle weighing greater than 700 pounds and 100 head (50 animal units) of cattle weighing less than 700 pounds each, for a maximum capacity of 200 head (150 animal units) of cattle.

Name and Address of Applicant	Legal Description	Receiving Water
Leland and Janice Werth Route 2, Box 104 Ellis, KS 67637	NE/4 of Section 18, T13S, R21W, Trego County	Smoky Hill River Basin

Kansas Permit No. A-SHTR-B003
 This is a renewal permit for an existing facility for a maximum of 800 head (400 animal units) of cattle weighing less than 700 pounds each.

Name and Address of Applicant	Legal Description	Receiving Water
Walt Farms, Inc. Kevin Broeckelman 1064 C Road Collyer, KS 67631	NW/4 of Section 19, T10S, R25W, Graham County	Saline River Basin

Kansas Permit No. A-SAGH-B004
 This is a renewal permit for an existing facility for 999 head (999 animal units) of cattle weighing greater than 700 pounds.

Name and Address of Applicant	Legal Description	Receiving Water
Miller Farm's & Feedlot G.P. Stan Miller P.O. Box 27 Norcatour, KS 67653	NE/4 of Section 18, T03S, R25W, Norton County	Upper Republican River Basin

Kansas Permit No. A-URNT-C003 Federal Permit No. KS0097691
 This is a new permit for a new facility for 1,000 head (500 animal units) of beef cattle weighing less than 700 pounds each.

(continued)

Name and Address of Applicant	Legal Description	Receiving Water
Eugene Talkington Route 1, Box 4 Matfield Green, KS 66862	SW/4 of Section 09, T22S, R08E, Chase County	Neosho River Basin
Kansas Permit No. A-NECS-C001	Federal Permit No. KS0115835	

This is a renewal permit for an existing facility for 800 head (400 Kansas animal units) of beef cattle weighing less than 700 pounds and 1,100 head (440 animal units) of swine weighing greater than 55 pounds. The facility is downsizing as four of the seven previously-permitted swine confinement buildings have been eliminated. The head and animal unit counts are being decreased due to the changes in the operation. No new livestock confinement facilities or retention structures are being proposed.

Name and Address of Applicant	Legal Description	Receiving Water
County Line Feeders Robert Sproul Route 1, Box 22 Almena, KS 67622	E/2 of SW/4 & W/2 of SE/4, of Section 25, T01S, R21W, Norton County	Upper Republican River Basin
Kansas Permit No. A-URNT-C002	Federal Permit No. KS0091014	

This is a permit renewal for an existing facility for 5,000 head (5,000 animal units) of cattle weighing greater than 700 pounds each.

Public Notice No. KS-04-107/111

Name and Address of Applicant	Waterway	Type of Discharge
Ash Grove Aggregates, Inc. P.O. Box 70 Butler, Missouri 64730	Marais des Cygnes River via Marmaton River Lath Branch Creek	Pit Dewatering & Stormwater Runoff
Kansas Permit No. I-MC11-PO02	Federal Permit No. KS0117552	

Legal: NW¼, S2, T26S, R25E, Bourbon County
Facility Name: East Quarry

Facility Description: The proposed action is to reissue an existing permit for the discharge of wastewater during quarry operation. This facility is a limestone quarry and crushing operation with no washing. The proposed permit includes generic water-quality language to protect waters of the state. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
G-P Gypsum Corp. 133 Peachtree St., N.E. Atlanta, GA 30303	Elm Creek via Unnamed Tributary	Process Wastewater
Kansas Permit No. I-BB04-PO01	Federal Permit No. KS0002135	

Legal: NW¼, S16, T4S, R7E, Marshall County

Facility Name: G-P Gypsum Corp. - Blue Rapids

Facility Location: 2127 Highway 77, Blue Rapids, Kansas

Facility Description: The proposed action is to renew an existing permit for operation of an existing facility discharging process wastewater. This facility is presently processing gypsum and producing bagged and bulk gypsum products. The proposed permit includes limits for sulfate, biochemical oxygen demand, total suspended solids and pH. Monitoring of fecal coliform and effluent and groundwater discharge flows also shall be required. The permittee is required to perform a chronic whole effluent toxicity test in September 2004. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
McConnell Air Force Base 53000 Hutchinson St. McConnell Air Force Base, KS 67721-3617	Arkansas River via Unnamed Tributary	Process Wastewater
Kansas Permit No. F-AR94-PO25	Federal Permit No. KS0086452	

Legal: Sections 1, 12, 13 & 24, T28S, R1E & Sections 6, 7 & 18, T28S, R2E, Sedgwick County

Facility Description: The proposed action is to modify an existing permit for the discharge of process wastewater. This is a federally-owned Air Force base. The activities generating wastewater consist of facilities for housing, training and supporting the 22nd Air Refueling Wing. The proposed modification provides for changes to limits and weekly monitoring of the biochemical oxygen demand only when deicing on the apron occurs at Outfall 011. All other terms and conditions of the existing permit are to remain the same. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
The Sherwin-Williams Company 1700 W. Fourth St. Coffeyville, KS 67337	Verdigris River via Unnamed Tributary	Process Wastewater
Kansas Permit No. I-VE09-PO01	Federal Permit No. KS0000809	

Facility Description: The proposed action is to reissue an existing permit for discharge of process wastewater. This facility is engaged in a RCRA corrective action due to metal-contaminated soils. Stormwater runoff is collected by a system of ditches and two stormwater ponds. The runoff collected in the stormwater ponds is directed to three on-site disposal wells. When the quantity of the stormwater exceeds the ditches and ponds capacities, excess stormwater, including sheet flow during heavy storm events, bypasses the ponds and flows off-site into the Verdigris River via an unnamed tributary. The proposed permit includes limits for pH. Monitoring of total lead, zinc, copper, cadmium, barium and effluent flow also is required. The permittee shall test the pond sediment in the north and south ponds in accordance with the RCRA site cleanup statement of basis for on-site soils report the results and provide a cleanup plan, if necessary by November 30, 2007. The permittee shall close the ponds by April 30, 2009. Plugging of the Class I injection wells shall be completed under a schedule negotiated with the KDHE - Geology Section. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
University of Kansas B320 KU Hospital 3901 Rainbow Blvd. Kansas City, KS 66160	Captain Creek via Unnamed Tributary	Groundwater
Kansas Permit No. I-KS12-PO03	Federal Permit No. KS0089761	

Facility Name: University of Kansas Sunflower Waste Site
Facility Location: Evening Star Road & 111th St., Eudora, KS 66025

Facility Description: The proposed action is to reissue an existing permit for a facility engaged in a groundwater cleanup. Groundwater from around the landfill site is collected in a French drain, pumped into an 8,000-gallon equalization tank, and treated in 5,000-gallon batches at a rate of approximately 5 gpm. Treatment includes addition of a polymer for solids removal, addition of chemicals for iron removal and pH adjustment prior to storage in an 8,000-gallon equalization tank, and discharged to an unnamed tributary only after sample analysis confirms compliance with permit limits. Batch treatment and discharge occurs on an intermittent basis, about four to six batches per year. The proposed permit includes limits for benzene, 1,2-dichloroethylene, dichloromethane, 1,4-dioxane, 1,1,2,2-tetrachloroethylene, trichloroethylene, trichloromethane and pH. Monitoring of gross alpha particles, radium 226 and 228, strontium 90, tritium, gross beta radioactivity and effluent flow also is required. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

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 April Romero 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, 1000 S.W. Jackson, Suite 420, Topeka, 66612-1367.

All comments regarding the draft permit or application notice postmarked or received on or before June 26 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-04-148/160, KS-04-107/111) 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, (620) 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, (620) 431-2390

Application information and components of plans and specifications for all new facilities and for expansions of existing swine facilities may be reviewed on the Internet at <http://www.kdhe.state.ks.us/feedlots>.

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.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 030740

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. 12-1675(b)(c)(d), 75-4201(l) and 75-4209(a)(1)(B).

Effective 5-24-04 through 5-30-04

Term	Rate
1-89 days	1.00%
3 months	0.96%
6 months	1.34%
1 year	1.78%
18 months	2.22%
2 years	2.57%

Derl S. Treff
Director of Investments

Doc. No. 030715

State of Kansas

Department of Health
and Environment

Notice of Hearing on Proposed
Administrative Regulations

The Kansas Department of Health and Environment will conduct a public hearing at 2 p.m. Thursday, August 5, in Suite 530, Curtis State Office Building, 1000 S.W. Jackson, Topeka, for the Bureau of Air and Radiation, Radiation and Asbestos Control Section to consider the radiation regulations listed below:

- K.A.R. 28-35-145 and 28-35-146 (Amended)**
- K.A.R. 28-35-147 (Revoked)**
- K.A.R. 28-35-146a and 28-35-147a (New)**

The radiation control program is currently funded entirely through state general funds. The purpose of the proposed regulatory action is to generate sufficient revenue to eliminate the radiation control program's dependence on the state general fund and maintain a radiation control program that protects the health and safety of the public and environment as well as upholds Kansas' agreement with the Nuclear Regulatory Commission.

The following is a summary of the proposed amended, revoked and new regulations:

K.A.R. 28-35-145. Initial license and registration fees. Identifies the materials and equipment for which licensing and registration are required.

K.A.R. 28-35-146. Annual license and registration fees. Establishes payment options available to licensees for making fee payments and establishes deadlines for making payment of annual fees. The amendment deletes the current fee exception for source material used only as shielding and general licenses; deletes redundant license and registration fee provisions that are now included in the proposed amendments to K.A.R. 28-35-145(a) and K.A.R. 28-35-147a, respectively; and deletes the provision for multi-purpose use fees (subsection d).

(continued)

K.A.R. 28-35-147. Schedule of fees. KDHE proposes to revoke 28-35-147, the current radiation fee schedule, which the proposed new regulation K.A.R. 28-35-147a replaces.

K.A.R. 28-35-146a. Determination of hourly rate and full cost. This proposed new regulation allows KDHE to assess an hourly rate fee for radiation protection services or radiation control program activities for which K.A.R. 28-35-147a establishes no fee. The proposed new regulation also establishes the method for calculating full cost fees proposed in K.A.R. 28-35-147a.

K.A.R. 28-35-147a. Schedule of fees. Creates a schedule of fees for the fee categories specified in Senate Bill 396. The fees are approximately two-thirds of the maximum fees established in SB 396. The maximum radioactive material license fees established by SB 396 are approximately 50 percent of the comparable Nuclear Regulatory Commission fees. Fees resulting from this regulatory action are projected to generate sufficient revenue to operate the radiation control program independently of the state general fund and to fund the enhancements KDHE will propose for state fiscal year 2006.

This new fee schedule is projected to generate approximately \$915,000 necessary to support the FY 2006 budget proposal plus 25 percent in indirect costs and allow the program to begin repaying the state general fund FY 2005 appropriations. This is an increase of approximately \$675,000 over what the current fee schedule would generate.

The time period between publication of this notice and the scheduled hearing constitutes a 60-day public comment period for the purpose of receiving written public comments on the proposed regulatory action. Interested parties may submit written comments prior to the hearing to Seretha Potts, 1000 S.W. Jackson, Suite 310, Topeka, 66612, or at the hearing. Interested parties will be given a reasonable opportunity to orally present their views on the proposed regulatory action during the hearing. Presenters are asked to provide a written copy of their comments. To give all parties an opportunity to present their views, it may be necessary to require each participant to limit an oral presentation to five minutes.

Copies of the proposed amendments, revocations, new regulations and the economic impact statements may be obtained by contacting Seretha Potts at (785) 296-1560 or by accessing the department's Web site at www.kdhe.state.ks.us under "Hot Topics."

Any individual with a disability may request accommodation in order to participate in the public hearing and may request copies of the proposed regulations and the economic impact statements in an accessible format. Requests for accommodation should be made at least five business days in advance of the hearing by contacting Seretha Potts.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 030720

State of Kansas

Department of Health and Environment

Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 1:30 p.m. Tuesday, July 27, in Room 530, Curtis State Office Building, 1000 S.W. Jackson, Topeka, to consider the adoption of amended hazardous waste regulation K.A.R. 28-31-10. This amended regulation applies to hazardous monitoring fees. The regulation is proposed to be adopted on a permanent basis. A summary of the proposed amendments to this regulation follows:

K.A.R. 28-31-10. Hazardous waste monitoring fees. This regulation is proposed to be amended by increasing the annual monitoring fees for TSD facilities and for EPA generators. The hazardous waste monitoring fees for TSDs and EPA generators (facilities that generate more than 1,000 kilograms of hazardous waste in a month) have not been adjusted since May 1, 1985. The proposed fee increases are shown in the following schedule:

TSD Designation	Current Fee	Proposed Fee
On-site storage facility	\$2,500	\$7,500
Off-site storage facility	\$3,500	\$8,000
On-site treatment facility	\$4,000	\$7,500
Off-site treatment facility	\$5,000	\$8,000
On-site thermal treatment facility (new category)	\$4,000	\$8,000
Off-site thermal treatment facility (new category)	\$5,000	\$12,000
Incinerator facility	\$10,000	\$12,000
Facilities subject to postclosure care	\$4,000	\$10,000
EPA Generators - Waste Generated (per year)	Current Fee	Proposed Fee
Less than or equal to 5 tons	\$100	\$250
Greater than 5 tons but less than or equal to 50 tons	\$500	\$750
Greater than 50 tons but less than or equal to 500 tons	\$1,000	\$2,500
Greater than 500 tons	\$5,000	\$7,500

After assessing the revenue coming into the hazardous waste program, it was determined that it will be necessary to increase fees beginning in fiscal year 2005 to ensure that the hazardous waste management program will be able to maintain the current level of monitoring activities. In calendar year 2003, KDHE collected \$530,600 in monitoring fees. Taking into account the closure of one on-site storage facility, the projected annual revenue after the fee increase would be \$809,500. This would be a net increase of \$278,900 per year.

KDHE will have the responsibility for implementing and enforcing the proposed amendments to this regulation. The proposed amendments will not result in an increase in cost to the agency or an increase in paperwork.

The time period between publication of this notice and the scheduled hearing serves as the required public comment period of at least 60 days for the purpose of receiving

ing written public comments on the proposed regulation. All interested parties may submit written comments prior to the hearing to George McCaskill, Department of Health and Environment, Bureau of Waste Management, 1000 S.W. Jackson, Suite 320, Topeka, 66612-1366. 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 that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and regulatory impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting George McCaskill at (785) 296-1606, fax (785) 296-8909.

Complete copies of the proposed regulation and the corresponding regulatory impact statement may be obtained on the Bureau of Waste Management's Web site, www.kdhe.state.ks.us/waste, or by contacting the Bureau of Waste Management.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 030721

State of Kansas
Department of Transportation
Request for Comments

The Kansas Department of Transportation requests comments on the amendment of the Statewide Transportation Improvement Program (STIP) FY 04-06 by adding the following project:

Project U-1896-01, Preliminary engineering for grading and surfacing, 8th Street from Elm Street to Milner Street in the city of Hays, Ellis County

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

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

The comment period regarding the STIP amendment will conclude June 28.

Deb Miller
Secretary of Transportation

Doc. No. 030713

State of Kansas

Department of Transportation

Notice to Contractors

Sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the Bureau of Construction and Maintenance, KDOT, Topeka, or at the Capitol Plaza Hotel, Topeka, until 2 p.m. June 16 and then publicly opened:

District One—Northeast

Atchison—73-3 K-9674-01—U.S. 73 from the west city limits of Atchison northwest to the west junction of County Route 25, 7.9 miles, joint repair. (State Funds)

Atchison—59-3 K-9673-01—U.S. 59 from the east edge of Fourth Street east 0.18 mile in Atchison, joint repair. (State Funds)

Johnson—46 C-3967-01—Lexington Avenue over Kill Creek tributary, 0.2 mile, grading, bridge and surfacing. (Federal Funds)

Johnson—35-46 K-9677-01—I-35 from the Miami-Johnson county line north to approximately 1,000 feet north of 75th Street, 25.7 miles, pavement patching. (State Funds)

Johnson—7-46 K-9672-01—Spruce Street in Olathe north to approximately 2,000 feet south of K-10, 3.6 miles, joint repair. (State Funds)

Johnson—69-46 K-8251-03—Northwest quadrant of the I-435/U.S. 69 interchange, noise barriers. (State Funds)

Johnson—435-46 K-9671-01—I-435 from U.S. 169 (Met-calf Ave.), east to the Kansas-Missouri state line, 3.3 miles, joint repair. (State Funds)

Leavenworth—92-52 K-9140-01—K-92, Missouri River, bridge repair. (State Funds)

Leavenworth—73-52 K-9354-01—U.S. 73 from Eisenhower Road north to Limit Street, 1.8 miles, overlay. (State Funds)

Osage—75-70 K-9137-01—U.S. 75 bridges over U.S. 56, bridge repair. (State Funds)

Riley—82-81 K-9605-01—K-82 from the Clay-Riley county line east to the south junction of U.S. 77, 1.5 miles, crack repair. (State Funds)

Johnson—35-46 K-8261-01—I-35/U.S. 69 and 87th Street, interchange reconstruction. (Federal Funds)

Osage—75-70 K-9650-01—U.S. 75 from the Osage-Shawnee county line south 16.2 miles, crack repair. (State Funds)

Wyandotte—69-105 K-9675-01—U.S. 69 from I-35 north to Steele Road, 1.3 miles, joint repair. (State Funds)

Wyandotte—670-105 K-9676-01—I-670 from I-70 east to the 7th Street bridge, 0.3 mile, joint repair. (State Funds)

District Two—Northcentral

Chase—50-9 K-9407-01—U.S. 50, 1 mile east of the junction of County Route 92, east 4.2 miles, overlay. (State Funds)

Chase-Marion-Butler—177-106 K-6441-01—K-177, various locations between Cassidy and Council Grove, Frontier Military Byway Signing. (Federal Funds)

Clay—82-14 K-9604-01—K-82 from the junction of K-15 east to the west city limits of Wakefield, 5.8 miles, crack repair. (State Funds)

(continued)

Cloud—9-15 K-9608-01—K-9 from the Mitchell-Cloud county line east and north to the junction of K-28, 17.8 miles, crack repair. (State Funds)

Dickinson—15-21 K-9144-01—K-15, Chapman Creek, bridge repair. (State Funds)

Ellsworth—70-27 K-9150-01—I-70 bridge over K-14, bridge repair. (State Funds)

Ellsworth—232-27 K-9151-01—K-232 bridge over I-70, bridge repair. (State Funds)

Geary—70-31 K-9152-01—I-70, Union Pacific Railroad, bridge repair. (State Funds)

Jewell—14-45 K-9609-01—K-14 from the east junction of U.S. 36 north to the Kansas-Nebraska state line, 15.2 miles, crack repair. (State Funds)

Lincoln—18-53 K-9610-01—K-18 from the Russell-Lincoln county line east to Lincoln-Ottawa county line, 31.7 miles, crack repair. (State Funds)

Mitchell—9-62 K-9607-01—K-9 from the junction of U.S. 24 east to the Mitchell-Cloud county line, 9.3 miles, crack repair. (State Funds)

Ottawa—18-72 K-9611-01—K-18 from the Lincoln-Ottawa county line east to the south junction of Old U.S. 81, 17.1 miles, crack repair. (State Funds)

Butler-Chase-Morris—177-106 K-6441-15—K-177 from the north city limits of Cassidy north to the south city limits of Council Grove, scenic highway signing. (Federal Funds)

Washington—9-101 K-9606-01—K-9 from the Clay-Washington county line north to the junction of K-15/K-148, 12.1 miles, crack repair. (State Funds)

District Four—Southeast

Bourbon—69-6 K-7412-01—U.S. 69 from the north junction of U.S. 54 north to the Bourbon-Linn county line, grading, bridge and surfacing. (Federal Funds)

Crawford—47-19 K-9614-01—K-47 from the Neosho-Crawford county line east to the west city limits of Girard, 12.5 miles, seal. (State Funds)

Labette—166-50 K-9618-01—U.S. 166 from the Montgomery-Labette county line, east to the west junction of U.S. 59, 23.5 miles, overlay. (State Funds)

Linn—69-54 K-7413-01—U.S. 69 from the Bourbon-Linn county line north to north of the K-239 Interchange, 3.7 miles, grading, bridge and surfacing. (Federal Funds)

Neosho—39-67 K-9612-01—K-39 from the east junction of U.S. 59 east to the Neosho-Bourbon county line, 4 miles, seal. (State Funds)

Neosho—47-67 K-9613-01—K-47 from the east city limits of St. Paul east to the Neosho-Crawford county line, 4 miles, seal. (State Funds)

Montgomery—75-63 K-9616-01—U.S. 75 from the north city limits of Independence north to Sycamore, 5 miles, overlay. (State Funds)

Montgomery—166-63 K-9619-01—U.S. 166 from the east city limits of Coffeyville east to the Montgomery-Labette county line, 3.9 miles, overlay. (State Funds)

Neosho—59-67 K-9615-01—U.S. 59 from the west junction of K-39 east and north to the Neosho-Allen county line, 8.2 miles, surfacing. (State Funds)

Wilson—75-103 K-9617-0—U.S. 75 from the east city limits of Neodesha north to 0.8 mile south of the junction of K-47, 7.7 miles, overlay. (State Funds)

District Five—Southcentral

Butler—77-8 K-6384-01—U.S. 77 from the north city limits of El Dorado north to County Route 862, 9.6 miles, grading, bridge and surfacing. (Federal Funds)

Comanche-Edwards-Kiowa—183-106 K-9625-01—U.S. 183 from the junction of U.S. 160, north to the junction of U.S. 50, 47.9 miles, crack repair. (State Funds)

Reno—96-78 K-8411-01—Burrton Street and Avenue H, Avenue H and Nickerson Street and Nickerson Street and Railroad Avenue in Nickerson, 0.2 mile, intersection improvement. (State Funds)

Reno—14-78 K-8891-01—K-14, North fork Ninescah River, bank stabilization. (State Funds)

Sedgwick—54-87 K-9164-01—U.S. 54, Wichita Flood Control Canal, bridge repair. (State Funds)

Sedgwick—135-87 K-9167-01—I-135 over 61st Street and Chisholm Creek, bridge repair. (State Funds)

Sedgwick—42-87 K-9292-01—K-42 from the junction of K-49 northeast to Ridge Road, 15.9 miles, overlay. (State Funds)

District Six—Southwest

Ford—283-29 K-9648-01—U.S. 283 from the east junction of U.S. 56 north to the Ford-Hodgeman county line, 9.4 miles, seal. (State Funds)

Meade—23-60 K-9646-01—K-23 from the south city limits to the north city limits of Meade, 1 mile, slurry seal. (State Funds)

Meade—54-60 K-9690-01—U.S. 54 from the south city limits of Plains east to west city limits of Meade, 13.7 miles, seal. (State Funds)

Ness—283-68 K-9649-01—U.S. 283, 0.3 mile south of the north city limits of Ness City north to the Ness-Trego county line, 16.6 miles, seal. (State Funds)

Stevens—25-95 K-9647-01—K-25 from the Oklahoma-Kansas state line north to the west junction of U.S. 56, 10.9 miles, seal. (State Funds)

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

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid.

This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid approval package will make the bid nonresponsive and not eligible for award consideration.

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

Deb Miller
Secretary of Transportation

Doc. No. 030708

State of Kansas

Secretary of State

Certification of New State Laws

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

Ron Thornburgh
Secretary of State

(Published in the Kansas Register May 27, 2004.)

HOUSE BILL No. 2067

AN ACT relating to motor vehicles; concerning the regulation thereof; relating to motor carriers; amending K.S.A. 66-1,142b and K.S.A. 2003 Supp. 66-1,108, 66-1,109 and 66-1,129 and repealing the existing sections.

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

New Section 1. (a) Any person issued a special permit under the provisions of K.S.A. 8-1911, and amendments thereto, for the purpose of moving cotton modules on the highways of this state, shall be allowed to move such cotton modules 24-hours per day. Such person shall comply with all applicable provisions of K.S.A. 8-1911, and amendments thereto, and rules and regulations adopted by the secretary.

(b) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

New Sec. 2. As applied to the regulation of motor carriers, the provisions of this act and all grants of power, authority and jurisdiction herein made to the state corporation commission shall be liberally construed, and all incidental powers necessary to carry into effect the provisions of this act are expressly granted to and conferred upon the state corporation commission.

New Sec. 3. The state corporation commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 66-1,108, and amendments thereto, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction. The commission shall have general supervision of all motor carriers operating in this state. The commission shall inquire into any neglect or violations of the laws pertaining to the regulation of motor carriers of this state by any motor carrier or any person retaining the transportation services of that motor carrier. From time to time, the commission shall carefully examine and inspect the condition of each motor carrier, its equipment, the manner of its conduct and its management with reference to the public safety and convenience. Nothing in this section shall be construed as relieving any motor carrier from responsibility or liability for damage to person or property.

New Sec. 4. The state corporation commission shall have the authority to examine all accounts and records pertaining to its regulation of motor carriers. The agents, accountants, examiners or inspectors designated by the commission shall have authority under the direction of the transportation division to inspect and examine any and all books, accounts, papers, records, property and memoranda pertinent to its regulation of motor carriers.

Sec. 5. K.S.A. 2003 Supp. 66-1,108 is hereby amended to read as follows: 66-1,108. As used in this act:

(a) "Commission" means the corporation commission of the state of Kansas;

(b) "gross combination vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by

the manufacturer, gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load thereon;

(c) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single motor vehicle;

(d) "ground water well drilling rigs" means any vehicle, machine, tractor, trailer, semi-trailer or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water;

(e) "household goods" means property and personal effects used or to be used in a dwelling, when a part of the equipment or supply of such dwelling and such other similar property, as the commission may provide by rules and regulations, if the transportation of such effects or property is:

(1) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in such householder's dwelling; or

(2) arranged and paid for by another party.

(f) "Motor carrier" means any person operating as a for hire motor carrier or a private motor carrier, and any of that person's agents, officers, representatives, as well as employees responsible for hiring, supervising, training, assigning or dispatching of drivers and employees concerned with the installation, inspection and maintenance of motor vehicle equipment or accessories or both;

(g) "motor vehicle" means any automobile, truck, trailer, semi-trailer, tractor, motor bus or any other self-propelled or motor-driven vehicle used upon any of the public highways of the state for the purpose of transporting persons or property;

(h) "person" means any individual, firm, partnership, limited liability partnership, corporation, limited liability company, association or their lessees, trustees or receivers;

(i) "private motor carrier" means a person who provides transportation of property or passengers, by commercial vehicle and is not a for hire motor carrier;

(j) "public highways" means every public street, alley, road or highway or thoroughfare of any kind used by the public;

(k) "public motor carrier of household goods" means any person who undertakes for hire to transport by motor vehicle from place to place, the household goods of others who may choose to employ or contract with the motor carrier;

(l) "public motor carrier of passengers" means any person who undertakes for hire to transport by motor vehicle, from place to place, persons who may choose to employ or contract with the motor carrier; and

(m) "public motor carrier of property" means any person who undertakes for hire to transport by motor vehicle, from place to place, the property other than household goods of others who may choose to employ or contract with the motor carrier.

Sec. 6. K.S.A. 2003 Supp. 66-1,109 is hereby amended to read as follows: 66-1,109. This act shall not require the following carriers to obtain a certificate, license or permit from the commission or file rates, tariffs, annual reports or provide proof of insurance with the commission:

(a) Transportation by motor carriers wholly within the corporate limits of a city or village in this state, or between contiguous cities or villages in this state or in this and another state, or between any city or village in this or another state and the suburban territory in this state within three miles of the corporate limits, or between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority, except that none of the exemptions specified in this subsection (a) shall apply to wrecker carriers and none of such exemptions shall apply to motor carriers of passengers, other than motor carriers of passengers operating as a part of the general transit system serving any such city or village in this or another state, op-

(continued)

erating on regular routes and time schedules between any city or village in this or another state, and the suburban territory in this state;

(b) a private motor carrier who operates within a radius of 25 miles beyond the corporate limits of its city or village of domicile, or who operates between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority;

(c) the owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in a motor vehicle of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment;

(d) persons operating motor vehicles used only to transport property when no common carrier is accessible, but when common-carrier service is available then this last exemption is limited to the transportation of such property from origin to the nearest practicable common-carrier receiving or loading point, or from a common-carrier unloading point by way of the shortest practicable route to destination, providing such motor vehicle does not pass a practicable delivery or receiving point of a common carrier equipped to transport such load, or when used to transport property from the point of origin to point of destination thereof when the destination of such property is less distant from the point of origin thereof than the nearest practicable common-carrier receiving or loading point equipped to transport such load;

(e) (1) the transportation of children to and from school, or (2) to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities;

(f) a new vehicle dealer as defined by K.S.A. 8-2401, and amendments thereto, when transporting property to or from the place of business of such dealer;

(g) motor vehicles carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work, not having been sold or being transported for the purpose of sale;

(h) persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles;

(i) the operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers;

(j) motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivision of this state, including vehicles used exclusively for handling U.S. mail, and the operation of motor vehicles used exclusively by organizations operating public transportation systems pursuant to 49 U.S.C. sections 5307, 5310 and 5311;

(k) any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity of not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work;

(l) motor vehicles used to transport water for domestic purposes, as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto, or livestock consumption;

(m) transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, calcium chloride, bituminous or concrete paving mixtures, blacktop, dirt or fill material to a construction site, highway maintenance or construction project or other storage facility and the

operation of ready-mix concrete trucks in transportation of ready-mix concrete;

(n) the operation of a vehicle used exclusively for the transportation of solid waste, as the same is defined by K.S.A. 65-3402, and amendments thereto, to any solid waste processing facility or solid waste disposal area, as the same is defined by K.S.A. 65-3402, and amendments thereto;

(o) the transporting of vehicles used solely in the custom combining business when being transported by persons engaged in such business;

(p) the operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state;

(q) transportation by taxi or bus companies operated exclusively within any city or within 25 miles of the point of its domicile in a city;

(r) a vehicle being operated with a dealer license plate issued under K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A. 8-136, and amendments thereto, and vehicles being operated with a full-privilege license plate issued under K.S.A. 8-2425, and amendments thereto;

(s) any person operating a motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, transporting property sold or to be sold by the owner or operator of such motor vehicle, except motor vehicles transporting hazardous materials which require placards;

(t) the operation of vehicles used for transporting materials used in the servicing or repairing of the refractory linings of industrial boilers; ~~and~~

(u) transportation of newspapers published at least one time each week;

(v) *transportation of animal dung to be used for fertilizer; and*

(w) *the operation of ground water well drilling rigs.*

Sec. 7. K.S.A. 2003 Supp. 66-1,129 is hereby amended to read as follows: 66-1,129. (a) The commission shall adopt rules and regulations necessary to carry out the provisions of this act. No public motor carrier of property, household goods or passengers or private motor carrier of property shall operate or allow the operation of any motor vehicle on any public highway in this state except within the provisions of the rules and regulations adopted by the commission. Rules and regulations adopted by the commission shall include:

(1) Every vehicle unit shall be maintained in a safe and sanitary condition at all times.

(2) Every driver of a public motor carrier, operating as a carrier of intrastate commerce within this state, shall be at least 18 years of age. Every driver of a private motor carrier, operating as a carrier of intrastate commerce within this state, shall be at least 16 years of age. All such drivers shall be competent to operate the motor vehicle under such driver's charge.

(3) Minimum age requirements for every driver of a motor carrier, operating as a carrier of interstate commerce, shall be consistent with federal motor carrier regulations.

(4) Hours of service for operators of all motor carriers to which this act applies shall be fixed by the commission.

(5) Accidents arising from or in connection with the operation of motor carriers shall be reported to the commission within the time, in the detail and in the manner as the commission requires.

(6) Every motor carrier shall have attached to each unit or vehicle distinctive marking adopted by the commission.

(7) Motor carrier transportation requirements that are consistent with continuation of the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous materials.

(b) No rules and regulations adopted by the commission pursuant to this section shall require the operator of any motor vehicle

having a gross vehicle weight rating or gross combination weight rating of not more than 10,000 pounds to submit to a physical examination, unless required by federal laws or regulations.

(c) Any rules and regulations of the commission, adopted pursuant to this section, shall not apply to the following, while engaged in the carriage of intrastate commerce in this state:

(1) The owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment.

(2) The transportation of children to and from school, or to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities.

(3) (A) Except for motor vehicles under subparagraph (B), motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards.

(B) Except vehicles transporting hazardous materials which require placards, motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work and such tools, property or material are being transported to or from an active construction site located within a radius of 25 miles of the principal place of business of the motor carrier.

(4) Persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles.

(5) The operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers.

(6) Motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivisions of this state.

(7) Any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work.

(8) Motor vehicles used to transport water for domestic purposes, as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto, or livestock consumption.

(9) The operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state, unless the implement of husbandry is transported on a commercial motor vehicle.

Sec. 8. K.S.A. 66-1,142b is hereby amended to read as follows: 66-1,142b. (a) Any ~~motor carrier person~~ violating any statute, commission orders or rules and regulations ~~relevant to motor carriers~~ adopted by the state corporation commission pursuant to the motor carrier act and other laws relevant to motor carriers shall be subject to a civil penalty of not less than \$100 and not more than \$1,000 for negligent violations, and not more than \$5,000 for intentional violations.

(b) In construing and enforcing a civil penalty in accordance with this section, any act, omission or failure of any officer, agent or other person acting for or employed by any motor carrier while acting within the scope of such person's employment, shall in every case be deemed the act, omission or failure of the motor carrier.

(c) Every day during which the ~~motor carrier person~~ fails to comply with any order ~~or direction~~ of the commission, or any applicable statute, rule or regulation, shall constitute a separate and distinct violation.

(d) Civil penalties shall be enforced and collected by an attorney for the corporation commission in the appropriate district court.

(e) Civil penalties shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the motor carrier license fee fund.

(f) The commission is granted the power, by general order or otherwise, to prescribe reasonable rules and regulations for the assessment of administrative civil penalties and sanctions for violations of any statute, commission orders or rules and regulations adopted by the commission.

Sec. 9. K.S.A. 66-1,142b and K.S.A. 2003 Supp. 66-1,108, 66-1,109 and 66-1,129 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 27, 2004.)

HOUSE BILL No. 2638

AN ACT concerning corrections; amending K.S.A. 74-9501, 75-5292 and 75-52,105 and K.S.A. 2003 Supp. 75-5291 and repealing the existing sections.

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

Section 1. On and after July 1, 2004, K.S.A. 2003 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a) (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the criminogenic needs of felony offenders including, but not limited to, ~~restitution programs, victim services programs, preventive or diversionary correctional programs, community corrections centers~~ adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127 and amendments thereto.

(2) Except as otherwise provided, placement of offenders in community correctional services programs by the court shall be limited to placement of adult offenders, convicted of a felony offense:

(A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In addition, the court may place in a community correctional services program adult offenders, convicted of a felony offense, whose offense is classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes;

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

(C) all offenders convicted of an offense which satisfies the definition of offender pursuant to K.S.A. 22-4902, and amendments thereto, and which is classified as a severity level 7 or higher offense

(continued)

and who receive a nonprison sentence, regardless of the manner in which the sentence is imposed;

(D) any offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in the offender being required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections;

(E) any offender who is determined to be "high risk or needs, or both" by the use of a statewide, mandatory, standardized risk assessment tool or instrument validated for drug abuse treatment program placement as provided for by subsection (d) of K.S.A. 2003 Supp. 21-4729, and amendments thereto, for community correctional placements; ~~or~~

(F) placed in community correctional services programs as a condition of supervision following the successful completion of a conservation camp program; or

(G) who has been sentenced to community corrections supervision pursuant to K.S.A. 2003 Supp. 21-4729, and amendments thereto.

(3) Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before July 1, ~~2004~~ 2006, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this section shall expire on July 1, ~~2004~~ 2006.

(4) Nothing in this act shall prohibit a community correctional services program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(b) (1) In order to establish a mechanism for community correctional services to participate in the department of corrections annual budget planning process, the secretary of corrections shall establish a community corrections advisory committee to identify new or enhanced correctional or treatment interventions designed to divert offenders from prison.

(2) The secretary shall appoint one member from the southeast community corrections ~~association~~ region, one member from the northeast community corrections ~~association~~ region, one member from the central community corrections ~~association~~ region and one member from the western community corrections ~~association~~ region. The deputy secretary of community ~~corrections~~ and field services shall designate two members from the state at large. The secretary shall have final appointment approval of the members designated by the deputy secretary. The committee shall reflect the diversity of community correctional services with respect to geographical location and average daily population of offenders under supervision.

(3) Each member shall be appointed for a term of three years; ~~except of the initial appointments; and~~ such terms shall be staggered as determined by the secretary. Members shall be eligible for reappointment.

(4) The committee, in collaboration with the deputy secretary of community ~~corrections~~ and field services or the deputy secretary's designee, shall routinely examine and report to the secretary on the following issues:

- (A) Efficiencies in the delivery of field supervision services;
- (B) effectiveness and enhancement of existing interventions; ~~and~~
- (C) identification of new interventions; *and*
- (D) *statewide performance indicators*.

(5) The committee's report concerning enhanced or new interventions shall address:

- (A) ~~measurable~~ Goals and *measurable* objectives;
- (B) projected costs;
- (C) the impact on public safety; and
- (D) the evaluation process.

(6) The committee shall submit its report to the secretary annually on or before July 15 in order for the enhanced or new interventions to be considered for inclusion within the department of corrections budget request for community correctional services or in the department's enhanced services budget request for the subsequent fiscal year.

Sec. 2. On and after July 1, 2004, K.S.A. 75-5292 is hereby amended to read as follows: 75-5292. (a) Subject to the other provisions of ~~this~~ *the community corrections* act, each county may qualify to receive grants under ~~this~~ *such* act by complying with the provisions of K.S.A. 75-52,110, *and amendments thereto*.

(b) Subject to the requirements of centralized administration and control of correctional services under K.S.A. 75-52,110, *and amendments thereto*, and the provisions of agreements between cooperating counties under subsection (c), the respective boards of county commissioners shall retain all authority for the expenditure of moneys, including grants received under ~~this~~ *such* act, and for the implementation ~~of~~ *and oversight of* the operations under the comprehensive plan approved by the secretary of corrections. The comprehensive plan shall be reviewed and approved by the board of county commissioners of each county to which the plan pertains prior to submission to the secretary of corrections for approval.

(c) The boards of county commissioners of all counties cooperating together to establish a corrections advisory board and to adopt a comprehensive plan pursuant to ~~this~~ *such* act may enter into cooperative agreements to qualify their respective counties for grants under ~~this~~ *such* act. Such counties shall cooperate and enter into such agreements for all purposes of ~~this~~ *such* act in the manner prescribed by K.S.A. 12-2901 through 12-2907 and amendments thereto, to the extent that those statutes do not conflict with the provisions of ~~this~~ *such* act.

Sec. 3. On and after July 1, 2004, K.S.A. 75-52,105 is hereby amended to read as follows: 75-52,105. (a) Upon compliance by a county or group of counties with the requirements for receipt of the grants authorized by ~~this~~ *the community corrections* act and approval of the comprehensive plan by the secretary of corrections, the secretary of corrections shall determine the amount of the annual grant to each such county and, commencing on the next ensuing January 1 or July 1 after approval of the comprehensive plan, shall proceed to pay such grant in equal semiannual payments in accordance with and subject to ~~this~~ *such* act, applicable rules and regulations, and the provisions of appropriations acts.

(b) ~~Within 10 days after the end of each calendar quarter~~ *On a quarterly basis*, each county receiving semiannual grant payments under ~~this~~ *such* act shall submit to the secretary of corrections certified statements detailing the amounts expended and costs incurred for the correctional services described in K.S.A. 75-5291, and amendments thereto. Upon receipt of such certified statements, the secretary of corrections shall determine whether each such county is in compliance with the expenditure and operation standards prescribed under ~~this~~ *such* act for such services and shall determine the semiannual payment amount each such county is entitled to receive after making any adjustments for reductions or charges as required by or in accordance with ~~this~~ *such* act and applicable rules and regulations.

(c) Semiannual grant payments for counties entitled thereto under ~~this~~ *such* act shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of corrections or by a person or persons designated by the secretary of corrections to the county treasurers of such counties.

New Sec. 4. On and after July 1, 2004, whenever death occurs of an inmate, who is in the custody of the secretary of corrections and who resides in a correctional facility or boot camp operated by or contracted through the secretary or of a juvenile, who is in the custody of the commissioner of juvenile justice and who resides in an institution operated by or contracted through the commissioner, an investigation regarding the circumstances of the death shall be initiated by the Kansas bureau of investigation. A report of the findings of the investigation shall be made available to the chairperson of the senate judiciary committee and the house corrections and juvenile justice committee of the Kansas legislature and shall be subject to the open records act, K.S.A. 45-215, and amendments thereto.

New Sec. 5. On and after July 1, 2004, whenever the death of a prisoner in the custody of a city or county and residing in jail or in a facility contracted through the city or county, or both, occurs, an investigation regarding the circumstances of the death shall be initiated by the Kansas bureau of investigation. A report of the findings of the investigation shall be made available to the chairperson of the senate judiciary committee and the house corrections and juvenile justice committee of the Kansas legislature and shall be subject to the open records act, K.S.A. 45-215, and amendments thereto.

Sec. 6. K.S.A. 74-9501 is hereby amended to read as follows: 74-9501. (a) There is hereby established the Kansas criminal justice coordinating council.

(b) The council shall consist of the governor or designee, the chief justice of the supreme court or designee, the attorney general or designee, the secretary of corrections, the ~~secretary of social and rehabilitation services~~ *superintendent of the highway patrol*, the commissioner of juvenile justice and the director of the Kansas bureau of investigation.

(c) ~~The director and all existing employees of the Kansas sentencing commission~~ *governor shall serve as designate staff to the Kansas criminal justice coordinating council, while continuing to serve at the will of the Kansas sentencing commission pursuant to K.S.A. 74-9103 and amendments thereto in the performance of its duties as outlined in K.S.A. 74-9101, 74-9106 and 21-4725 and amendments thereto.* The ~~director staff~~ shall attend all meetings of the council, be responsible for keeping a record of council meetings, prepare reports of the council and perform such other duties as directed by the council.

(d) The council shall elect a chairperson and vice-chairperson from among the members of the council.

(e) The council shall:

(1) *Appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, a member of a city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses;*

(2) define and analyze issues and processes in the criminal justice system, identify alternative solutions and make recommendations for improvements;

~~(2)~~ (3) perform such criminal justice studies or tasks as requested by the governor, *the attorney general*, the legislature or the chief justice, as deemed appropriate or feasible by the council;

~~(3)~~ (4) oversee development and management of a criminal justice database including assuming the designation and functions of the state statistical analysis center currently assigned to the Kansas bureau of investigation pursuant to K.S.A. 75-712a and amendments thereto. All criminal justice agencies as defined in subsection (c) of

K.S.A. 22-4701 and amendments thereto and the ~~department of social and rehabilitation services~~ *juvenile justice authority* shall provide any data or information, including juvenile offender information which is requested by the council, in a form and manner established by the council, in order to facilitate the development and management of the criminal justice council database; ~~and~~

~~(4)~~ (5) develop and oversee reporting of all criminal justice federal funding available to the state or local units of government including assuming the designation and functions of administering the United States bureau of justice assistance grants ~~currently administered through the law enforcement antidrug abuse program of the department of administration.~~ On the effective date of this act any bureau of justice assistance antidrug abuse federal fund balances in any account and all unclassified positions authorized for the law enforcement antidrug abuse program of the department of administration shall be transferred to and budgeted with the Kansas sentencing commission.

~~(f)~~ The council shall appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses.

~~(g)~~ The council shall form a task force to study the consolidation of probation, parole and community corrections services.

~~(h)~~ When analyzing criminal justice issues and performing criminal justice studies, the council shall:

(6) form such task groups as necessary and shall appoint individuals who appropriately represent law enforcement, the judiciary, legal profession, state, local, or federal government, the public, or other professions or groups as determined by the council, to represent the various aspects of the issue being analyzed or studied, *when analyzing criminal justice issues and performing criminal justice studies.* Members of the legislature may be appointed ex officio members to such task groups. A member of the council shall serve as the chairperson of each task group appointed by the council. The council may appoint other members of the council to any task group formed by the council; *and*

~~(i)~~ The council shall (7) review reports submitted by each task group named by the council and shall submit the report with the council's recommendations pertaining thereto to the governor, *the attorney general*, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate.

Sec. 7. K.S.A. 74-9501 is hereby repealed.

Sec. 8. On and after July 1, 2004, K.S.A. 75-5292 and 75-52,105 and K.S.A. 2003 Supp. 75-5291 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 27, 2004.)

HOUSE BILL No. 2705

AN ACT concerning water; relating to members of the Kansas water authority; concerning perfection of water rights; relating to the state water plan fund; amending K.S.A. 2003 Supp. 74-2622, 82a-714 and 82a-953a and repealing the existing sections; also repealing K.S.A. 2003 Supp. 82a-953a, as amended by section 177 of 2004 House Bill No. 2675.

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

Section 1. On and after July 1, 2004, K.S.A. 2003 Supp. 74-2622 is hereby amended to read as follows: 74-2622. (a) There is hereby established within and as a part of the Kansas water office the Kansas water authority. The authority shall be composed of ~~23~~ 24 members of whom 13 shall be appointed as follows: (1) One member shall be

(continued)

appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, such person shall not exercise any power, duty or function as a member or chairperson of the water authority until confirmed by the senate. Such member shall serve at the pleasure of the governor and shall be the chairperson of the authority; (2) except as provided by subsection (b), 10 members shall be appointed by the governor for terms of four years. Of the members appointed under this provision one shall be a representative of large municipal water users, one shall be representative of small municipal water users, one shall be a board member of a western Kansas groundwater management district, one shall be a board member of a central Kansas groundwater management district, one shall be a member of the Kansas association of conservation districts, one shall be representative of industrial water users, one shall be a member of the state association of watershed districts, one shall have a demonstrated background and interest in water use conservation and environmental issues, and two shall be representative of the general public. The member who is representative of large municipal water users shall be appointed from three nominations submitted by the league of Kansas municipalities. The member who is representative of small municipal water users shall be appointed from three nominations submitted by the Kansas rural water district's association. The member who is representative of a western Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 1, 3 and 4. The member who is representative of a central Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 2 and 5. The member who is representative of industrial water users shall be appointed from three nominations submitted by the Kansas association of commerce and industry. The member who is representative of the state association of watershed districts shall be appointed from three nominations submitted by the state association of watershed districts. The member who is representative of the Kansas association of conservation districts shall be appointed from three nominations submitted by the state association of conservation districts. If the governor cannot make an appointment from the original nominations, the nominating authority shall be so advised and, within 30 days thereafter, shall submit three new nominations. Members appointed by the governor shall be selected with special reference to training and experience with respect to the functions of the Kansas water authority, and no more than six of such members shall belong to the same political party; (3) one member shall be appointed by the president of the senate for a term of two years; and (4) one member shall be appointed by the speaker of the house of representatives for a term of two years. The state geologist, *the state biologist*, the chief engineer of the division of water resources of the state board of agriculture, the director of the division of environment of the department of health and environment, the chairperson of the state corporation commission, the secretary of commerce, the director of the Kansas water office, the secretary of wildlife and parks, the administrative officer of the state conservation commission, the secretary of the state board of agriculture and the director of the agricultural experiment stations of Kansas state university of agriculture and applied science shall be nonvoting members ex officio of the authority. The director of the Kansas water office shall serve as the secretary of the authority.

(b) A member appointed pursuant to subsection (a)(2) shall be appointed for a term expiring on January 15 of the fourth calendar year following appointment and until a successor is appointed and qualified.

(c) In the case of a vacancy in the appointed membership of the Kansas water authority, the vacancy shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Appointed members of the authority attending regular or special meetings thereof shall be paid compensation, subsis-

tence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(d) The Kansas water authority shall:

(1) Consult with and be advisory to the governor, the legislature and the director of the Kansas water office.

(2) Review plans for the development, management and use of the water resources of the state by any state or local agency.

(3) Make a study of the laws of this state, other states and the federal government relating to conservation and development of water resources, appropriation of water for beneficial use, flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream and stream pollution for the purpose of determining the necessity or advisability of the enactment of new or amendatory legislation in this state on such subjects.

(4) Make recommendations to other state agencies and political subdivisions of the state for the coordination of their activities relating to flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream, stream pollution and groundwater studies.

(5) Make recommendations to each regular session of the legislature and to the governor at such times as the authority considers advisable concerning necessary or advisable legislation relating to any of the matters or subjects which it is required by this act to study for the purpose of making recommendations to the legislature. All such recommendations to the legislature shall be in drafted bill form together with such explanatory information and data as the authority considers advisable.

(6) Approve, prior to submission to the legislature by the Kansas water office or its director, (A) any contract entered into pursuant to the state water plan storage act, (B) any amendments to the state water plan or the state water planning act and (C) any other legislation concerning water resources of the state.

(7) Approve, before they become effective, any policy changes proposed by the Kansas water office concerning the pricing of water for sale pursuant to the state water plan storage act.

(8) Approve, before it becomes effective, any agreement entered into with the federal government by the Kansas water office.

(9) Request any agency of the state, which shall have the duty upon that request, to submit its budget estimate pertaining to the state's water resources and any plans or programs related thereto and, upon the authority's receipt of such budget estimate, review and evaluate it and furnish recommendations relating thereto to the governor and the legislature.

(10) Approve, prior to adoption by the director of the Kansas water office, rules and regulations authorized by law to be adopted.

(11) Approve, prior to adoption by the director of the Kansas water office, guidelines for conservation plans and practices developed pursuant to subsection (c) of K.S.A. 74-2608, and amendments thereto.

(e) The Kansas water authority may appoint citizens' advisory committees to study and advise on any subjects upon which the authority is required or authorized by this act to study or make recommendations.

(f) The provisions of the Kansas governmental operations accountability law apply to the Kansas water authority, and the authority is subject to audit, review and evaluation under such law.

Sec. 2. K.S.A. 2003 Supp. 82a-714 is hereby amended to read as follows: 82a-714. (a) Upon the completion of the construction of the works and the actual application of water to the proposed beneficial use within the time allowed, the applicant shall notify the chief engineer to that effect. The chief engineer or the chief engineer's duly authorized representative shall then examine and inspect the appropriation diversion works and, if it is determined that the appropriation diversion works have been completed and the appropriation right perfected in conformity with the approved application and plans, the chief engineer shall issue a certificate of appropriation in duplicate. The original of such certificate shall be sent to the owner

and shall be recorded with the register of deeds in the county or counties wherein the point of diversion is located, as are other instruments affecting real estate, and the duplicate shall be made a matter of record in the office of the chief engineer.

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

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

(1) Before July 1, 2004, if the time allowed in the permit to perfect the water right expired before July 1, 1999, *except in those cases in which abandonment proceedings pursuant to K.S.A. 82a-718, and amendments thereto, are pending on July 1, 2004; or*

(2) *before July 1, 2006, in such cases in which an abandonment proceeding was pending pursuant to K.S.A. 82a-718, and amendments thereto, on July 1, 2004; or*

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

If the chief engineer fails to issue a certificate within the time provided by this subsection, the applicant may request review, pursuant to K.S.A. 2003 Supp. 82a-1901 and amendments thereto, of the chief engineer's failure to act.

(d) Except for works constructed to appropriate water for domestic use, each notification to the chief engineer under subsection (a) shall be accompanied by a field inspection fee of \$200, or commencing July 1, 2002, and ending June 30, ~~2005~~ 2010, a fee of \$400. Failure to pay the field inspection fee, after reasonable notice by the chief engineer of such failure, shall result in the permit to appropriate water being revoked, forfeiture of the priority date and revocation of any appropriation right that may exist.

(e) A request for an extension of time to: (1) Complete the diversion works; or (2) perfect the water right, shall be accompanied by a fee of \$50, or commencing July 1, 2002, and ending June 30, ~~2005~~ 2010, a fee of \$100.

(f) A request to reinstate a water right or a permit to appropriate water which has been dismissed shall be filed with the chief engineer within 60 days of the date dismissed and shall be accompanied by a fee of \$100, or commencing July 1, 2002, and ending June 30, ~~2005~~ 2010, a fee of \$200.

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

Sec. 3. On and after July 1, 2004, K.S.A. 2003 Supp. 82a-953a is hereby amended to read as follows: 82a-953a. During ~~the each~~ fiscal year ~~ending June 30, 2004~~, the director of accounts and reports shall transfer ~~\$3,773,949~~ \$6,000,000 from the state general fund to the state water plan fund created by K.S.A. 82a-951, and amendments thereto, 1/2 of such amount to be transferred on July 15 and 1/2 to be transferred on January 15, except that (1) such transfers are subject to reduction under K.S.A. 75-6704, and amendments thereto, *and* (2) *the amount of moneys transferred from the state general fund to the state water plan fund during state fiscal year 2005 on each such date shall not exceed \$1,874,419.50.* All transfers under this section shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal year ending June 30, ~~2004~~ 2005, shall be considered revenue transfers from the state general fund.

Sec. 4. K.S.A. 2003 Supp. 82a-714 is hereby repealed.

Sec. 5. On and after July 1, 2004, K.S.A. 2003 Supp. 74-2622 and 82a-953a and K.S.A. 2003 Supp. 82a-953a, as amended by section 177 of 2004 House Bill No. 2675, are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 27, 2004.)

HOUSE BILL No. 2418

AN ACT concerning courts; relating to the court of appeals; concerning mandatory retirement; amending K.S.A. 20-2608 and repealing the existing section; also repealing K.S.A. 20-3010, as amended by section 2 of 2004 House Bill No. 2618, K.S.A. 2003 Supp. 20-3006, as amended by section 1 of 2004 House Bill No. 2618, and section 3 of 2004 House Bill No. 2618.

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

Section 1. K.S.A. 20-2608 is hereby amended to read as follows: 20-2608. (a) Any judge may retire upon reaching age 65 or ~~commencing July 1, 1993, age 65 or~~ age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the judge is equal to or more than 85 and upon making application for retirement to the board, ~~and~~ Any judge upon reaching age ~~70~~ 75 shall retire, ~~and~~ *except that any duly elected or appointed justice of the supreme court shall retire upon reaching age 70.* Upon retiring, each such judge as described in this subsection shall receive retirement annuities as provided in K.S.A. 20-2610 and amendments thereto, except, that when any ~~incumbent judge~~ justice of the supreme court attains the age of 70, such judge may, if such judge desires, finish serving the term during which ~~and~~ such judge attains the age of 70.

(b) Notwithstanding the provisions of subsection (a), any judge who is otherwise eligible to retire may retire upon reaching age 60 and, having total years of service of not less than 10 years, and upon making application to the board. Any such judge who retires on and after July 1, 1993, and prior to attaining the age of 62 shall receive a retirement annuity pursuant to K.S.A. 20-2610 and amendments thereto based upon the normal retirement age of 62 reduced by an amount equal to the product of (1) such annual retirement annuity payable had the judge retired on the normal retirement date, multiplied by (2) the product of .2% multiplied by the number of months' difference, to the nearest whole month, between the judge's attained age at the time of retirement and age 62.

(c) Notwithstanding the provisions of subsection (a), on or after July 1, 1993, any judge who is otherwise eligible to retire may retire upon reaching age 55 with the completion of 10 years of service, and upon making application to the board. Any such judge who retires prior to attaining the age of 62 pursuant to this subsection shall receive a retirement annuity pursuant to K.S.A. 20-2610 and amendments thereto based upon the normal retirement age of 62 reduced by an amount equal to the total of: (1) (A) The product of such annual retirement annuity payable had the judge retired on the normal retirement date, multiplied by (B) the product of .6% multiplied by the number of months' difference, to the nearest whole month, between the member's attained age at the time of retirement and age 60; and

(2) for any judge who retired on or after July 1, 1993, the product of such annual retirement annuity payable had the judge retired on the normal retirement date, multiplied by 4.8%.

The provisions of this subsection apply to any judge who retires before the age of 62 and has attained age 55 but has not attained age 60, with the completion of 10 years of service.

Sec. 2. K.S.A. 20-2608 is hereby repealed.

Sec. 3. On and after July 1, 2004, K.S.A. 20-3010, as amended by section 2 of 2004 House Bill No. 2618, K.S.A. 2003 Supp. 20-
(continued)

3006, as amended by section 1 of 2004 House Bill No. 2618, and section 3 of 2004 House Bill No. 2618 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 27, 2004.)

HOUSE BILL No. 2795

AN ACT concerning higher education; concerning postsecondary educational institutions and tuition and fees relating thereto; relating to savings programs therefor; amending K.S.A. 72-1111, 72-4432 and 74-32,161 and K.S.A. 2003 Supp. 13-13a25, 13-13a26, 13-13a27, 13-13a29, 13-13a31, 13-13a32, 13-13a33, 13-13a34, 19-101a, 71-301a, 71-304, 71-305, 71-306, 71-308, 71-401, 71-402, 71-403, 71-610, 71-1705, 74-32,151, 75-646 and 79-32,117; also repealing K.S.A. 72-4916, 72-4919, 72-4920, 72-4921, 72-4922, 72-4924 through 72-4937, inclusive, 72-4939, 72-4940 and 74-3249 through 74-3253 and K.S.A. 2003 Supp. 72-4938.

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

Section 1. K.S.A. 72-1111 is hereby amended to read as follows: 72-1111. (a) Subject to the other provisions of this section, every parent or person acting as parent in the state of Kansas, who has control over or charge of any child who has reached the age of seven years and is under the age of 18 years and has not attained a high school diploma or a general educational development (GED) credential, shall require such child to *be regularly enrolled in and attend* continuously each school year (1) a public school for the duration of the school term provided for in K.S.A. 72-1106, and amendments thereto, or (2) a private, denominational or parochial school taught by a competent instructor for a period of time which is substantially equivalent to the period of time public school is maintained in the school district in which the private, denominational or parochial school is located. If the child is 16 or 17 years of age, the parent or person acting as parent, by written consent, or the court, pursuant to a court order, may allow the child to be exempt from the compulsory attendance requirements of this section.

(b) If the child is 16 or 17 years of age, the child shall be exempt from the compulsory attendance requirements of this section if (1) the child is regularly enrolled in *and attending* a program recognized by the local board of education as an approved alternative educational program, or (2) the child and the parent or person acting as parent attend a final counseling session conducted by the school during which a disclaimer to encourage the child to remain in school or to pursue educational alternatives is presented to and signed by the child and the parent or person acting as parent. The disclaimer shall include information regarding the academic skills that the child has not yet achieved, the difference in future earning power between a high school graduate and a high school drop out, and a listing of educational alternatives that are available for the child, or (3) *the child is regularly enrolled in a school as required by subsection (a) and is concurrently enrolled in a postsecondary educational institution, as defined by K.S.A. 74-3201b, and amendments thereto. The provisions of this clause (3) shall be applicable to children from and after July 1, 1997 and shall relate back to such date.*

(c) Any child who is under the age of seven years, but who is enrolled in school, is subject to the compulsory attendance requirements of this section. Any such child may be withdrawn from enrollment in school at any time by a parent or person acting as parent of the child and thereupon the child shall be exempt from the compulsory attendance requirements of this section until the child reaches the age of seven years or is re-enrolled in school.

(d) Any child who is determined to be an exceptional child, except for an exceptional child who is determined to be a gifted child, under the provisions of the special education for exceptional children act is subject to the compulsory attendance requirements of such act and is exempt from the compulsory attendance requirements of this section.

(e) No child attending public school in this state shall be required to participate in any activity which is contrary to the religious

teachings of the child if a written statement signed by one of the parents or a person acting as parent of the child is filed with the proper authorities of the school attended requesting that the child not be required to participate in such activities and stating the reason for the request.

(f) When a recognized church or religious denomination that objects to a regular public high school education provides, offers and teaches, either individually or in cooperation with another recognized church or religious denomination, a regularly supervised program of instruction, which is approved by the state board of education, for children of compulsory school attendance age who have successfully completed the eighth grade, participation in such a program of instruction by any such children whose parents or persons acting as parents are members of the sponsoring church or religious denomination shall be regarded as acceptable school attendance within the meaning of this act. Approval of such programs shall be granted by the state board of education, for two-year periods, upon application from recognized churches and religious denominations, under the following conditions: (1) Each participating child shall be engaged, during each day on which attendance is legally required in the public schools in the school district in which the child resides, in at least five hours of learning activities appropriate to the adult occupation that the child is likely to assume in later years;

(2) acceptable learning activities, for the purposes of this subsection, shall include parent (or person acting as parent) supervised projects in agriculture and homemaking, work-study programs in cooperation with local business and industry, and correspondence courses from schools accredited by the national home study council, recognized by the United States office of education as the competent accrediting agency for private home study schools;

(3) at least 15 hours per week of classroom work under the supervision of an instructor shall be provided, at which time students shall be required to file written reports of the learning activities they have pursued since the time of the last class meeting, indicating the length of time spent on each one, and the instructor shall examine and evaluate such reports, approve plans for further learning activities, and provide necessary assignments and instruction;

(4) regular attendance reports shall be filed as required by law, and students shall be reported as absent for each school day on which they have not completed the prescribed minimum of five hours of learning activities;

(5) the instructor shall keep complete records concerning instruction provided, assignments made, and work pursued by the students, and these records shall be filed on the first day of each month with the state board of education and the board of education of the school district in which the child resides;

(6) the instructor shall be capable of performing competently the functions entrusted thereto;

(7) in applying for approval under this subsection a recognized church or religious denomination shall certify its objection to a regular public high school education and shall specify, in such detail as the state board of education may reasonably require, the program of instruction that it intends to provide and no such program shall be approved unless it fully complies with standards therefor which shall be specified by the state board of education;

(8) if the sponsors of an instructional program approved under this subsection fail to comply at any time with the provisions of this subsection, the state board of education shall rescind, after a written warning has been served and a period of three weeks allowed for compliance, approval of the programs, even though the two-year approval period has not elapsed, and thereupon children attending such program shall be admitted to a high school of the school district.

(g) As used in this section, ~~the terms "parent":~~

(1) "Parent" and "person acting as parent" have the meanings respectively ascribed thereto in K.S.A. 72-1046, and amendments thereto.

(2) "Regularly enrolled" means enrolled in five or more hours of instruction each school day. For the purposes of subsection (b)(3),

hours of instruction received at a postsecondary educational institution shall be counted.

New Sec. 2. This act shall be known and may be cited as the Kansas private and out-of-state postsecondary educational institution act.

New Sec. 3. As used in this act:

(a) "Academic degree" means any associate, bachelor's, first professional, master's, intermediate (specialist) or doctor's degree.

(b) "Accreditation" means an accreditation by an agency recognized by the United States department of education.

(c) "Branch campus" means any subsidiary place of business maintained within the state of Kansas by an institution at a site which is separate from the site of the institution's principal place of business and at which the institution offers a course or courses of instruction or study identical to the course or courses of instruction or study offered by the institution at its principal place of business.

(d) "Commission" means the advisory commission on private and out-of-state postsecondary educational institution established pursuant to this act.

(e) "Distance education" means any course delivered primarily by use of correspondence study, audio, video or computer technologies.

(f) "Out-of-state postsecondary educational institution" means a postsecondary educational institution chartered, incorporated or otherwise organized under the laws of any jurisdiction other than the state of Kansas.

(g) "Institution" means an out-of-state or private postsecondary educational institution.

(h) "Institution employee" means any person, other than an owner, who directly or indirectly receives compensation from an institution for services rendered.

(i) "Owner of an institution" means:

(1) In the case of an institution owned by an individual, that individual;

(2) in the case of an institution owned by a partnership, all full, silent and limited partners;

(3) in the case of an institution owned by a corporation, the corporation, its directors, officers and each shareholder owning shares of issued and outstanding stock aggregating at least 10% of the total of the issued and outstanding shares; and

(4) in the case of an institution owned by a limited liability company, the company, its managers and all its members.

(j) "Person" means an individual, firm, partnership, association or corporation.

(k) "Physical presence" means the employment in Kansas of a Kansas resident for the purpose of administering, coordinating, teaching, training, tutoring, counseling, advising or any other activity on behalf of the institution, or the delivery of, or the intent to deliver, instruction in Kansas with the assistance from any entity within the state in delivering the instruction including, but not limited to, a cable television company or a television broadcast station that carries instruction sponsored by the institution.

(l) "Private postsecondary educational institution" means an entity which:

(1) Is a business enterprise, whether operated on a profit or not-for-profit basis, which has a physical presence within the state of Kansas or which solicits business within the state of Kansas;

(2) offers a course or courses of instruction or study through classroom contact or by distance education, or both, for the purpose of training or preparing persons for a field of endeavor in a business, trade, technical or industrial occupation or which offers a course or courses leading to an academic degree; and

(3) is not specifically exempted by the provisions of this act.

(m) "Representative" means any person employed by an institution to act as an agent, solicitor or broker to procure students or enrollees for the institution by solicitation within this state at any place other than the office or a place of business of the institution.

(n) "State board" means the Kansas board of regents or the board's designee.

(o) "Support" or "supported" means the primary source and means by which an institution derives revenue to perpetuate operation of the institution.

(p) "University" means a postsecondary educational institution authorized to offer bachelor degrees together with graduate or first professional degrees.

(q) "State educational institution" means any state educational institution as defined by K.S.A. 76-711, and amendments thereto.

New Sec. 4. This act shall not apply to:

(a) An institution supported primarily by Kansas taxation from either a local or state source;

(b) an institution or training program which offers instruction only for avocational or recreational purposes as determined by the state board;

(c) a course or courses of instruction or study, excluding degree-granting programs, sponsored by an employer for the training and preparation of its own employees, and for which no tuition or other fee is charged to the student;

(d) a course or courses of instruction or study sponsored by a recognized trade, business or professional organization having a closed membership for the instruction of the members of the organization, and for which no tuition or other fee is charged to the student;

(e) an institution which is otherwise regulated and approved under any other law of this state;

(f) a course or courses of special study or instruction having a closed enrollment and financed or subsidized on a contract basis by local or state government, private industry, or any person, firm, association or agency, other than the student involved;

(g) an institution financed or subsidized by federal or special funds which has applied to the state board for exemption from the provisions of this act and which has been declared exempt by the state board because it has found that the operation of such institution is outside the purview of this act;

(h) the Kansas City college and bible school, inc.; and

(i) any postsecondary educational institution which was granted approval to confer academic or honorary degrees by the state board of education under the provisions of K.S.A. 17-6105 prior to its repeal.

New Sec. 5. (a) The state board may adopt rules and regulations for the administration of this act. Prior to the adoption of any such rules and regulations, the state board shall afford the advisory commission an opportunity to make recommendations thereon.

(b) Specific standards shall be set for determining those institutions which qualify for approval to confer or award academic degrees. Such standards shall be consistent with standards applicable to state educational institutions under the control and supervision of the state board.

(c) The state board shall maintain a list of institutions that have been issued a certificate of approval.

(d) Any state agency having information which will enable the state board to exercise its powers and perform its duties in administering the provisions of this act shall furnish such information when requested by the state board.

New Sec. 6. (a) The advisory commission on private and out-of-state postsecondary educational institutions is hereby created. The commission shall consist of nine members appointed by the state board. Except as provided by this section, members shall be appointed for terms of four years. Vacancies shall be filled by the state board for the unexpired term. Five members of the commission shall be owners or managers of private postsecondary educational institutions, at least two of the five members shall represent institutions, which at the time of appointment of such members, have enrollments of under 125 students, and at least one shall represent a degree

(continued)

granting institution. Four members shall be selected from among persons representing: Secondary schools, postsecondary schools, business and industry, members of the employment community, economic development interests of the state and health occupations.

(b) The commission shall elect one member as chairperson of the commission and such other officers as may be necessary.

(c) The commission shall meet at least once annually in Topeka during the month of October, and shall conduct special meetings on the call of the chairperson or the state board or at the request of at least four members of the commission.

(d) Members attending meetings of such commission, or attending a subcommittee meeting thereof authorized by such commission, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

(e) A majority of the commission is a quorum to conduct business, but no less than four members must concur to pass upon any matter before the commission.

(f) The commission may recommend to the state board such policies, minimum standards and rules and regulations that the commission deems necessary for administering the provisions of this act.

New Sec. 7. (a) No institution may operate within this state without obtaining a certificate of approval from the state board as provided in this act. No institution shall confer or award any degree, whether academic or honorary, unless such institution has been approved for such purpose by the state board of regents.

(b) Any contract entered into by or on behalf of any owner, employee or representative of an institution which is subject to the provisions of this act, but which has not obtained a certificate of approval, shall be unenforceable in any action.

New Sec. 8. (a) Each institution shall apply to the state board for a certificate of approval. An institution shall not be required to obtain a separate certificate of approval for maintenance of any branch institution.

(b) An application for a certificate of approval shall be made on a form prepared and furnished by the state board and shall contain such information as may be required by the state board.

(c) The state board may issue a certificate of approval upon determination that an institution meets the standards established by the state board. The state board may issue a certificate of approval to any institution accredited by a regional or national accrediting agency recognized by the United States department of education without further evidence.

New Sec. 9. The state board shall issue a certificate of approval to an institution when the state board is satisfied that the institution meets minimum standards established by the state board by adoption of rules and regulations to insure that:

(a) Courses, curriculum and instruction are of such quality, content and length as may reasonably and adequately ensure achievement of the stated objective for which the courses, curriculum or instruction are offered;

(b) institutions have adequate space, equipment, instructional material and personnel to provide education and training of good quality;

(c) educational and experience qualifications of directors, administrators and instructors are such as may reasonably insure that students will receive instruction consistent with the objectives of their program of study;

(d) institutions maintain written records of the previous education and training of students and applicant students, and that training periods are shortened when warranted by such previous education and training or by skill or achievement tests;

(e) a copy of the course outline, schedule of tuition, fees and other charges, settlement policy, rules pertaining to absence, grading policy and rules of operation and conduct are furnished to students upon entry into class;

(f) upon completion of training or instruction, students are given certificates, diplomas or degrees as appropriate by the institution indicating satisfactory completion of the program;

(g) adequate records are kept to show attendance, satisfactory academic progress and enforcement of satisfactory standards relating to attendance, progress and conduct;

(h) institutions comply with all local, state and federal regulations;

(i) institutions are financially responsible and capable of fulfilling commitments for instruction;

(j) institutions do not utilize erroneous or misleading advertising, either by actual statement, omission or intimation; and

(k) institutions have and maintain a policy, which shall be subject to state board approval, for the refund of unused portions of tuition, fees and other charges if a student enrolled by the institution fails to begin a course or withdraws or is discontinued therefrom at any time prior to completion. Such policies shall take into account those costs of the institution that are not diminished by the failure of the student to enter or complete a course of instruction.

New Sec. 10. (a) After review of an application for a certificate of approval and if the state board determines that the institution meets the requirements of this act, the state board shall issue a certificate of approval to the institution. Certificates of approval shall be in a form specified by the state board. Certificates of approval shall state:

(1) The date of issuance and term of approval;

(2) the correct name and address of the institution;

(3) the signature of the chief executive officer of the Kansas board of regents or a person designated by the state board to administer the provisions of this act; and

(4) any other information required by the state board.

(b) Certificates of approval shall be valid for a term of one year.

(c) Each certificate of approval shall be issued to the owner of an institution and shall not be transferable. If a change in ownership of an institution occurs, the new owner shall apply within 30 days prior to the change in ownership for a new certificate of approval. The state board may waive the thirty-day requirement upon determination that an emergency exists and that the waiver and change in ownership would be in the best interests of students currently enrolled in the institution. Whenever a change in ownership occurs as a result of death, court order or operation of law, the new owner shall apply immediately for a new certificate of approval.

(d) At least 60 days prior to expiration of a certificate of approval, the state board shall forward to the institution a renewal application form.

(e) Any institution which is not yet in operation when its application for a certificate of approval is filed shall not accept payments for tuition, fees or other enrollment charges until receipt of the certificate of approval.

(f) Any institution which does not plan to renew a certificate of approval shall notify the state board of its intent not to renew at least 60 days prior to the expiration date of the certificate of approval.

New Sec. 11. (a) After review of an application for a certificate of approval and if the state board determines that the applicant does not meet the requirements of this act, the state board shall refuse to issue the certificate and set forth the reasons for the determination.

(b) If an applicant, upon written notification of refusal by the state board to issue a certificate of approval, desires to contest such refusal, the applicant shall notify the state board in writing, within 15 days after the date of service of such notice of refusal, of the desire to be heard. Such applicant shall be afforded a hearing in accordance with the provisions of the Kansas administrative procedure act. Upon conclusion of any such hearing, the state board shall issue a certificate of approval or a final refusal to do so.

(c) If an applicant, upon service of notice of refusal by the state board to issue a certificate of approval, fails to request a hearing within 15 days after the date of service of such notice of refusal, the state board's refusal shall be final.

New Sec. 12. (a) The state board may revoke a certificate of approval or impose reasonable conditions upon the continued ap-

proval represented by a certificate. Prior to revocation or imposition of conditions upon a certificate of approval, the state board shall give written notice to the holder of the certificate of the impending action setting forth the grounds for the action contemplated to be taken and affording a hearing on a date within 30 days after the date of such notice. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) A certificate of approval may be revoked or conditioned if the state board has reasonable cause to believe that the institution is in violation of any provision of this act or of any rules and regulations adopted under this act.

New Sec. 13. Any action of the state board pursuant to sections 10, 11 or 13, and amendments thereto, is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. If it appears to the state board on the basis of its own inquiries or investigations or as a result of a complaint that any provision of this act has been or may be violated, the state board may request the attorney general to institute an action enjoining such violation or for an order directing compliance with the provisions of this act.

New Sec. 14. (a) Each representative of an institution shall register with the state board. Application for registration may be made at any time on a form prepared and furnished by the state board and shall contain such information as may be required by the state board.

(b) Registration of a representative shall be effective upon receipt of notice from the state board and shall remain in effect until expiration of the certificate of approval of the institution employing such representative. Renewal of representative registration shall be in accordance with the renewal application form forwarded to the institution by the state board.

(c) Denial or revocation of registration of a representative by the state board shall be in accordance with the provisions of this act applicable to denial or revocation of a certificate of approval.

(d) A representative employed by more than one institution shall not be required to register for each institution when such institutions have a common ownership.

New Sec. 15. (a) Before a certificate of approval is issued under this act, a bond in the penal sum of \$20,000 shall be provided by the institution for the period for which the certificate of approval is to be issued. The obligation of the bond shall be that the institution and its officers, agents, representatives and other employees shall be bound, upon closure of the institution, to deliver or make available to the state board the records of all students who are in attendance at the institution at the time of closure or who have attended the institution at any time prior to closure. The bond shall be a corporate surety bond issued by a company authorized to do business in this state. The bond shall be filed with the state board. If the institution ceases operation, the state board may recover against the bond all necessary costs for the acquisition, permanent filing and maintenance of student records of the institution.

(b) In lieu of the corporate surety bond required under subsection (a), an institution may provide any similar certificate or evidence of indebtedness or insurance as may be acceptable to the state board if such certificate or evidence of indebtedness or insurance is conditioned that the requirements of subsection (a) shall be met.

New Sec. 16. (a) Subject to the provisions of subsection (b), no tuition in an amount greater than \$350 shall be collected from a student by any institution more than 30 days before the student receives classroom instruction, and not more than \$150 of such amount may be retained by an institution from any student who fails to enter the institution.

(b) In the case of distance education, no tuition in an amount greater than \$200 shall be collected from a student prior to the first submission of a lesson by the student, and not more than \$75 of such amount may be retained by an institution from any student who fails to enter the institution.

New Sec. 17. (a) No person shall:

- (1) Operate an institution without a certificate of approval;
- (2) solicit prospective students without being registered as required by this act;
- (3) accept contracts or enrollment applications from a representative who is not registered as required by this act;
- (4) use fraud or misrepresentation in advertising or in procuring enrollment of a student;
- (5) use the term "accredited" in the name or advertisement of the institution unless such institution is accredited as defined in this act; and
- (6) use the term "university" in the name or advertisement of the institution unless such institution is a university as defined by this act.

(b) Violation of any provision of subsection (a) or of any other provision of this act is a class C nonperson misdemeanor.

New Sec. 18. Upon application of the attorney general or a county or district attorney, a district court shall have jurisdiction to enjoin any violation of this act and to enjoin persons from engaging in business in this state. In any action brought to enforce the provisions of this act, if the court finds that a person willfully used any deceptive or misleading act or practice, the attorney general or a county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this act, a civil penalty not exceeding \$1,000 for each violation. For purposes of this section, a willful violation occurs when the person committing the violation knew or should have known that the conduct of the person consisted of acts or practices which were deceptive or misleading.

New Sec. 19. Any note or contract taken by any institution or its officers, directors, agents or representatives, without having complied with the provisions of this act, shall be null and void and any person who has entered into a contract with such institution or its officers, directors, agents or representatives shall be entitled to a full refund of the money or consideration paid plus interest accruing from the date of payment at a rate per annum equal to the rate specified in K.S.A. 16-207, and amendments thereto, together with other damages sustained by such person.

New Sec. 20. Whenever any institution negotiates any promissory instrument or note received from a student or on behalf of a student as payment of tuition or other fees charged by each institution, any person or assignee or holder to whom the instrument or note is assigned shall take such instrument or note subject to all defenses which would be available to the student from whom or on behalf of whom the instrument or note was received.

New Sec. 21. (a) The state board shall fix, charge and collect fees for certificates of approval, registration of representatives and providing transcripts to students who attended an institution that has ceased operation by adopting rules and regulations for such purposes, subject to the following limitations:

(1) For institutions domiciled or having their principal place of business within the state of Kansas:

Initial issuance of certificate of approval nondegree granting — not more than	\$1,700
Initial issuance of certificate of approval degree granting — not more than.....	\$2,000
Renewal of certificate of approval nondegree granting — not more than	\$1,200
Renewal of certificate of approval degree granting — not more than	\$1,600
Initial registration of representative — not more than.....	\$150
Annual renewal of registration of representative — not more than	\$100

(2) For institutions domiciled or having their principal place of business outside the state of Kansas:

Initial issuance of certificate of approval nondegree granting — not more than	\$3,400
Initial issuance of certificate of approval degree granting — not more than.....	\$3,800

(continued)

Renewal of certificate of approval nondegree granting — not more than	\$2,400
Renewal of certificate of approval degree granting — not more than	\$2,800
Initial registration of representative — not more than.....	\$300
Annual renewal of registration of representative — not more than	\$200
Student transcript from institution that has ceased operation — not more than.....	\$10

(b) The state board shall determine on or before June 1 of each year the amount of revenue which will be required to properly carry out and enforce the provisions of the Kansas private and out-of-state postsecondary educational institution act for the next ensuing fiscal year and shall fix the fees authorized for such year at the sum deemed necessary for such purposes within the limits of this section. Prior to adoption of any such fees, the state board shall afford the advisory commission an opportunity to make recommendations on the proposed fees.

(c) Fees may be charged to conduct onsite reviews for degree granting or to review curriculum in content areas where the state board does not have expertise.

New Sec. 22. (a) The state board shall remit all moneys received pursuant to the provisions of this act to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount remitted in the state treasury and shall credit the same to the private and out-of-state postsecondary educational institution fee fund to be used for the purpose of administering this act. All expenditures from such fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state board or the board's designee.

(b) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the private and out-of-state postsecondary educational institution fee fund interest earnings based on: (1) The average daily balance of moneys in such fee fund for the preceding month; and (2) the net earnings rate for the pooled money investment portfolio for the preceding month.

New Sec. 23. If any clause, paragraph, subsection or section of the Kansas private and out-of-state postsecondary educational institution act shall be unconstitutional or invalid, it shall be conclusively presumed that the legislature would have enacted the remainder of the act without such unconstitutional or invalid clause, paragraph, subsection or section.

Sec. 24. K.S.A. 2003 Supp. 74-32,151 is hereby amended to read as follows: 74-32,151. (a) This section and K.S.A. 74-32,152 through 74-32,159, and amendments thereto, shall be known and may be cited as the workforce development loan program act.

(b) As used in the workforce development loan act, "postsecondary educational institution" shall have the meaning ascribed thereto by K.S.A. 74-3201b, and amendments thereto.

(c) Within the limits of appropriations and private contributions therefor, and in accordance with the provisions of this act, the state board of regents may award such loans to Kansas residents who are enrolled in or admitted to an area vocational technical school, technical college, community college, vocational school coordinated under the state board of regents or associate degree programs at postsecondary educational institutions and who enter into a written agreement with the state board of regents as provided in K.S.A. 74-32,152 and amendments thereto.

(d) The board of regents may accept any private contributions to the program. The chief executive officer of the board of regents shall turn such contributions over to the state treasurer who shall deposit such moneys into the workforce development loan fund.

(e) After consultation with the secretaries of the departments of human resources, social and rehabilitation services and commerce, the board may establish a list of education programs in which an applicant must enroll to be eligible for a loan under this program.

(f) The loans shall be awarded on a priority basis to qualified applicants who have the greatest financial need with the highest priority given to those applicants with the greatest financial need who were in foster care on ~~or before~~ their 18th birthday or were released from foster care prior to their 18th birthday after having graduated from high school or completing the requirements for a general educational development (GED) certificate while in foster care. All loans shall be awarded to resident students attending area vocational technical schools, technical colleges, community colleges, area vocational schools or associate degree programs at postsecondary educational institutions. Special preference shall also be established for residents drawing unemployment compensation or such residents who were laid off from employment within the prior six months. The board may also establish preferences for workers deemed to be eligible for North American free trade agreement transition assistance under United States department of labor standards or the Kansas department of human resources standards.

(g) Loans awarded under this program shall be awarded on an annual basis and shall be in effect for one year unless otherwise terminated before the expiration of such period of time. Such loans shall be awarded for the payment of tuition, fees, books, room and board and any other necessary school related expenses.

Sec. 25. K.S.A. 74-32,161 is hereby amended to read as follows: 74-32,161. (a) As used in this section:

(1) "Kansas educational institution" means ~~and includes area vocational schools, area vocational technical schools, community colleges, state educational institutions and technical colleges a postsecondary educational institution as defined by K.S.A. 74-3201b, and amendments thereto.~~

(2) "State board" means the state board of regents.

(b) Subject to appropriations therefor and except as otherwise provided by this section, every Kansas educational institution shall provide for enrollment without charge of tuition, undergraduate fees, including registration, matriculation and laboratory fees for any eligible applicant. No Kansas educational institution shall be required by this section to provide for the enrollment of more than ~~three~~ five new applicants in any academic year. An applicant who was in the custody of social and rehabilitation services on the date such applicant reached 18 years of age, *who has graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate while in foster care, was released from the custody of the Kansas department of social and rehabilitation services prior to age 18 after having graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate while in foster care placement and in the custody of the Kansas department of social and rehabilitation services, or an applicant who was adopted from a foster care placement on or after such applicant's 16th birthday,* and who is accepted to a Kansas educational institution within two years following the date such applicant graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate shall be eligible for enrollment at a Kansas educational institution without charge of tuition or such fees *through the semester the eligible applicant reaches 21 years of age* not to exceed eight semesters of undergraduate instruction, or the equivalent thereof, at all such institutions.

(c) Subject to appropriations therefor, any Kansas educational institution which at the time of enrollment did not charge tuition or fees as prescribed by subsection (b), and amendments thereto, of the eligible applicant may file a claim with the state board for reimbursement of the amount of such tuition and fees. The state board shall be responsible for payment of reimbursements to Kansas educational institutions upon certification by each such institution of the amount of reimbursement to which the educational institution is entitled. Such payments to Kansas educational institutions shall be made upon vouchers approved by the state board and upon warrants of the director of accounts and reports. Payments may be made by issuance of a single warrant to each Kansas educational institution at which one or more eligible applicants are enrolled for the total amount of

tuition and fees not charged eligible applicants for enrollment at that institution. The director of accounts and reports shall cause such warrant to be delivered to the Kansas educational institution at which such eligible applicant or applicants are enrolled. If an eligible applicant discontinues attendance before the end of any semester, after the Kansas educational institution has received payment under this subsection, the institution shall pay to the state the entire amount which such eligible applicant would otherwise qualify to have refunded, not to exceed the amount of the payment made by the state on behalf of such applicant for the semester. All amounts paid to the state by Kansas educational institutions under this subsection shall be deposited in the state treasury and credited to the tuition waiver gifts, grants and reimbursements fund *unless such amount was from federal funds transferred under the authority of subsection (g) which funds shall be returned to the director of accounts and reports for reposit to the originating federal funding source.*

(d) The chief executive officer of the state board shall submit a report to the house and senate committees on education during the ~~2004 2005~~ and ~~2006 2007~~ regular session of the legislature on the results, outcomes and effectiveness of the tuition waiver program authorized by this section.

(e) The state board is authorized to receive any grants, gifts, contributions or bequests made for the purpose of supporting the tuition waiver program authorized by this section and to expend the same.

(f) There is hereby established in the state treasury the tuition waiver gifts, grants and reimbursements fund. Expenditures from the fund may be made for the purpose of payment of claims of Kansas educational institutions pursuant to this section and for such purposes as may be specified with regard to any grant, gift, contribution or bequest. All such expenditures shall be authorized by the chief executive officer of the state board, or such officer's designee and made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief executive officer of the state board, or such officer's designee.

(g) During each year, the chief executive officer of the state board shall make one or more certifications of the amount or amounts required to pay claims received from Kansas educational institutions for tuition and fees under this section to the director of accounts and reports and the secretary of social and rehabilitation services. *Each certification made by the chief executive officer shall include a provision stating that 20% of the total amount or amounts required to pay claims received from Kansas educational institutions for tuition and fees under this section are either cash, in-kind contributions, state general funds or other non-federal sources not used to match other funds, and that the remaining 80% shall be paid from the federal award from the foster care assistance federal fund.* Upon receipt of each such certification, the director of accounts shall transfer the amount certified from moneys received under the federal Chafee foster care independence grant and credited to the foster care assistance federal fund of the department of social and rehabilitation services to the tuition waiver gifts, grants and reimbursements fund of the state board. *Annual expenditures for the tuition waiver program made by the Kansas department of social and rehabilitation services shall not exceed a maximum of more than 30% of the amount of the federal award in effect on July 1 of each state fiscal year.*

(h) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the tuition waiver gifts and grants fund interest earnings based on:

(1) The average daily balance of moneys in the tuition waiver gifts and grants fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(i) Applicants eligible for the benefits under this section shall be exempt from the provisions of K.S.A. 76-717, and amendments thereto.

(j) The state board shall adopt rules and regulations requiring eligible applicants to be enrolled as a full-time undergraduate student in good academic standing and to maintain part-time employment to

remain eligible and other rules and regulations, as appropriate, for administration of the applicable provisions of this section ~~and shall determine the eligibility of applicants for the benefits provided under this section.~~ *When there is a candidate that appears to meet the eligibility guidelines for federal Chafee funding administered by the Kansas department of social and rehabilitation services, the state board shall notify the Kansas department of social and rehabilitation services. The Kansas department of social and rehabilitation services shall notify the state board of approval of the candidate's eligibility.*

(k) The provisions of this section shall expire on June 30, 2006, except that any eligible applicant who received a tuition waiver before June 30, 2006, and is deemed by the state board to be eligible pursuant to this section shall be allowed to remain eligible until such applicant completes such applicant's course of study or becomes ineligible pursuant to the provisions of this section.

Sec. 26. K.S.A. 2003 Supp. 75-646 is hereby amended to read as follows: 75-646. (a) Family postsecondary education savings accounts established pursuant to the provisions of K.S.A. 2003 Supp. 75-640 to 75-648, and amendments thereto shall be governed by the provisions of this section.

(b) A family postsecondary education savings account may be opened by any person or persons who desire to save money for the payment of the qualified higher education expenses of the designated beneficiary. Such persons shall be considered the account owner.

(1) An application for such account shall be in the form prescribed by the state treasurer and contain the following:

(A) The name, address and social security number or employer identification number of the account owner or owners;

(B) the designation of a designated beneficiary;

(C) the name, address and social security number of the designated beneficiary;

(D) the certification relating to no excess contributions; and

(E) such other information as the state treasurer may require.

(2) The state treasurer may establish a nominal nonrefundable application fee for such application.

(c) ~~From and after January 1, 2002,~~ Any person may make contributions to the account after the account is opened.

(d) Contributions to accounts may be made only in cash.

(e) An account owner may withdraw all or part of the balance from an account on sixty-days notice or such shorter period as may be authorized under rules and regulations governing the program.

(f) (1) An account owner may change the designated beneficiary of an account to an individual who is a member of the family of the prior designated beneficiary in accordance with procedures established pursuant to the provisions of K.S.A. 2003 Supp. 75-640 to 75-648, and amendments thereto.

(2) An account owner may transfer all or a portion of an account to another family postsecondary education savings account, the designated beneficiary of which is a member of the family as defined in section 529 of the federal internal revenue code of 1986, as amended.

(3) Changes in designated beneficiaries and transfers under this subsection shall not be permitted to the extent that they would constitute excess contributions or unauthorized investment choices.

(g) The program shall provide separate accounting for each designated beneficiary.

(h) Subject to the provisions of section 529 of the internal revenue code of 1986, in effect on January 1, 2002, or later versions as established in rules and regulations adopted by the treasurer, an account owner of any account shall be permitted to direct the investment of any contributions to an account or the earnings thereon.

(i) Neither an account owner nor a designated beneficiary may use an interest in an account as security for a loan. Any pledge of an interest in an account shall be of no force and effect.

(j) Except as provided in K.S.A. 2003 Supp. 75-640 through 75-648, and amendments thereto, or section 529 of the federal internal revenue code of 1986, as amended, any withdrawal made within one year after an account has been opened under a qualified tuition pro-

(continued)

gram as defined in section 529 of the federal internal revenue code of 1986, as amended, is a nonqualified withdrawal.

(k) (1) The state treasurer shall adopt rules and regulations to prevent contributions on behalf of a designated beneficiary in excess of an amount equal to the average amount of the qualified higher education expenses that would be incurred for five years of study at institutions of postsecondary education located in the midwest states. Such amount shall be determined annually by the state treasurer.

(2) Such rules and regulations shall include requirements that any excess contributions with respect to a designated beneficiary be promptly withdrawn in a nonqualified withdrawal or transferred to another account.

(l) (1) If there is any distribution from an account to any individual or for the benefit of any individual during a calendar year, such distribution shall be reported to the federal internal revenue service and the account owner or owners, the designated beneficiary, or the distributee to the extent required by federal law or regulation.

(2) Statements shall be provided to each account owner at least once each year within 60 days after the end of the twelve-month period to which they relate. The statement shall identify the contributions made during a preceding twelve-month period, the total contributions made to the account through the end of the period, the value of the account at the end of such period, distributions made during such period and any other information that the state treasurer shall require to be reported to the account owner.

(3) Statements and information relating to accounts shall be prepared and filed to the extent required by federal and state tax law.

(m) (1) A state or local government, or agency or instrumentality thereof, or organization described in section 501(c)(3) of the federal internal revenue code of 1986, as amended, may open and become the account owner of an account to fund scholarships for persons whose identity will be determined upon disbursement.

(2) In the case of any account opened pursuant to provision (1) of this subsection, the requirement set forth in subsection (b) that a designated beneficiary be designated when an account is opened shall not apply and each individual who receives an interest in such account as a scholarship shall be treated as a designated beneficiary with respect to such interest.

(n) An annual fee may be imposed upon the account owner or owners for the maintenance of the account.

(o) An account owner or designated beneficiary of a Kansas postsecondary education savings account must be a citizen or resident of the United States of America.

(p) The program shall disclose the following information in writing to each account owner and prospective account owner of a family postsecondary education savings account:

(1) The terms and conditions for purchasing a family postsecondary education savings account;

(2) any restrictions on the substitution of beneficiaries;

(3) the person or entity entitled to terminate the savings agreement;

(4) the period of time during which a beneficiary may receive benefits under the savings agreement;

(5) the terms and conditions under which money may be wholly or partially withdrawn from the program, including, but not limited to, any reasonable charges and fees that may be imposed for withdrawal;

(6) the probable tax consequences associated with contributions to and distributions from accounts; and

(7) all other rights and obligations pursuant to savings agreements, and any other terms, conditions and provisions deemed necessary and appropriate by the state treasurer.

(q) Nothing in K.S.A. 2003 Supp. 75-640 to 75-648, and amendments thereto, or in any savings agreement entered into pursuant to K.S.A. 2003 Supp. 75-640 to 75-648, and amendments thereto, shall be construed as a guarantee by the state of Kansas or any institution of postsecondary education that a beneficiary will be admitted to the institution of postsecondary education or, upon admission to any in-

stitution of postsecondary education, will be permitted to continue to attend or will receive a degree from such institution of postsecondary education.

(r) ~~The amendments to this section by this act shall apply to any action or transaction taken or occurring from and after January 1, 2002~~ *Moneys in a family postsecondary education savings account shall be exempt from attachment, execution or garnishment as provided by K.S.A. 60-2308, and amendments thereto.*

Sec. 27. K.S.A. 2003 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments to such sections.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2003 Supp. 79-32,204 and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or

construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203 and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2003 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1) *et seq.*

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249 and amendments thereto.

(xiii) For taxable years beginning after December 31, 1993, the amount of income earned on contributions deposited to an individual development account under K.S.A. 79-32,117h, and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation.

(xv) For all taxable years beginning after December 31, 1999, amounts not exceeding \$2,000; or \$4,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. *For all taxable years beginning after December 31, 2004, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education.* The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2003 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

Sec. 28. K.S.A. 2003 Supp. 13-13a25 is hereby amended to read as follows: 13-13a25. (a) As used in K.S.A. 13-13a25 through 13-13a34, and amendments thereto:

(1) "Board of levy" means the board of county commissioners of every county in which there is not located a municipal university and the township trustee, township clerk and township treasurer, acting as a board, of every township within every county in which there is located a municipal university, except that board of levy shall not include a township within a county in which there is located a municipal university which has levied a countywide retailer's sales tax.

(2) "Municipal university" means a municipal university established under the provisions of article 13a of chapter 13 of Kansas Statutes Annotated.

(3) "Municipal university district" means the taxing district of a municipal university.

(4) "Taxing subdivision" means every county in which there is not located a municipal university and every township within every county in which there is located a municipal university, except that taxing subdivision shall not include a township within a county in which there is located a municipal university which has levied a countywide retailer's sales tax.

(5) "State board" means the state board of regents.

(b) The provisions of this section shall expire on June 30, 2005 2006.

Sec. 29. K.S.A. 2003 Supp. 13-13a26 is hereby amended to read as follows: 13-13a26. (a) The board of regents of a municipal uni-

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versity, in accordance with rules and regulations of the state board, shall determine and collect an amount of out-district tuition to be charged for each student attending the municipal university whose residence is outside of the municipal university district.

(b) The board of levy of any taxing subdivision charged with payment of out-district tuition shall levy a tax on all of the taxable property of the taxing subdivision sufficient to pay all out-district tuition charges authorized by this act.

(c) The proceeds from the tax levied under authority of this section shall be deposited in a special fund for payment of out-district tuition. Upon receiving a statement of charges for out-district tuition the board of levy shall allow and pay the same promptly from the special fund. If there is insufficient or no money in the special fund, out-district tuition shall be paid from the general fund of the taxing subdivision or from the proceeds of the sale of no-fund warrants issued for the purpose of the payment of out-district tuition.

(d) The total out-district tuition charged by a municipal university shall be: (1) For the ~~2000 fiscal year, an amount equal to the number of duly enrolled out-district students times \$24 for each credit hour of each such duly enrolled out-district student, (2) for the 2001 fiscal year, an amount equal to the number of duly enrolled out-district students times \$18 for each credit hour of each such student, (3) for the 2002 fiscal year, the 2003 fiscal year and the 2004 fiscal year and the 2005 fiscal year, an amount equal to the number of duly enrolled out-district students times \$12 for each credit hour of each such student; and~~ (2) for the 2005 2006 fiscal year, an amount equal to the number of duly enrolled out-district students time \$6 for each credit hour of each such student.

(e) Out-district tuition shall ~~only~~ be charged *only* for credit hours of students if such students, as determined by the state board, have not more than 64 credit hours from any institution of postsecondary education or the students have not more than 72 credit hours and are enrolled in terminal type nursing courses or freshman-sophomore preengineering courses.

(f) Expenditures for out-district tuition shall be exempt from the budget law of this state to the extent of such payments not anticipated in the budget of the taxing subdivision.

(g) The levy of taxes and the payment of out-district tuition by counties required under the provisions of this section shall not be subject to the exercise of home rule by counties under ~~the provisions of article 1 of chapter 19 of Kansas Statutes Annotated. Counties shall have no power to exempt from, or effect changes in, the provisions of this section K.S.A. 19-101a, and amendments thereto.~~

(h) Taxes levied by townships under the authority of this section shall be in addition to all other tax levies authorized or limited by law and shall not be subject to or within the aggregate tax levy limit prescribed by K.S.A. 79-1962, and amendments ~~thereof~~ *thereto*.

(i) In May of each fiscal year, the board of regents shall notify each board of levy of the approximate amount of out-district tuition which will be charged to the taxing subdivision in the succeeding fiscal year.

(j) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 30. K.S.A. 2003 Supp. 13-13a27 is hereby amended to read as follows: 13-13a27. (a) Out-district tuition shall be based only upon enrollments of students who are residents of the state of Kansas. For the purpose of determination of out-district tuition: (1) Persons enrolling in a municipal university who, if adults, have not been, or if minors, whose parents have not been, residents of the state of Kansas for six months prior to enrollment for any term or session are non-residents of the state of Kansas; and (2) persons enrolling in a municipal university who, if adults, have not been, or if minors, whose parents have not been, residents of the municipal university district for six months prior to enrollment for any term or session are non-residents of the municipal university district.

(b) For the purpose of determining residence of persons, the residence of minors shall be determined as provided in K.S.A. 72-

1046, and amendments thereto, and of adults as provided in subpart *twenty-third* of K.S.A. 77-201, and amendments thereto.

(c) The state board of regents may adopt rules and regulations prescribing criteria or guidelines for determination of residence of students and shall make conclusive determination of any residence matter for the purpose of determination of liability of taxing subdivisions for out-district tuition.

(d) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 31. K.S.A. 2003 Supp. 13-13a29 is hereby amended to read as follows: 13-13a29. (a) The determination of credit hours of duly enrolled out-district students shall be made at the end of the fifth week of the regular spring and fall semesters and at the end of the equivalent period for summer sessions. The determination of credit hours of duly enrolled out-district students for payments for short-term courses shall be made at such times as are prescribed by the state board of regents.

(b) On or before November 1 and on or before April 1 of each year, the president and treasurer of a municipal university shall certify under oath to the state board the total number of duly enrolled credit hours of out-district students of the municipal university during the current school term. The state board may require a municipal university to furnish any additional information deemed necessary by it to carry out the provisions of this act and shall prescribe such forms, to be approved by the attorney general, as may be necessary for making such reports.

(c) The state board and the post auditor may audit the records of a municipal university to verify the accuracy of the reports submitted by the municipal university. The state board may promulgate rules and regulations for the administration of this act.

(d) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 32. K.S.A. 2003 Supp. 13-13a31 is hereby amended to read as follows: 13-13a31. (a) Subject to the provisions of subsection (b), no out-district tuition shall be charged or paid for any student attending a municipal university whose residence outside the municipal university district is in a taxing subdivision in which there is located a community college.

(b) The provisions of subsection (a) shall not apply to any such out-district student when the course of study or program which the student selects, or a course of study or program which is substantially equivalent thereto, is not offered in the community college which is located in the taxing subdivision in which such student resides.

(c) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 33. K.S.A. 2003 Supp. 13-13a32 is hereby amended to read as follows: 13-13a32. (a) Subject to the provisions of subsection (b), no out-district tuition shall be charged to or paid by any county in which there is located a municipal university for any student attending a community college whose residence outside the community college district is in a county in which there is located a municipal university.

(b) The provisions of subsection (a) shall not apply to any such out-district student when the course of study or program which the student selects, or a course of study or program which is substantially equivalent thereto, is not offered in the municipal university which is located in the county in which such student resides.

(c) The provisions of this section shall expire on June ~~20~~ 30, ~~2005~~ 2006.

Sec. 34. K.S.A. 2003 Supp. 13-13a33 is hereby amended to read as follows: 13-13a33. (a) The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for the purpose of determining which courses of study and programs offered in the community colleges are substantially equivalent to the courses of study and programs offered in municipal universities. A current, complete list of such courses of study and programs shall be main-

tained on file in the office of the state board of regents, and shall be open for public inspection at any reasonable time.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 35. K.S.A. 2003 Supp. 13-13a34 is hereby amended to read as follows: 13-13a34. (a) No out-district tuition charged by a municipal university shall be based upon any course or program which is taught in an area vocational school, an area vocational-technical school, or a technical college under an agreement with the municipal university and for which payments of state or federal moneys are made to the area vocational school, area vocational-technical school, or technical college under the provisions of article 44 of chapter 72 of Kansas Statutes Annotated.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 36. K.S.A. 2003 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271—74th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, ~~2005~~ 2006.

(17) (A) Counties may not exempt from or effect changes in K.S.A. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, ~~2005~~ 2006.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(29) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199 or K.S.A. 2003 Supp. 17-5909, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2003 Supp. 80-121, and amendments thereto.

(32) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

Sec. 37. K.S.A. 2003 Supp. 71-301a is hereby amended to read as follows: 71-301a. (a) The board of trustees, in accordance with rules and regulations of the state board, shall determine an amount

(continued)

of out-district tuition to be charged for each out-district student attending the community college. The board of county commissioners of any county charged with payment of out-district tuition shall levy a tax on all of the taxable property of the county sufficient to pay all out-district tuition charges authorized by this act. The proceeds from the tax levied under authority of this section shall be deposited in a special fund for payment of out-district tuition. Upon receiving a statement of charges for out-district tuition, the board of county commissioners shall allow and pay the same from the special fund within 45 days from the receipt of such statement. If there is insufficient or no money in the special fund, out-district tuition shall be paid from the county general fund or from the proceeds of the sale of no-fund warrants issued for the purpose of the payment of out-district tuition. If the board of county commissioners fails to pay such amount at the time required under this subsection, the board of trustees shall notify the state board of such failure to pay and shall certify to the state board the amount to be paid. Upon receipt by the state board of such notification, the amount to be paid as certified to the state board shall become an amount due and owing to the state board. The state board shall notify the board of county commissioners that this amount is now due and owing to the state board. If the board of county commissioners fails to pay such amount to the state board within 14 days of the receipt of such notification, the state board shall initiate proceedings under K.S.A. 75-6201 *et seq.* for the collection of such money. Money paid to or collected by the state board under this subsection shall be deposited in the out-district tuition suspense account which is hereby created in the state treasury. The state board shall pay moneys from this account, in accordance with rules and regulations of the state board, to the community colleges entitled to receive such money.

(b) The total out-district tuition charged by a community college shall be: (1) For the ~~2000 fiscal year, an amount equal to the number of duly enrolled out-district students times \$24 for each credit hour of each such student,~~ (2) for the ~~2001 fiscal year, an amount equal to the number of duly enrolled out-district students times \$18 for each credit hour of each such student,~~ (3) for the ~~2002 fiscal year, the 2003 fiscal year and the 2004 fiscal year and the 2005 fiscal year,~~ an amount equal to the number of duly enrolled out-district students times \$12 for each credit hour of each such student; and ~~(4) (2) for the 2005 2006 fiscal year,~~ an amount equal to the number of duly enrolled out-district students times \$6 for each credit hour of each such student.

(c) In May of each fiscal year, the board of trustees shall notify the board of county commissioners of the approximate amount of out-district tuition which will be charged to the county in the succeeding fiscal year.

(d) Expenditures for out-district tuition shall be exempt from the budget law of this state to the extent of such payments not anticipated in the budget of the county.

(e) The provisions of this section shall take effect and be in force on July 1, 1999, and shall expire on June 30, ~~2005~~ 2006.

Sec. 38. K.S.A. 2003 Supp. 71-304 is hereby amended to read as follows: 71-304. (a) Notwithstanding any provision contained in chapter 71 of Kansas Statutes Annotated to the contrary, and subject to the provisions of K.S.A. 71-305, and amendments thereto, no out-district tuition shall be charged or paid for any student attending a community college whose residence outside the community college district is in another community college district.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 39. K.S.A. 2003 Supp. 71-305 is hereby amended to read as follows: 71-305. (a) The provisions of K.S.A. 71-304, and amendments thereto, do not apply to any out-district student when the course of study or program which the student selects, or a course of study or program which is substantially equivalent thereto, is not offered in the community college of the district in which such student resides.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 40. K.S.A. 2003 Supp. 71-306 is hereby amended to read as follows: 71-306. (a) The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for the purpose of determining which courses of study and programs offered in the community colleges are substantially equivalent. A current, complete list of such courses of study and programs shall be maintained on file in the office of the state board of regents, and shall be open for public inspection at any reasonable time.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 41. K.S.A. 2003 Supp. 71-308 is hereby amended to read as follows: 71-308. (a) No out-district tuition charges shall be based upon credit hours in any subject or course the principal part of which is taught at a location outside the county of the main campus of a community college, unless the location of such subject or course is specifically authorized by the state board of regents.

(b) (1) No out-district tuition charges shall be based upon credit hours in any subject or course which is taught in a county in which the main campus of a state educational institution is located, unless the teaching of such subject or course is specifically authorized by the chief executive officer of the state educational institution or by a designee of the chief executive officer. The chief executive officer of each state educational institution may designate and authorize a person or committee to act on behalf of the chief executive officer in granting the authorizations required by this subsection. No authorization required by this subsection shall be considered to be or construed in any manner as an agreement provided for by subsection (c).

(2) For the purposes of this subsection, the term "main campus of a state educational institution" as applied to Kansas state university of agriculture and applied science means and includes the campus of the university located in Riley county and the campus of the university's college of technology located in Saline county.

(3) The provisions of this subsection are subject to the provisions of subsection (c).

(c) No out-district tuition charges shall be based upon credit hours in any subject or course all or the principal part of which is taught at Fort Hays state university or at Wichita state university under an agreement for the teaching of such subject or course entered into by a community college and either such university. An agreement entered into under the provisions of this subsection for the teaching of a subject or course by a community college at Fort Hays state university or at Wichita state university shall constitute the authorization required by subsection (b) for the teaching of such subject or course, and no separate authorization under subsection (b) shall be required.

(d) No out-district tuition charges shall be based upon any course or program if such course or program is taught in an area vocational school, an area vocational-technical school, or a technical college under an agreement with a community college and for which payments of state or federal moneys are made to the area vocational school, the area vocational-technical school, or the technical college under the provisions of article 44 of chapter 72 of Kansas Statutes Annotated.

(e) No out-district tuition charges shall be based upon any motorcycle driver safety course conducted by a community college.

(f) The provisions of this section shall take effect and be in force on July 1, 1999, and shall expire on June 30, ~~2005~~ 2006.

Sec. 42. K.S.A. 2003 Supp. 71-401 is hereby amended to read as follows: 71-401. (a) Persons enrolling in a community college who, if adults, have not been, or if minors, whose parents have not been residents of the county in which is located the principal campus of the community college for at least six months prior to enrollment for any term or session are nonresidents of the community college dis-

tract for the purpose of determining liability of counties for payment of out-district tuition.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 43. K.S.A. 2003 Supp. 71-402 is hereby amended to read as follows: 71-402. (a) For the purpose of determining the county of residence of persons, residence of minors shall be determined as provided in K.S.A. 72-1046, and amendments thereto, and of adults as provided in subpart *Twenty-third* of K.S.A. 77-201, and amendments thereto.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 44. K.S.A. 2003 Supp. 71-403 is hereby amended to read as follows: 71-403. (a) The state board of regents may adopt rules and regulations prescribing criteria or guidelines for determination of residence of students for the purpose of determining liability of counties for out-district tuition of students in community colleges. The state board may make conclusive determination of any residence matter for the purpose of determination of out-district tuition.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 45. K.S.A. 2003 Supp. 71-610 is hereby amended to read as follows: 71-610. (a) Notwithstanding any provision contained in chapter 71 of Kansas Statutes Annotated to the contrary, whenever there are two community college districts located within one county, no out-district tuition shall be charged for any student residing in such county and attending either such community college.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 46. K.S.A. 2003 Supp. 71-1705 is hereby amended to read as follows: 71-1705. (a) Notwithstanding any provision contained in chapter 71 of Kansas Statutes Annotated to the contrary, whenever any area vocational school or area vocational-technical school consolidates with a community college in accordance with the provisions of this act, no out-district tuition shall be charged for any student enrolled in any vocational education course or program offered by the community college if such course or program was taught in the area vocational school or area vocational-technical school immediately prior to the consolidation of such area vocational school or area vocational-technical school with such community college and as a result of such consolidation such course or program is now being offered by the community college.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 47. K.S.A. 72-4432 is hereby amended to read as follows: 72-4432. The distribution of postsecondary aid shall be made from appropriations therefor each school year, commencing ~~November 1, 1974~~ August 1, 2004, as follows:

(a) The amount of postsecondary aid for each school as computed by the state board shall be distributed in payments as follows: On ~~November 1~~ August 1 an amount equal to 50% of the estimated entitlement for the school year, ~~on March 1 an amount equal to 30% of such entitlement and on May 1 and on January 1 the balance of such entitlement with adjustments for overpayment or underpayment of the prior payments in accordance with the most recent, available information.~~ The state board shall certify to the director of accounts and reports the amount due as postsecondary aid to each school five days before each payment date. If the amount appropriated shall be insufficient to pay in full the amount each school is entitled to receive as postsecondary aid as computed by the state board, then the entire amount remaining shall be prorated among all schools in proportion to the amount each school is entitled to receive. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school entitled to payment of postsecondary aid, upon vouchers approved by the state board. Upon receipt of such warrant, each such treasurer shall deposit the same in the operating fund of the school.

In the event any school is paid more than it is entitled to receive under any distribution made under this act, the state board shall notify the school of the amount of such overpayment, and such school shall remit the same to the state board. The state board shall remit any moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. If any such school fails so to remit, the state board shall deduct the excess amounts so paid from future payments becoming due to such school. In the event any school is paid less than the amount to which it is entitled under any distribution made under this act, the state board shall pay the additional amount due at any time within the school year in which the underpayment was made or within 60 days after the end of such school year.

New Sec. 48. (a) On and after July 1, 2006:

(1) No postsecondary educational institution shall print or encode a person's social security number on or into the person's identification card.

(2) Any distinguishing identifier assigned to the person's identification card shall be a combination of numbers or letters or both, which is unique to such person.

(3) A person's distinguishing identifier shall not, in any way, be based on or depend on the person's social security number.

(b) As used in this section:

(1) "Person" means an employee of or a student enrolled at a postsecondary educational institution.

(2) "Postsecondary educational institution" means and includes area vocational schools, area vocational-technical schools, community colleges, the municipal university, state educational institutions, technical colleges and private institutions of postsecondary education.

Sec. 49. K.S.A. 72-1111, 72-4432, 72-4916, 72-4919, 72-4920, 72-4921, 72-4922, 72-4924 through 72-4937, inclusive, 72-4939, 72-4940, 74-3249 through 74-3253 and 74-32,161 and K.S.A. 2003 Supp. 13-13a25, 13-13a26, 13-13a27, 13-13a29, 13-13a31, 13-13a32, 13-13a33, 13-13a34, 19-101a, 71-301a, 71-304, 71-305, 71-306, 71-308, 71-401, 71-402, 71-403, 71-610, 71-1705, 72-4938, 74-32,151, 75-646 and 79-32,117 are hereby repealed.

Sec. 50. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 27, 2004.)

HOUSE BILL No. 2597

AN ACT concerning insurance; pertaining to the elimination of the errors and omissions requirement for insurance agents; relating to the issuance of insurance policies in a foreign language; relating to risk-based capital requirements; relating to the Kansas uninsurable health insurance plan; relating to the purchase of insurance by state agencies; relating to group health insurance; relating to health benefit plans by the Kansas business health partnership; amending K.S.A. 40-216, 40-241, 40-246b, 40-2,131, 40-2118, 40-2122, 40-2124, 40-2209, 40-4503, 75-4105 and 75-4109 and K.S.A. 2003 Supp. 40-2c01, 40-2404, 40-2404, as amended by section 6 of this act, 40-4702, 40-4704 and 40-4706 and repealing the existing sections; also repealing K.S.A. 40-246f and K.S.A. 2003 Supp. 40-2404, as amended by section 1 of 2004 Senate Bill No. 66.

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

Section 1. K.S.A. 40-241 is hereby amended to read as follows: 40-241. Any applicant or prospective applicant for an agent's license, if an individual, shall be given an examination by the commissioner or the commissioner's designee to determine whether such applicant possesses the competence and knowledge of the kinds of insurance and transactions under the license applied for, or to be applied for, of the duties and responsibilities of such a license and of the pertinent provisions of the laws of this state. The applicant shall be tested on each class or subclassification of insurance which may be written. An

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examination fee prescribed in rules and regulations adopted by the commissioner shall be paid by the applicant and shall be required for each class of insurance for each attempt to pass the examination. Such examination fee shall be in addition to the certification fee required under K.S.A. 40-252, and amendments thereto. There shall be four classes of insurance for the purposes of this act:

- (1) Life;
- (2) accident and health;
- (3) casualty and allied lines; and
- (4) property and allied lines.

An insurance license may be issued as a subclassification of casualty and allied lines to any auto rental agency. An auto rental agency may offer or sell insurance only in connection with and incidental to the rental of motor vehicles, whether at the rental office, at the point of delivery of a vehicle, or by preselection of coverage in a master, corporate or group rental agreement, in any of the following general categories: (1) Personal accident insurance covering risks of travel, (2) motor vehicle liability insurance, (3) personal effects insurance providing coverage to renters and other occupants of the motor vehicle, (4) roadside assistance and emergency sickness protection programs, and (5) any other travel or auto-related coverage an auto rental company may offer in connection with and incidental to rental of motor vehicles. No insurance may be issued by an auto rental agency unless the rental period of the rental agreement does not exceed 90 consecutive days and brochures and other written material clearly and correctly explaining insurance coverages offered by the agency are available for prospective renters and clear and complete disclosures are provided to prospective renters that such coverage may be duplicative of other insurance owned by the renter, that purchase of insurance coverage is not a condition for renting a motor vehicle and describing the process for filing a claim.

Auto rental agencies employing representatives shall conduct a training program for each representative, providing instruction on the kinds of insurance coverage offered by the agency.

No auto rental agency shall offer or solicit any insurance other than the coverages described in this section without an insurance license. No auto rental employee or auto rental agency shall advertise or otherwise hold themselves out as licensed insurers, insurance agents or insurance brokers.

The commissioner of insurance shall adopt rules and regulations with respect to the scope, subclassification, type and conduct of such examination. Examinations shall be given to applicants at least twice a month in Topeka, Kansas, and at least quarterly in other convenient locations in the state of Kansas. The commissioner shall publish or arrange for the publication of information and material which applicants can use to prepare for such examination. One or more rating organizations, advisory organizations or other associations may be designated by the commissioner to assist in, or assume responsibility for, distribution of the study manuals to applicants and other interested parties. Persons purchasing the study manual shall be charged a reasonable fee established or approved by the commissioner. In the event the publication and distribution of the study material or the development and conduct of examinations is delegated to private firms, organizations or associations and the state incurs no expense or obligation, the provisions of K.S.A. 75-3738 to 75-3744, inclusive, and amendments thereto, shall not apply. If the commissioner of insurance finds that the individual applicant is trustworthy, competent and has satisfactorily completed the examination, the commissioner shall forthwith issue to the applicant a license as an insurance agent but the issuance of such license shall confer no authority to transact business in this state until the agent has been certified by a company pursuant to K.S.A. 40-241i, and amendments thereto ~~and submitted proof that the agent is covered by an errors and omissions policy required by this section.~~ If such applicant fails to satisfactorily complete the examination, the examination may be retaken following a waiting period of not less than seven days from the date of the last attempt. If the applicant again fails to satisfactorily complete the examination, it may be retaken following another waiting period of

not less than seven days from the date of the most recent attempt. Thereafter, the examination may be retaken following a waiting period of not less than six months from the date of the most recent attempt, except that following a waiting period of two years from the date of the applicant's last examination attempt an applicant will be treated as a new applicant and new examination and waiting periods shall apply. ~~While licensed every agent shall be covered by an errors and omissions policy covering the individual agent in an amount of not less than \$100,000 total liability limit per occurrence, subject to not less than \$100,000 annual aggregate for all claims made during the policy period, or, covering the agent under blanket liability policy or policies, which policy or policies can include other coverage on an excess basis over \$100,000 primary, insuring other insurance agents or brokers in an amount of not less than \$500,000 total liability limit per occurrence subject to not less than \$500,000 annual aggregate for all claims made during the policy period. Such policy shall be issued by an authorized insurance company or as authorized by K.S.A. 40-246b or 40-246c, and amendments thereto, for errors and omissions of the agent. Self-retention shall be permitted on liability policies covering the agent.~~

Sec. 2. K.S.A. 40-246b is hereby amended to read as follows: 40-246b. The commissioner of insurance may issue to any duly licensed resident agent of this state, who has been licensed as a fire or casualty, or both, resident agent in this or any other state or combination thereof, for three consecutive years immediately prior to application for the type of license herein prescribed, upon proper application, an excess coverage license to negotiate the types of contracts of fire insurance enumerated in K.S.A. 40-901, and amendments thereto, and the type of casualty insurance contracts enumerated in K.S.A. 40-1102, and amendments thereto, or reinsurance, or to place risks, or to effect insurance or reinsurance for persons or corporations other than such agent, with insurers not authorized to do business in this state. An agent, as defined in K.S.A. 40-241e, and amendments thereto, may place the kind or kinds of business specified in this act for which such agent is licensed pursuant to K.S.A. 40-240 and 40-241, and amendments thereto, with an insurer not authorized to do business in this state by placing such business with a person licensed pursuant to the provisions of this act and may share in the applicable commissions on such business. Before any such license shall be issued, the applicant shall submit proper application on a form prescribed by the commissioner, which application shall be accompanied by a fee of \$50. Such license shall be renewable each year on May 1, upon the payment of a \$50 fee ~~and certification of appropriate errors and omissions coverage as required by K.S.A. 40-246f, and amendments thereto.~~ Excess lines agents licensed by the department on the effective date of this act shall be exempt from the experience requirement.

The agent so licensed shall on or before March 1 of each year, file with the insurance department of this state, a sworn affidavit or statement to the effect that, after diligent effort, such agent has been unable to secure the amount of insurance required to protect the property, person, or firm described in such agent's affidavit or statement from loss or damage in regularly admitted companies during the preceding year. Mere rate differential shall not be grounds for placing a particular risk in a nonadmitted carrier when an admitted carrier would accept such risk at a different rate. The licensed excess coverage agent must, prior to placing insurance with an insurer not authorized to do business in this state, obtain the written consent of the prospective named insured and provide such insured the following information in a form promulgated by the commissioner:

- (a) A statement that the coverage will be obtained from an insurer not authorized to do business in this state;
- (b) a statement that the insurer's name appears on the list of companies maintained by the commissioner pursuant to K.S.A. 40-246e, and amendments thereto;
- (c) a notice that the insurer's financial condition, policy forms, rates and trade practices are not subject to the review or jurisdiction of the commissioner;

(d) a statement that the protection of the guaranty associations is not afforded to policyholders of the insurer; and

(e) a statement or notice with respect to any other information deemed necessary by the commissioner pertinent to insuring with an insurer not authorized to do business in this state.

In the event the insured desires that coverage be bound with an insurer not admitted to this state and it is not possible to obtain the written consent of the insured prior to binding the coverage, the excess lines agent may bind the coverage after advising the insured of the information set out above and shall obtain written confirmation that the insured desires that coverage be placed with an insurer not admitted to this state within 30 days after binding coverage.

When business comes to a licensed excess lines agent for placement with an insurer not authorized to do business in this state from an agent not licensed as an excess lines agent, it shall be the responsibility of the licensed excess lines agent to ascertain that the insured has been provided the preceding information and has consented to being insured with an insurer not authorized to do business in this state. Each excess lines agent shall keep a separate record book in such agent's office showing the transactions of fire and casualty insurance and reinsurance placed in companies not authorized to do business in this state, the amount of gross premiums charged thereon, the insurer in which placed, the date, term and number of the policy, the location and nature of the risk, the name of the assured and such other information as the commissioner may require and such record shall be available at all times for inspection by the commissioner of insurance or the commissioner's authorized representatives. The commissioner may revoke or suspend any license issued pursuant to the provisions of this act in the same manner and for the same reasons prescribed by K.S.A. 40-242, and amendments thereto.

Any policy issued under the provisions of this statute shall have stamped or endorsed in a prominent manner thereon, the following: This policy is issued by an insurer not authorized to do business in Kansas and, as such, the form, financial condition and rates are not subject to review by the commissioner of insurance and the insured is not protected by any guaranty fund.

If business is placed with a nonadmitted company that is subsequently determined to be insolvent, the excess lines agent placing such business with such company is relieved of any responsibility to the insured as it relates to such insolvency, if the excess lines agent has satisfactorily complied with all requirements of this section pertaining to notification of the insured, has properly obtained the written consent of the insured and has used due diligence in selecting the insurer. It shall be presumed that due diligence was used in selecting the insurer if such insurer was on the list compiled pursuant to K.S.A. 40-246e, and amendments thereto, at the time coverage first became effective.

Sec. 3. K.S.A. 40-2,131 is hereby amended to read as follows: 40-2,131. (a) No person, firm, association or corporation shall act in the capacity of an MGA with respect to risks located in this state for an insurer licensed in this state unless such person is a licensed agent or broker in this state.

(b) No person, firm, association or corporation shall act in the capacity of an MGA representing an insurer domiciled in this state with respect to risks located outside this state unless such person is licensed as an agent or broker in this state pursuant to the provisions of K.S.A. 40-240 or 40-3701 *et seq.*, and amendments thereto.

(c) The commissioner may require a bond in an amount acceptable to the commissioner for the protection of the insurer.

~~(d) The commissioner may require the MGA to maintain an errors and omissions policy.~~

Sec. 4. K.S.A. 40-4503 is hereby amended to read as follows: 40-4503. (a) No person, firm, association or corporation shall act as a reinsurance broker in this state if the reinsurance broker maintains an office either directly or as a member or employee of a firm or association, or as an officer, director or employee of a corporation:

(1) In this state, unless such reinsurance broker is a licensed producer in this state; or

(2) in another state, unless such reinsurance broker is a licensed producer in this state or another state having a law substantially similar to this act or such reinsurance broker is licensed in this state as a nonresident reinsurance intermediary.

(b) No person, firm, association or corporation shall act as a reinsurance manager:

(1) For a reinsurer domiciled in this state, unless such reinsurance manager is a licensed producer in this state;

(2) in this state, if the reinsurance manager maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation in this state, unless such reinsurance manager is a licensed producer in this state;

(3) in another state for a nonresident insurer, unless such reinsurance manager is a licensed producer in this state or another state having a law substantially similar to this act or such person is licensed in this state as a nonresident reinsurance intermediary.

(c) The commissioner may require a reinsurance manager subject to subsection (b) to:

~~(1) file a bond in an amount from an insurer acceptable to the commissioner for the protection of each reinsurer represented; and~~
~~(2) maintain an errors and omissions policy in an amount acceptable to the commissioner.~~

(d) (1) The commissioner may issue a reinsurance intermediary license to any person, firm, association or corporation who has complied with the requirements of this act. Before any such license may be issued, the applicant shall submit proper application therefor on a form prescribed by the commissioner which shall be accompanied by an initial fee of \$150. Any license so issued shall remain in effect until suspended, revoked, voluntarily surrendered or otherwise terminated by the commissioner or licensee subject to payment of an annual continuation fee of \$100 on or before May 1 of each year. Any such license issued to a firm or association will authorize all the members of such firm or association and any designated employees to act as reinsurance intermediaries under the license, and all such persons shall be named in the application and any supplements thereto. Any such license issued to a corporation shall authorize all of the officers, and any designated employees and directors thereof, to act as reinsurance intermediaries on behalf of such corporation, and all such persons shall be named in the application and any supplements thereto.

(2) If the applicant for a reinsurance intermediary license is a nonresident, such applicant, as a condition precedent to receiving or holding a license, shall designate the commissioner as agent for service of process in the manner, and with the same legal effect, as is provided for by this act for designation of service of process upon insurers holding a Kansas certificate of authority. Such applicant shall furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such nonresident reinsurance intermediary may be served. Such licensee shall promptly notify the commissioner in writing of every change in its designated agent for service of process, and such change shall not become effective until acknowledged by the commissioner.

(e) The commissioner may, after a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, held on not less than 20 days notice, refuse to issue a reinsurance intermediary license if, in the judgment of the commissioner, the applicant, any one named on the application, or any member, principal, officer or director of the applicant, is not trustworthy, or any controlling person of such applicant is not trustworthy to act as a reinsurance intermediary, or any of the foregoing has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance of such license.

(f) Licensed attorneys at law in this state when acting in their professional capacity as such shall be exempt from this section.

Sec. 5. From and after July 1, 2004, K.S.A. 40-216 is hereby amended to read as follows: 40-216. (a) No insurance company shall

(continued)

hereafter transact business in this state until certified copies of its charter and amendments thereto shall have been filed with and approved by the commissioner of insurance. A copy of the bylaws and amendments thereto of insurance companies organized under the laws of this state shall also be filed with and approved by the commissioner of insurance. The commissioner may also require the filing of such other documents and papers as are necessary to determine compliance with the laws of this state. No contract of insurance or indemnity shall be issued or delivered in this state until the form of the same has been filed with the commissioner of insurance, nor if the commissioner of insurance gives written notice within 30 days of such filing, to the company proposing to issue such contract, showing wherein the form of such contract does not comply with the requirements of the laws of this state; but the failure of any insurance company to comply with this section shall not constitute a defense to any action brought on its contracts. An insurer may satisfy its obligation to file its contracts of insurance or indemnity either individually or by authorizing the commissioner to accept on its behalf the filings made by a licensed rating organization or another insurer.

Under such rules and regulations as the commissioner of insurance shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing forms of contracts of insurance or indemnity, which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make an examination to ascertain whether any forms affected by such order meet the standards of this code.

~~(b) Prior to the 2000 legislative session, the Kansas insurance department shall conduct a study and report to the Kansas legislature on the laws of other states governing rate filings and policy or contract forms for personal and commercial, including large commercial risks. The study shall also identify recent trends in regulation and the potential impact on consumers, carriers and agents. The commissioner of insurance shall allow any insurance company authorized to transact business in this state to deliver to any person in this state any contract of insurance or indemnity, including any explanatory materials, written in any language other than the English language under the following conditions:~~

~~(1) The insured or applicant for insurance who is given a copy of the same contract of insurance or indemnity or explanatory materials written in the English language;~~

~~(2) the English language version of the contract for insurance or indemnity or explanatory materials delivered shall be the controlling version; and~~

~~(3) any contract of insurance or indemnity or explanatory materials written in any language other than English shall contain a disclosure statement in 10 point boldface type, printed in both the English language and the other language used, stating the English version of the contract of insurance or indemnity is the official or controlling version and that the version is written in any language other than English is furnished for informational purposes only.~~

~~(c) All contracts of insurance or indemnity that are required to be filed with the commissioner of insurance shall be accompanied by any version of such contract of insurance or indemnity written in any language other than the English language.~~

~~(d) Any insurance company or insurer, including any agent or employee thereof, who knowingly misrepresents the content of a contract of insurance or indemnity or explanatory materials written in a language other than the English language shall be deemed to have violated the unfair trade practice law.~~

~~(e) For the purposes of this section, the term "contract of insurance or indemnity" shall include any rider, endorsement or application pertaining to such contract of insurance or indemnity.~~

Sec. 6. From and after July 1, 2004, K.S.A. 2003 Supp. 40-2404 is hereby amended to read as follows: 40-2404. The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) *Misrepresentations and false advertising of insurance policies.* Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission or comparison which:

(a) Misrepresents the benefits, advantages, conditions or terms of any insurance policy;

(b) misrepresents the dividends or share of the surplus to be received on any insurance policy;

(c) makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy;

(d) is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates;

(e) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;

(f) is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy;

(g) is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or

(h) misrepresents any insurance policy as being shares of stock.

(2) *False information and advertising generally.* Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, misrepresentation or statement with respect to the business of insurance or with respect to any person in the conduct of such person's insurance business, which is untrue, deceptive or misleading.

(3) *Defamation.* Making, publishing, disseminating or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of any person, and which is calculated to injure such person.

(4) *Boycott, coercion and intimidation.* Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance, or by any act of boycott, coercion or intimidation monopolizing or attempting to monopolize any part of the business of insurance.

(5) *False statements and entries.* (a) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of a person.

(b) Knowingly making any false entry of a material fact in any book, report or statement of any person or knowingly omitting to make a true entry of any material fact pertaining to the business of such person in any book, report or statement of such person.

(6) *Stock operations and advisory board contracts.* Issuing or delivering or permitting agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance. Nothing herein shall prohibit the acts permitted by K.S.A. 40-232, and amendments thereto.

(7) *Unfair discrimination.* (a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

(c) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness. With respect to all other conditions, including the underlying cause of the blindness or partial blindness, persons who are blind or partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are sighted persons. Refusal to insure includes denial by an insurer of disability insurance coverage on the grounds that the policy defines "disability" as being presumed in the event that the insured loses such person's eyesight. However, an insurer may exclude from coverage disabilities consisting solely of blindness or partial blindness when such condition existed at the time the policy was issued.

(d) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available for accident and health and life insurance to an applicant who is the proposed insured or charge a different rate for the same coverage or excluding or limiting coverage for losses or denying a claim incurred by an insured as a result of abuse based on the fact that the applicant who is the proposed insured is, has been, or may be the subject of domestic abuse, except as provided in subpart (v). "Abuse" as used in this subsection (7)(d) means one or more acts defined in subsection (a) or (b) of K.S.A. 60-3102 and amendments thereto between family members, current or former household members, or current or former intimate partners.

(i) An insurer may not ask an applicant for life or accident and health insurance who is the proposed insured if the individual is, has been or may be the subject of domestic abuse or seeks, has sought or had reason to seek medical or psychological treatment or counseling specifically for abuse, protection from abuse or shelter from abuse.

(ii) Nothing in this section shall be construed to prohibit a person from declining to issue an insurance policy insuring the life of an individual who is, has been or has the potential to be the subject of abuse if the perpetrator of the abuse is the applicant or would be the owner of the insurance policy.

(iii) No insurer that issues a life or accident and health policy to an individual who is, has been or may be the subject of domestic abuse shall be subject to civil or criminal liability for the death or any injuries suffered by that individual as a result of domestic abuse.

(iv) No person shall refuse to insure, refuse to continue to insure, limit the amount, extent or kind of coverage available to an individual or charge a different rate for the same coverage solely because of physical or mental condition, except where the refusal, limitation or rate differential is based on sound actuarial principles.

(v) Nothing in this section shall be construed to prohibit a person from underwriting or rating a risk on the basis of a preexisting physical or mental condition, even if such condition has been caused by abuse, provided that:

(A) The person routinely underwrites or rates such condition in the same manner with respect to an insured or an applicant who is not a victim of abuse;

(B) the fact that an individual is, has been or may be the subject of abuse may not be considered a physical or mental condition; and

(C) such underwriting or rating is not used to evade the intent of this section or any other provision of the Kansas insurance code.

(vi) Any person who underwrites or rates a risk on the basis of preexisting physical or mental condition as set forth in subsection (7)(d)(v), shall treat such underwriting or rating as an adverse underwriting decision pursuant to K.S.A. 40-2,112, and amendments thereto.

(vii) The provisions of subsection (d) shall apply to all policies of life and accident and health insurance issued in this state after the effective date of this act and all existing contracts which are renewed on or after the effective date of this act.

(8) *Rebates.* (a) Except as otherwise expressly provided by law, knowingly permitting, offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon; paying, allowing, giving or offering to pay, allow or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, selling, purchasing or offering to give, sell or purchase as inducement to such insurance contract or annuity or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(b) Nothing in subsection (7) or (8)(a) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(i) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance. Any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses; or

(iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(9) *Unfair claim settlement practices.* It is an unfair claim settlement practice if any of the following or any rules and regulations pertaining thereto are: (A) Committed flagrantly and in conscious disregard of such provisions, or (B) committed with such frequency as to indicate a general business practice.

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(d) refusing to pay claims without conducting a reasonable investigation based upon all available information;

(e) failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(g) compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(h) attempting to settle a claim for less than the amount to which a reasonable person would have believed that such person was entitled by reference to written or printed advertising material accompanying or made part of an application;

(i) attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

(continued)

(j) making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made;

(k) making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(l) delaying the investigation or payment of claims by requiring an insured, claimant or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(m) failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or

(n) failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(10) *Failure to maintain complaint handling procedures.* Failure of any person, who is an insurer on an insurance policy, to maintain a complete record of all the complaints which it has received since the date of its last examination under K.S.A. 40-222, and amendments thereto; but no such records shall be required for complaints received prior to the effective date of this act. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaints, the date each complaint was originally received by the insurer and the date of final disposition of each complaint. For purposes of this subsection, "complaint" means any written communication primarily expressing a grievance related to the acts and practices set out in this section.

(11) *Misrepresentation in insurance applications.* Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual.

(12) *Statutory violations.* Any violation of any of the provisions of K.S.A. 40-216, 40-276a, 40-2,155 or 40-1515 or ~~K.S.A. 40-2,155~~ and amendments thereto.

(13) *Disclosure of information relating to adverse underwriting decisions and refund of premiums.* Failing to comply with the provisions of K.S.A. 40-2,112, and amendments thereto, within the time prescribed in such section.

(14) *Rebates and other inducements in title insurance.* (a) No title insurance company or title insurance agent, or any officer, employee, attorney, agent or solicitor thereof, may pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to obtaining any title insurance business, any rebate, reduction or abatement of any rate or charge made incident to the issuance of such insurance, any special favor or advantage not generally available to others of the same classification, or any money, thing of value or other consideration or material inducement. The words "charge made incident to the issuance of such insurance" includes, without limitations, escrow, settlement and closing charges.

(b) No insured named in a title insurance policy or contract nor any other person directly or indirectly connected with the transaction involving the issuance of the policy or contract, including, but not limited to, mortgage lender, real estate broker, builder, attorney or any officer, employee, agent representative or solicitor thereof, or any other person may knowingly receive or accept, directly or indirectly, any rebate, reduction or abatement of any charge, or any special favor or advantage or any monetary consideration or inducement referred to in (14)(a).

(c) Nothing in this section shall be construed as prohibiting:

(i) The payment of reasonable fees for services actually rendered to a title insurance agent in connection with a title insurance transaction;

(ii) the payment of an earned commission to a duly appointed title insurance agent for services actually performed in the issuance of the policy of title insurance; or

(iii) the payment of reasonable entertainment and advertising expenses.

(d) Nothing in this section prohibits the division of rates and charges between or among a title insurance company and its agent, or one or more title insurance companies and one or more title insurance agents, if such division of rates and charges does not constitute an unlawful rebate under the provisions of this section and is not in payment of a forwarding fee or a finder's fee.

(e) No title insurer or title agent may accept any order for, issue a title insurance policy to, or provide services to, an applicant if it knows or has reason to believe that the applicant was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate, or both, have a financial interest in the title insurer or title agent to which business is referred unless the producer has disclosed to the buyer, seller and lender the financial interest of the producer of title business or associate referring the title insurance business.

(f) No title insurer or title agent may accept an order for title insurance business, issue a title insurance policy, or receive or retain any premium, or charge in connection with any transaction if: (i) The title insurer or title agent knows or has reason to believe that the transaction will constitute controlled business for that title insurer or title agent, and (ii) 20% or more of the gross operating revenue of that title insurer or title agent during the six full calendar months immediately preceding the month in which the transaction takes place is derived from controlled business. The prohibitions contained in this subparagraph shall not apply to transactions involving real estate located in a county that has a population, as shown by the last preceding decennial census, of 10,000 or less.

(g) The commissioner shall adopt any regulations necessary to carry out the provisions of this act.

(15) *Disclosure of nonpublic personal information.* (a) No person shall disclose any nonpublic personal information contrary to the provisions of title V of the Gramm-Leach-Bliley act of 1999 (public law 106-102). The commissioner may adopt rules and regulations necessary to carry out this section. Such rules and regulations shall be consistent with and not more restrictive than the model regulation adopted on September 26, 2000, by the national association of insurance commissioners entitled "Privacy of consumer financial and health information regulation".

(b) Any rules and regulations adopted by the commissioner which implement article V of the model regulation adopted on September 26, 2000, by the national association of insurance commissioners entitled "Privacy of consumer financial and health information regulation" shall become effective on and after February 1, 2002.

(c) Nothing in this paragraph (15) shall be deemed or construed to authorize the promulgation or adoption of any regulation which preempts, supersedes or is inconsistent with any provision of Kansas law concerning requirements for notification of, or obtaining consent from, a parent, guardian or other legal custodian of a minor relating to any matter pertaining to the health and medical treatment for such minor.

Sec. 7. From and after July 1, 2004, K.S.A. 2003 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

(a) "Adjusted RBC report" means an RBC report which has been adjusted by the commissioner in accordance with K.S.A. 40-2c04, and amendments thereto.

(b) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required to address a RBC level event.

(c) "Domestic insurer" means any insurance company or risk retention group which is licensed and organized in this state.

(d) "Foreign insurer" means any insurance company or risk retention group not domiciled in this state which is licensed or regis-

tered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated or K.S.A. 40-209, and amendments thereto.

(e) "NAIC" means the national association of insurance commissioners.

(f) "Life and health insurer" means any insurance company licensed under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated or a licensed property and casualty insurer writing only accident and health insurance.

(g) "Property and casualty insurer" means any insurance company licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.

(h) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBC instructions defined in subsection (j).

(i) "RBC" means risk-based capital.

(j) "RBC instructions" mean the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, 2002 2003.

(k) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(1) "Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(2) "regulatory action level RBC" means the product of 1.5 and its authorized control level RBC;

(3) "authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(4) "mandatory control level RBC" means the product of .70 and the authorized control level RBC.

(l) "RBC plan" means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(m) "RBC report" means the report required by K.S.A. 40-2c02, and amendments thereto.

(n) "Total adjusted capital" means the sum of:

(1) An insurer's capital and surplus or surplus only if a mutual insurer; and

(2) such other items, if any, as the RBC instructions may provide.

(o) "Commissioner" means the commissioner of insurance.

Sec. 8. K.S.A. 40-2118 is hereby amended to read as follows: 40-2118. As used in this act, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them in this section:

(a) "Administering carrier" means the insurer or third-party administrator designated in K.S.A. 40-2120, and amendments thereto.

(b) "Association" means the Kansas health insurance association established in K.S.A. 40-2119, and amendments thereto.

(c) "Board" means the board of directors of the association.

(d) "Church plan" means a plan as defined under section 3(33) of the Employee Retirement Income Security Act of 1974.

(e) "Commissioner" means the commissioner of insurance.

(f) "Creditable coverage" means with respect to an individual, coverage of the individual under any of the following:

(1) A group health plan;

(2) health insurance coverage;

(3) part A or part B of Title XVIII of the Social Security Act;

(4) title XIX of the Social Security Act, other than coverage consisting solely of benefit under Section 1928;

(5) chapter 55 of Title 10, United States Code;

(6) a medical care program of the Indian Health Service or of a tribal organization;

(7) a state health benefit risk pool;

(8) a health plan offered under Chapter 89 of Title 5, United States Code;

(9) a public health plan as defined under regulations promulgated by the secretary of health and human services; and

(10) a health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(d)).

(g) "Dependent" means a resident spouse or resident unmarried child under the age of 19 years, a child who is a student under the age of 23 years and who is financially dependent upon the parent, or a child of any age who is disabled and dependent upon the parent.

(h) "~~Federally defined eligible individual~~" means an individual: ~~(1) For whom, as of the date the individual seeks coverage under this section, the aggregate of the periods of creditable coverage is 18 or more months and whose most recent prior coverage was under a group health plan, government plan or church plan;~~

~~(2) who is not eligible for coverage under a group health plan, Part A or B of Title XVII of the Social Security Act, or a state plan under Title XIX of the Social Security Act, or any successor program, and who does not have any other health insurance coverage;~~

~~(3) with respect to whom the most recent coverage was not terminated for factors relating to nonpayment of premiums or fraud, and~~

~~(4) who had been offered the option of continuation coverage under COBRA or under a similar program, who elected such continuation coverage, and who has exhausted such continuation coverage.~~

~~(i) "Excess loss" means the total dollar amount by which claims expense incurred for any issuer of a medicare supplement policy or certificate delivered or issued for delivery to persons in this state eligible for medicare by reason of disability and who are under age 65 exceeds 65% of the premium earned by such issuer during a calendar year.~~

~~(i) "Federally defined eligible individual" means an individual:~~

~~(1) For whom, as of the date the individual seeks coverage under this section, the aggregate of the periods of creditable coverage is 18 or more months and whose most recent prior coverage was under a group health plan, government plan or church plan;~~

~~(2) who is not eligible for coverage under a group health plan, Part A or B of Title XVII of the Social Security Act, or a state plan under Title XIX of the Social Security Act, or any successor program, and who does not have any other health insurance coverage;~~

~~(3) with respect to whom the most recent coverage was not terminated for factors relating to nonpayment of premiums or fraud; and~~

~~(4) who had been offered the option of continuation coverage under COBRA or under a similar program, who elected such continuation coverage, and who has exhausted such continuation coverage.~~

~~(j) "Federally defined eligible individuals for FTAA" means an individual who is:~~

~~(1) Legally domiciled in this state; and~~

~~(2) eligible for the credit for health insurance costs under section 35 of the internal revenue code of 1986.~~

~~(k) "FTAA" means federal trade adjustment assistance under the federal trade adjustment assistance reform act of 2002, public law 107-210.~~

~~(l) "Governmental plan" means a plan as defined under section 3(32) of the Employee Retirement Income Security Act of 1974 and any plan maintained for its employees by the government of the United States or by any agency or instrumentality of such government.~~

~~(m) "Group health plan" means an employee benefit plan as defined by section 3(1) of the Employee Retirement Income Security Act of 1974 to the extent that the plan provides any hospital, surgical or medical expense benefits to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement or otherwise.~~

(continued)

(n) “Health insurance” means any hospital or medical expense policy, health, hospital or medical service corporation contract, and a plan provided by a municipal group-funded pool, or a health maintenance organization contract offered by an employer or any certificate issued under any such policies, contracts or plans. “Health insurance” does not include policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(o) “Health maintenance organization” means any organization granted a certificate of authority under the provisions of the health maintenance organization act.

(p) “Insurance arrangement” means any plan, program, contract or any other arrangement under which one or more employers, unions or other organizations provide to their employees or members, either directly or indirectly through a group-funded pool, trust or third-party administrator, health care services or benefits other than through an insurer.

(q) “Insurer” means any insurance company, fraternal benefit society, health maintenance organization and nonprofit hospital and medical service corporation authorized to transact health insurance business in this state.

(r) “Medicaid” means the medical assistance program operated by the state under title XIX of the federal social security act.

(s) “Medicare” means coverage under both parts A and B of title XVIII of the federal social security act, 42 USC 1395.

(t) “Medicare supplement policy” means a group or individual policy of accident and sickness insurance or a subscriber contract of hospitals and medical service associations or health maintenance organizations, other than a policy issued pursuant to a contract under section 1876 of the federal social security act (42 USC 1395 et seq.) or an issued policy under a demonstration project specified in 42 USC 1395ss(g)(1), which is advertised, marketed or designed primarily as a supplement to reimbursements under medicare for the hospital, medical or surgical expenses of persons eligible for medicare.

(u) “Member” means all insurers and insurance arrangements participating in the association.

(v) “Plan” means the Kansas uninsurable health insurance plan created pursuant to this act.

(w) “Plan of operation” means the plan to create and operate the Kansas uninsurable health insurance plan, including articles, by-laws and operating rules, adopted by the board pursuant to K.S.A. 40-2119, and amendments thereto.

Sec. 9. K.S.A. 40-2122 is hereby amended to read as follows: 40-2122. (a) The following individuals shall be eligible for plan coverage provided they meet the criteria set forth in subsection (b):

(1) Any person who has been a resident of this state for at least six months;

(2) any person who is a legal domiciliary of this state who previously was covered under the high risk pool of another state, provided they apply for coverage under the plan within 63 days of losing such other coverage for reasons other than fraud or nonpayment of premiums; ~~or~~

(3) any federally defined eligible individual who is a legal domiciliary of this state; *or*

(4) *any federally defined eligible individual for FTAA.*

(b) Those individuals who are eligible for plan coverage under subsection (a) must provide evidence satisfactory to the administering carrier that such person meets one of the following criteria:

(1) Such person has had health insurance coverage involuntarily terminated for any reason other than nonpayment of premium;

(2) such person has applied for health insurance and been rejected by two carriers because of health conditions;

(3) such person has applied for health insurance and has been quoted a premium rate which is in excess of the plan rate;

(4) such person has been accepted for health insurance subject to a permanent exclusion of a preexisting disease or medical condition; ~~or~~

(5) such person is a federally defined eligible individual; *or*

(6) *such person is a federally defined eligible individual for FTAA.*

(c) Each resident dependent of a person who is eligible for plan coverage shall also be eligible for plan coverage.

(d) The following persons shall not be eligible for coverage under the plan:

(1) Any person who is eligible for medicare or is eligible for medicaid benefits;

(2) any person who has had coverage under the plan terminated less than 12 months prior to the date of the current application, except that this provision shall not apply with respect to an applicant who is a federally defined eligible individual;

(3) any person who has received accumulated benefits from the plan equal to or in excess of the lifetime maximum benefits under the plan prescribed by K.S.A. 40-2124 and amendments thereto;

(4) any person having access to accident and health insurance through an employer-sponsored group or self-insured plan, *including coverage under the consolidated omnibus budget reconciliation act (COBRA), except that the requirement for exhaustion of any available COBRA or state continuation is waived whenever such person:*

(A) *Is eligible for the credit for health care costs under section 35 of the internal revenue code of 1986; and*

(B) *has three months of prior creditable coverage as described in subsection (c) of K.S.A. 40-2124, and amendments thereto; or*

(5) any person who is eligible for any other public or private program that provides or indemnifies for health services.

(e) Any person who ceases to meet the eligibility requirements of this section may be terminated at the end of a policy period.

(f) All plan members, insurers and insurance arrangements shall notify in writing persons denied health insurance coverage, for any reason, of the availability of coverage through the Kansas health insurance association.

Sec. 10. K.S.A. 40-2124 is hereby amended to read as follows: 40-2124. (a) Coverage under the plan shall be subject to both deductible and coinsurance provisions set by the board. On and after January 1, 1998, the plan shall offer to current participants and new enrollees no fewer than four choices of deductible and copayment options. Coverage shall contain a coinsurance provision for each service covered by the plan, and such copayment requirement shall not be subject to a stop-loss provision. Such coverage may provide for a percentage or dollar amount of coinsurance reduction at specific thresholds of copayment expenditures by the insured.

(b) Coverage under the plan shall be subject to a maximum lifetime benefit of \$1,000,000 per covered individual.

(c) On and after May 1, 1994, coverage under the plan shall exclude charges or expenses incurred during the first 90 days following the effective date of coverage as to any condition: (1) Which manifested itself during the six-month period immediately prior to the application for coverage in such manner as would cause an ordinarily prudent person to seek diagnosis, care or treatment; or (2) for which medical advice, care or treatment was recommended or received in the six-month period immediately prior to the application for coverage. In succeeding years of operation of the plan, coverage of preexisting conditions may be excluded as determined by the board, except that no such exclusion shall exceed 180 calendar days, and no exclusion shall be applied to a federally defined eligible individual provided that application for coverage is made not later than 63 days following the applicant's most recent prior creditable coverage. *For any individual who is eligible for the credit for health insurance costs under section 35 of the internal revenue code of 1986,*

the preexisting conditions limitation will not apply whenever such individual has maintained creditable health insurance coverage for an aggregate period of three months, not counting any period prior to a 63 day break in coverage, as of the date on which such individual seeks to enroll in coverage provided by this act.

(d) (1) Benefits otherwise payable under plan coverage shall be reduced by all amounts paid or payable through any other health insurance, or insurance arrangement, and by all hospital and medical expense benefits paid or payable under any workers compensation coverage, automobile medical payment or liability insurance whether provided on the basis of fault or nonfault, and by any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law or program.

(2) The association shall have a cause of action against an eligible person for the recovery of the amount of benefits paid which are not covered expenses. Benefits due from the plan may be reduced or refused as a set-off against any amount recoverable under this section.

Sec. 11. From and after July 1, 2004, K.S.A. 40-2209 is hereby amended to read as follows: 40-2209. (a) (1) Group sickness and accident insurance is declared to be that form of sickness and accident insurance covering groups of persons, with or without one or more members of their families or one or more dependents. Except at the option of the employee or member and except employees or members enrolling in a group policy after the close of an open enrollment opportunity, no individual employee or member of an insured group and no individual dependent or family member may be excluded from eligibility or coverage under a policy providing hospital, medical or surgical expense benefits both with respect to policies issued or renewed within this state and with respect to policies issued or renewed outside this state covering persons residing in this state. For purposes of this section, an open enrollment opportunity shall be deemed to be a period no less favorable than a period beginning on the employee's or member's date of initial eligibility and ending 31 days thereafter.

(2) An eligible employee, member or dependent who requests enrollment following the open enrollment opportunity or any special enrollment period for dependents as specified in subsection (3) shall be considered a late enrollee. An accident and sickness insurer may exclude a late enrollee, except during an open enrollment period. However, an eligible employee, member or dependent shall not be considered a late enrollee if:

(A) The individual:

(i) Was covered under another group policy which provided hospital, medical or surgical expense benefits or was covered under section 607(1) of the employee retirement income security act of 1974 (ERISA) at the time the individual was eligible to enroll;

(ii) states in writing, at the time of the open enrollment period, that coverage under another group policy which provided hospital, medical or surgical expense benefits was the reason for declining enrollment, but only if the group policyholder or the accident and sickness insurer required such a written statement and provided the individual with notice of the requirement for a written statement and the consequences of such written statement;

(iii) has lost coverage under another group policy providing hospital, medical or surgical expense benefits or under section 607(1) of the employee retirement income security act of 1974 (ERISA) as a result of the termination of employment, reduction in the number of hours of employment, termination of employer contributions toward such coverage, the termination of the other policy's coverage, death of a spouse or divorce or legal separation or was under a COBRA continuation provision and the coverage under such provision was exhausted; and

(iv) requests enrollment within 30 days after the termination of coverage under the other policy; or

(B) a court has ordered coverage to be provided for a spouse or minor child under a covered employee's or member's policy.

(3) (A) If an accident and sickness insurer issues a group policy providing hospital, medical or surgical expenses and makes coverage available to a dependent of an eligible employee or member and such dependent becomes a dependent of the employee or member through marriage, birth, adoption or placement for adoption, then such group policy shall provide for a dependent special enrollment period as described in subsection (3) (B) of this section during which the dependent may be enrolled under the policy and in the case of the birth or adoption of a child, the spouse of an eligible employee or member may be enrolled if otherwise eligible for coverage.

(B) A dependent special enrollment period under this subsection shall be a period of not less than 30 days and shall begin on the later of (i) the date such dependent coverage is made available, or (ii) the date of the marriage, birth or adoption or placement for adoption.

(C) If an eligible employee or member seeks to enroll a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective: (i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received; (ii) in the case of the birth of a dependent, as of the date of such birth; or (iii) in the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

(4) (A) No group policy providing hospital, medical or surgical expense benefits issued or renewed within this state or issued or renewed outside this state covering residents within this state shall limit or exclude benefits for specific conditions existing at or prior to the effective date of coverage thereunder. Such policy may impose a preexisting conditions exclusion, not to exceed 90 days following the date of enrollment for benefits for conditions whether mental or physical, regardless of the cause of the condition for which medical advice, diagnosis, care or treatment was recommended or received in the 90 days prior to the effective date of enrollment. Any preexisting conditions exclusion shall run concurrently with any waiting period.

(B) Such policy may impose a waiting period after full-time employment starts before an employee is first eligible to enroll in any applicable group policy.

(C) A health maintenance organization which offers such policy which does not impose any preexisting conditions exclusion may impose an affiliation period for such coverage, provided that: (i) such application period is applied uniformly without regard to any health status related factors and (ii) such affiliation period does not exceed two months. The affiliation period shall run concurrently with any waiting period under the plan.

(D) A health maintenance organization may use alternative methods from those described in this subsection to address adverse selection if approved by the commissioner.

(E) For the purposes of this section, the term "preexisting conditions exclusion" shall mean, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage whether or not any medical advice, diagnosis, care or treatment was recommended or received before such date.

(F) For the purposes of this section, the term "date of enrollment" means the date the individual is enrolled under the group policy or, if earlier, the first day of the waiting period for such enrollment.

(G) For the purposes of this section, the term "waiting period" means with respect to a group policy the period which must pass before the individual is eligible to be covered for benefits under the terms of the policy.

(5) Genetic information shall not be treated as a preexisting condition in the absence of a diagnosis of the condition related to such information.

(6) A group policy providing hospital, medical or surgical expense benefits may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.

(continued)

(7) A group policy providing hospital, medical or surgical expense benefits may not impose any preexisting condition waiting period in the case of a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of a 30-day period beginning on the date of the adoption or placement for adoption, is covered by a policy specified in subsection (a). This subsection shall not apply to coverage before the date of such adoption or placement for adoption.

(8) Such policy shall waive such a preexisting conditions exclusion to the extent the employee or member or individual dependent or family member was covered by (A) a group or individual sickness and accident policy, (B) coverage under section 607(1) of the employees retirement income security act of 1974 (ERISA), (C) a group specified in K.S.A. 40-2222 and amendments thereto, (D) part A or part B of title XVIII of the social security act, (E) title XIX of the social security act, other than coverage consisting solely of benefits under section 1928, (F) a state children's health insurance program established pursuant to title XXI of the social security act, (G) chapter 55 of title 10 United States code, (H) a medical care program of the indian health service or of a tribal organization, (I) the Kansas un-insurable health plan act pursuant to K.S.A. 40-2217 *et seq.* and amendments thereto or a similar health benefits risk pool of another state, (J) a health plan offered under chapter 89 of title 5, United States code, (K) a health benefit plan under section 5(e) of the peace corps act (22 U.S.C. 2504(e)), or (L) a group subject to K.S.A. 12-2616 *et seq.* and amendments thereto which provided hospital, medical and surgical expense benefits within 63 days prior to the effective date of coverage with no gap in coverage. A group policy shall credit the periods of prior coverage specified in subsection (a)(7) without regard to the specific benefits covered during the period of prior coverage. Any period that the employee or member is in a waiting period for any coverage under a group health plan or is in an affiliation period shall not be taken into account in determining the continuous period under this subsection.

(b) (1) An accident and sickness insurer which offers group policies providing hospital, medical or surgical expense benefits shall provide a certification as described in subsection (b)(2): (A) At the time an eligible employee, member or dependent ceases to be covered under such policy or otherwise becomes covered under a COBRA continuation provision; (B) in the case of an eligible employee, member or dependent being covered under a COBRA continuation provision, at the time such eligible employee, member or dependent ceases to be covered under a COBRA continuation provision; and (C) on the request on behalf of such eligible employee, member or dependent made not later than 24 months after the date of the cessation of the coverage described in subsection (b)(1) (A) or (b)(1) (B), whichever is later.

(2) The certification described in this subsection is a written certification of (A) the period of coverage under a policy specified in subsection (a) and any coverage under such COBRA continuation provision, and (B) any waiting period imposed with respect to the eligible employee, member or dependent for any coverage under such policy.

(c) Any group policy may impose participation requirements, define full-time employees or members and otherwise be designed for the group as a whole through negotiations between the group sponsor and the insurer to the extent such design is not contrary to or inconsistent with this act.

(d) (1) An accident and sickness insurer offering a group policy providing hospital, medical or surgical expense benefits must renew or continue in force such coverage at the option of the policyholder or certificateholder except as provided in paragraph (2) below.

(2) An accident and sickness insurer may nonrenew or discontinue coverage under a group policy providing hospital, medical or surgical expense benefits based only on one or more of the following circumstances:

(A) If the policyholder or certificateholder has failed to pay any premium or contributions in accordance with the terms of the group

policy providing hospital, medical or surgical expense benefits or the accident and sickness insurer has not received timely premium payments;

(B) if the policyholder or certificateholder has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of such coverage;

(C) if the policyholder or certificateholder has failed to comply with a material plan provision relating to employer contribution or group participation rules;

(D) if the accident and sickness insurer is ceasing to offer coverage in such group market in accordance with subsections (d)(3) or (d)(4);

(E) in the case of accident and sickness insurer that offers coverage under a policy providing hospital, medical or surgical expense benefits through an enrollment area, there is no longer any eligible employee, member or dependent in connection with such policy who lives, resides or works in the medical service enrollment area of the accident and sickness insurer or in the area for which the accident and sickness insurer is authorized to do business; or

(F) in the case of a group policy providing hospital, medical or surgical expense benefits which is offered through an association or trust pursuant to subsections (f)(3) or (f)(5), the membership of the employer in such association or trust ceases but only if such coverage is terminated uniformly without regard to any health status related factor relating to any eligible employee, member or dependent.

(3) In any case in which an accident and sickness insurer which offers a group policy providing hospital, medical or surgical expense benefits decides to discontinue offering such type of group policy, such coverage may be discontinued only if:

(A) The accident and sickness insurer notifies all policyholders and certificateholders and all eligible employees or members of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

(B) the accident and sickness insurer offers to each policyholder who is provided such group policy providing hospital, medical or surgical expense benefits which is being discontinued the option to purchase any other group policy providing hospital, medical or surgical expense benefits currently being offered by such accident and sickness insurer; and

(C) in exercising the option to discontinue coverage and in offering the option of coverage under subparagraph (B), the accident and sickness insurer acts uniformly without regard to the claims experience of those policyholders or certificateholders or any health status related factors relating to any eligible employee, member or dependent covered by such group policy or new employees or members who may become eligible for such coverage.

(4) If the accident and sickness insurer elects to discontinue offering group policies providing hospital, medical or surgical expense benefits or group coverage to a small employer pursuant to K.S.A. 40-2209f and amendments thereto, such coverage may be discontinued only if:

(A) The accident and sickness insurer provides notice to the insurance commissioner, to all policyholders or certificateholders and to all eligible employees and members covered by such group policy providing hospital, medical or surgical expense benefits at least 180 days prior to the date of the discontinuation of such coverage;

(B) all group policies providing hospital, medical or surgical expense benefits offered by such accident and sickness insurer are discontinued and coverage under such policies are not renewed; and

(C) the accident and sickness insurer may not provide for the issuance of any group policies providing hospital, medical or surgical expense benefits in the discontinued market during a five year period beginning on the date of the discontinuation of the last such group policy which is nonrenewed.

(e) An accident and sickness insurer offering a group policy providing hospital, medical or surgical expense benefits may not establish rules for eligibility (including continued eligibility) of any employee, member or dependent to enroll under the terms of the group

policy based on any of the following factors in relation to the eligible employee, member or dependent: (A) Health status, (B) medical condition, including both physical and mental illness, (C) claims experience, (D) receipt of health care, (E) medical history, (F) genetic information, (G) evidence of insurability, including conditions arising out of acts of domestic violence, or (H) disability. This subsection shall not be construed to require a policy providing hospital, medical or surgical expense benefits to provide particular benefits other than those provided under the terms of such group policy or to prevent a group policy providing hospital, medical or surgical expense benefits from establishing limitations or restrictions on the amount, level, extent or nature of the benefits or coverage for similarly situated individuals enrolled under the group policy.

(f) Group accident and health insurance may be offered to a group under the following basis:

(1) Under a policy issued to an employer or trustees of a fund established by an employer, who is the policyholder, insuring at least two employees of such employer, for the benefit of persons other than the employer. The term "employees" shall include the officers, managers, employees and retired employees of the employer, the partners, if the employer is a partnership, the proprietor, if the employer is an individual proprietorship, the officers, managers and employees and retired employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, employees and retired employees of individuals and firms, the business of which and of the insured employer is under common control through stock ownership contract, or otherwise. The policy may provide that the term "employees" may include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

(2) Under a policy issued to a labor union which shall have a constitution and bylaws insuring at least 25 members of such union.

(3) Under a policy issued to the trustees of a fund established by two or more employers or business associations or by one or more labor unions or by one or more employers and one or more labor unions, which trustees shall be the policyholder, to insure employees of the employers or members of the union or members of the association for the benefit of persons other than the employers or the unions or the associations. The term "employees" shall include the officers, managers, employees and retired employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(4) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements: (a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. (b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or from both.

(5) A policy issued to an association which has been organized and is maintained for the purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" shall include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof.

(6) Under a policy issued to any other type of group which the commissioner of insurance may find is properly subject to the issuance of a group sickness and accident policy or contract.

(g) Each such policy shall contain in substance: (1) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or the insured's beneficiary.

(2) A provision setting forth the conditions under which an individual's coverage terminates under the policy, including the age, if any, to which an individual's coverage under the policy shall be limited, or, the age, if any, at which any additional limitations or restrictions are placed upon an individual's coverage under the policy.

(3) Provisions setting forth the notice of claim, proofs of loss and claim forms, physical examination and autopsy, time of payment of claims, to whom benefits are payable, payment of claims, change of beneficiary, and legal action requirements. Such provisions shall not be less favorable to the individual insured or the insured's beneficiary than those corresponding policy provisions required to be contained in individual accident and sickness policies.

(4) A provision that the insurer will furnish to the policyholder, for the delivery to each employee or member of the insured group, an individual certificate approved by the commissioner of insurance setting forth in summary form a statement of the essential features of the insurance coverage of such employee or member, the procedure to be followed in making claim under the policy and to whom benefits are payable. Such certificate shall also contain a summary of those provisions required under paragraphs (2) and (3) of this subsection (g) in addition to the other essential features of the insurance coverage. If dependents are included in the coverage, only one certificate need be issued for each family unit.

(h) No group disability income policy which integrates benefits with social security benefits, shall provide that the amount of any disability benefit actually being paid to the disabled person shall be reduced by changes in the level of social security benefits resulting either from changes in the social security law or due to cost of living adjustments which become effective after the first day for which disability benefits become payable.

(i) A group policy of insurance delivered or issued for delivery or renewed which provides hospital, surgical or major medical expense insurance, or any combination of these coverages, on an expense incurred basis, shall provide that an employee or member or such employee's or member's covered dependents whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy or under any group policy providing similar benefits which it replaces for at least three months immediately prior to termination, shall be entitled to have such coverage nonetheless continued under the group policy for a period of six months and have issued to the employee or member or such employee's or member's covered dependents by the insurer, at the end of such six-month period of continuation, a policy of health insurance which conforms to the applicable requirements specified in this subsection. This requirement shall not apply to a group policy which provides benefits for specific diseases or for accidental injuries only or a group policy issued to an employer subject to the continuation and conversion obligations set forth at title I, subtitle B, part 6 of the employee retirement income security act of 1974 or at title XXII of the public health service act, as each act was in effect on January 1, 1987 to the extent federal law provides the employee or member or such employee's or member's covered dependents with equal or greater continuation or conversion rights; or an employee or member or such employee's or member's covered dependents shall not be entitled to have such coverage continued or a converted policy issued to the employee or member or such employee's or member's covered dependents if termination of the insurance under the group policy occurred because:

(continued)

(1) The employee or member or such employee's or member's covered dependents failed to pay any required contribution after receiving reasonable notice of such required contribution from the insurer in accordance with rules and regulations adopted by the commissioner of insurance; (2) any discontinued group coverage was replaced by similar group coverage within 31 days; (3) the employee or member is or could be covered by medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded); ~~or~~ (4) the employee or member is or could be covered to the same extent by any other insured or lawful self-insured arrangement which provides expense incurred hospital, surgical or medical coverage and benefits for individuals in a group under which the person was not covered prior to such termination; *or* (5) *coverage for the employee or member, or any covered dependent thereof, was terminated for cause as permitted by the group policy or certificate of coverage approved by the commissioner.* In the event the group policy is terminated and not replaced the insurer may issue an individual policy or certificate in lieu of a conversion policy or the continuation of group coverage required herein if the individual policy or certificate provides substantially similar coverage for the same or less premium as the group policy. In any event, the employee or member shall have the option to be issued a conversion policy which meets the requirements set forth in this subsection in lieu of the right to continue group coverage.

(j) The continued coverage and the issuance of a converted policy shall be subject to the following conditions:

(1) Written application for the converted policy shall be made and the first premium paid to the insurer not later than 31 days after termination of coverage under the group policy or not later than 31 days after notice is received pursuant to paragraph 20 of this subsection.

(2) The converted policy shall be issued without evidence of insurability.

(3) The terminated employee or member shall pay to the insurer the premium for the six-month continuation of coverage and such premium shall be the same as that applicable to members or employees remaining in the group. Failure to pay such premium shall terminate coverage under the group policy at the end of the period for which the premium has been paid. The premium rate charged for converted policies issued subsequent to the period of continued coverage shall be such that can be expected to produce an anticipated loss ratio of not less than 80% based upon conversion, morbidity and reasonable assumptions for expected trends in medical care costs. In the event the group policy is terminated and is not replaced, converted policies may be issued at self-sustaining rates that are not unreasonable in relation to the coverage provided based on conversion, morbidity and reasonable assumptions for expected trends in medical care costs. The frequency of premium payment shall be the frequency customarily required by the insurer for the policy form and plan selected, provided that the insurer shall not require premium payments less frequently than quarterly.

(4) The effective date of the converted policy shall be the day following the termination of insurance under the group policy.

(5) The converted policy shall cover the employee or member and the employee's or member's dependents who were covered by the group policy on the date of termination of insurance. At the option of the insurer, a separate converted policy may be issued to cover any dependent.

(6) The insurer shall not be required to issue a converted policy covering any person if such person is or could be covered by medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded). Furthermore, the insurer shall not be required to issue a converted policy covering any person if:

(A) (i) Such person is covered for similar benefits by another hospital, surgical, medical or major medical expense insurance policy

or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program, or

(ii) such person is eligible for similar benefits (whether or not covered therefor) under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis, or

(iii) similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law, and

(B) the benefits provided under the sources referred to in clause (A) (i) above for such person or benefits provided or available under the sources referred to in clauses (A) (ii) and (A) (iii) above for such person, together with the benefits provided by the converted policy, would result in over-insurance according to the insurer's standards. The insurer's standards must bear some reasonable relationship to actual health care costs in the area in which the insured lives at the time of conversion and must be filed with the commissioner of insurance prior to their use in denying coverage.

(7) A converted policy may include a provision whereby the insurer may request information in advance of any premium due date of such policy of any person covered as to whether:

(A) Such person is covered for similar benefits by another hospital, surgical, medical or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program;

(B) such person is covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or

(C) similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law.

(8) The converted policy may provide that the insurer may refuse to renew the policy and the coverage of any person insured for the following reasons only:

(A) Either the benefits provided under the sources referred to in clauses (A) (i) and (A) (ii) of paragraph 6 for such person or benefits provided or available under the sources referred to in clause (A) (iii) of paragraph 6 for such person, together with the benefits provided by the converted policy, would result in over-insurance according to the insurer's standards on file with the commissioner of insurance, or the converted policyholder fails to provide the requested information;

(B) fraud or material misrepresentation in applying for any benefits under the converted policy; or

(C) other reasons approved by the commissioner of insurance.

(9) An insurer shall not be required to issue a converted policy which provides coverage and benefits in excess of those provided under the group policy from which conversion is made.

(10) If the converted policy provides that any hospital, surgical or medical benefits payable may be reduced by the amount of any such benefits payable under the group policy after the termination of the individual's insurance or the converted policy includes provisions so that during the first policy year the benefits payable under the converted policy, together with the benefits payable under the group policy, shall not exceed those that would have been payable had the individual's insurance under the group policy remained in force and effect, the converted policy shall provide credit for deductibles, copayments and other conditions satisfied under the group policy.

(11) Subject to the provisions and conditions of this act, if the group insurance policy from which conversion is made insures the employee or member for major medical expense insurance, the employee or member shall be entitled to obtain a converted policy providing catastrophic or major medical coverage under a plan meeting the following requirements:

(A) A maximum benefit at least equal to either, at the option of the insurer, paragraphs (i) or (ii) below:

(i) The smaller of the following amounts:

The maximum benefit provided under the group policy or a maximum payment of \$250,000 per covered person for all covered medical expenses incurred during the covered person's lifetime.

(ii) The smaller of the following amounts:

The maximum benefit provided under the group policy or a maximum payment of \$250,000 for each unrelated injury or sickness.

(B) Payment of benefits at the rate of 80% of covered medical expenses which are in excess of the deductible, until 20% of such expenses in a benefit period reaches \$1,000, after which benefits will be paid at the rate of 100% during the remainder of such benefit period. Payment of benefits for outpatient treatment of mental illness, if provided in the converted policy, may be at a lesser rate but not less than 50%.

(C) A deductible for each benefit period which, at the option of the insurer, shall be (i) the sum of the benefits deductible and \$100, or (ii) the corresponding deductible in the group policy. The term "benefits deductible," as used herein, means the value of any benefits provided on an expense incurred basis which are provided with respect to covered medical expenses by any other hospital, surgical, or medical insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan, or any other plan or program whether on an insured or uninsured basis, or in accordance with the requirements of any state or federal law and, if pursuant to the conditions of paragraph (13), the converted policy provides both basic hospital or surgical coverage and major medical coverage, the value of such basic benefits.

If the maximum benefit is determined by clause (A)(ii) of this paragraph, the insurer may require that the deductible be satisfied during a period of not less than three months if the deductible is \$100 or less, and not less than six months if the deductible exceeds \$100.

(D) The benefit period shall be each calendar year when the maximum benefit is determined by clause (A)(i) of this paragraph or 24 months when the maximum benefit is determined by clause (A)(ii) of this paragraph.

(E) The term "covered medical expenses," as used above, shall include at least, in the case of hospital room and board charges 80% of the average semiprivate room and board rate for the hospital in which the individual is confined and twice such amount for charges in an intensive care unit. Any surgical schedule shall be consistent with those customarily offered by the insurer under group or individual health insurance policies and must provide at least a \$1,200 maximum benefit.

(12) The conversion privilege required by this act shall, if the group insurance policy insures the employee or member for basic hospital or surgical expense insurance as well as major medical expense insurance, make available the plans of benefits set forth in paragraph 11. At the option of the insurer, such plans of benefits may be provided under one policy.

The insurer may also, in lieu of the plans of benefits set forth in paragraph (11), provide a policy of comprehensive medical expense benefits without first dollar coverage. The policy shall conform to the requirements of paragraph (11). An insurer electing to provide such a policy shall make available a low deductible option, not to exceed \$100, a high deductible option between \$500 and \$1,000, and a third deductible option midway between the high and low deductible options.

(13) The insurer, at its option, may also offer alternative plans for group health conversion in addition to those required by this act.

(14) In the event coverage would be continued under the group policy on an employee following the employee's retirement prior to the time the employee is or could be covered by medicare, the employee may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had such person's insurance terminated at retirement by reason of termination of employment or membership.

(15) The converted policy may provide for reduction of coverage on any person upon such person's eligibility for coverage under med-

icare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded) or under any other state or federal law providing for benefits similar to those provided by the converted policy.

(16) Subject to the conditions set forth above, the continuation and conversion privileges shall also be available:

(A) To the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or, if the group policy provides for continuation of dependents' coverage following the employee's or member's death, at the end of such continuation;

(B) to the spouse of the employee or member upon termination of coverage of the spouse, while the employee or member remains insured under the group policy, by reason of ceasing to be a qualified family member under the group policy, with respect to the spouse and such children whose coverage under the group policy terminates at the same time; or

(C) to a child solely with respect to such child upon termination of such coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

(17) The insurer may elect to provide group insurance coverage which complies with this act in lieu of the issuance of a converted individual policy.

(18) A notification of the conversion privilege shall be included in each certificate of coverage.

(19) A converted policy which is delivered outside this state must be on a form which could be delivered in such other jurisdiction as a converted policy had the group policy been issued in that jurisdiction.

(20) The insurer shall give the employee or member and such employee's or member's covered dependents: (A) Reasonable notice of the right to convert at least once during the six-month continuation period; or (B) for persons covered under 29 U.S.C. 1161 et seq., notice of the right to a conversion policy required by this subsection (d) shall be given at least 30 days prior to the end of the continuation period provided by 29 U.S.C. 1161 et seq. or from the date the employer ceases to provide any similar group health plan to any employee. Such notices shall be provided in accordance with rules and regulations adopted by the commissioner of insurance.

(k) (1) No policy issued by an insurer to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

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

(l) The commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this section.

New Sec. 12. (a) The committee on surety bonds and insurance is hereby authorized to negotiate and enter into contracts with qualified insurers and sureties for the purpose of purchasing insurance, surety coverage and similar coverages, including the purchase of insurance, surety coverage and similar coverage for any state agency authorized by law to make such purchase, and the acquisition of consulting and other services necessary therefor. The committee shall advertise for proposals. If the committee receives at least three proposals, the committee shall negotiate with the parties submitting proposals and select the party to negotiate with for the purpose of entering into contracts. If less than three parties submit bids, then the committee shall readvertise for proposals. Upon receiving proposals in response to the second advertisement for proposals, the committee shall negotiate with the parties submitting proposals and select from those parties submitting proposals, the party to negotiate

(continued)

with for the purpose of entering into contracts regardless of the number of proposals received. The division of purchases shall: (1) Maintain records of the requests for proposals; (2) handle the receipt of proposals; and (3) assist the committee in negotiating procedures and the award of contracts.

(b) The provisions of K.S.A. 75-4317 through 75-4320a, and amendments thereto, shall not apply to meetings of the committee when the committee meets solely for the purpose of discussing and preparing strategies for negotiations for such contracts.

(c) Contracts entered into pursuant to this section, shall not be subject to the provisions of K.S.A. 75-3738 to 75-3740, inclusive, and amendments thereto. Such contracts may be for terms of not more than three years and may be renegotiated and renewed. All such contracts shall be subject to the limits of appropriations made or available therefor and subject to the provisions of appropriations acts relating thereto.

(d) The provisions of this section shall be a complete alternative to other procurement procedures available to the committee pursuant to law.

(e) This section shall take effect on and after July 1, 2004.

Sec. 13. From and after July 1, 2004, K.S.A. 75-4105 is hereby amended to read as follows: 75-4105. ~~All~~ *Except as provided in section 12, and amendments thereto, all* surety bonds and insurance contracts purchased pursuant to this act shall be purchased by the committee in the manner prescribed for the purchase of supplies, materials, equipment or contractual services under K.S.A. 75-3738 to 75-3744, inclusive, and amendments thereto. The director of accounts and reports shall not pay any premium or rate on any surety bond or insurance contract until the purchase of such surety bond or contract shall have been approved by the secretary of the committee. Surety bonds or insurance contracts having a premium or rate in excess of \$500 purchased hereunder shall be purchased on sealed bids as provided by law for the purchase of other materials, equipment or contractual services. Where more than one state agency is covered by any bond or insurance contract, the committee shall prorate the cost of premiums or rates on any and all such bonds or contracts, except as provided in K.S.A. 75-4114, and amendments thereto, purchased as charges upon the funds of the state agency wherein any covered state officers or employees are employed or covered property is located or controlled. Such prorated charges shall constitute a lawful charge by the committee upon the funds available to any such state agency and shall be paid by each such state agency to the committee, or to the surety or insurance carrier if the committee requires it, in the manner provided by law for the payment of other obligations of such state agency.

Sec. 14. From and after July 1, 2004, K.S.A. 75-4109 is hereby amended to read as follows: 75-4109. (a) The committee, at least once every three years, shall approve the property and casualty insurance coverages that shall be purchased by each state agency.

(b) The committee shall require that each state agency purchase the insurance coverages prescribed by K.S.A. 74-4703, 74-4705, 74-4707, 75-712e, 75-2728, 76-218, 76-391, 76-394, 76-747 and 76-491, and amendments to these sections, and shall prescribe the terms, conditions and amounts of such coverage giving due regard to the operations and requirements of the agencies involved.

(c) The committee shall, in addition to the coverages specified in subsection (b), designate the insurance coverages to be purchased by each state agency that are deemed by the committee to be necessary to protect the state for property of others that may be in the possession or control of such state agencies.

(d) Such coverages as are specified in subsections (b) and (c) may also include coverages on property of the state that are deemed by the committee to be incidental to the basic coverages herein required, and the committee shall prescribe the terms, conditions and amounts of all insurance coverages purchased pursuant to this section. Property of the state board of regents of any university or college which is referred to in subsection (b) may be self-insured as provided under this act.

(e) No property insurance coverage may be purchased by the committee, except as provided herein or *by section 12, and amendments thereto*, or specifically required by other Kansas statutes or appropriations.

Sec. 15. From and after July 1, 2004, K.S.A. 2003 Supp. 40-4702 is hereby amended to read as follows: 40-4702. (a) The governor of the state of Kansas shall appoint a ~~cabinet-level~~ committee which shall be known as the Kansas business health policy committee, *whose purpose is to explore opportunities and encourage employer participation in health plans developed by the committee for low- and modest-wage employees of small employers.*

(b) The Kansas business health policy committee, hereinafter referred to as the health committee, shall consist of:

- (1) The secretary of the department of commerce or the secretary's designee;
- (2) the secretary of the department of social and rehabilitation services or the secretary's designee;
- (3) the commissioner of insurance or the commissioner's designee;
- (4) one member appointed by the president of the senate;
- (5) one member appointed by the speaker of the house of representatives;
- (6) one member appointed by the minority leader of the senate;
- (7) one member appointed by the minority leader of the house of representatives; and
- (8) three members at large from the private sector appointed by the governor.

The secretary of each state agency represented on this committee shall provide such staff and other resources as the health committee may require.

(c) (1) The initial meeting of the health committee shall be convened within 60 days after the effective date of this act by the governor at a time and place designated by the governor.

(2) Meetings of the health committee subsequent to its initial meeting shall be held and conducted in accordance with policies and procedures established by the health committee.

(3) Commencing at the time of the initial meeting of the health committee, the powers, authorities, duties and responsibilities conferred and imposed upon the health committee by this act shall be operative and effective.

(d) The health committee shall develop and approve a request for proposals for a qualified entity to serve as the Kansas business health partnership, hereinafter referred to as health partnership, which shall provide a mechanism to combine federal and state subsidies with contributions from small employers and eligible employees to purchase health insurance in accordance with guidelines developed by the health committee.

(e) The health committee shall evaluate responses to the request for proposals and select the qualified entity to serve as the health partnership.

(f) The health committee shall:

(1) Develop, approve and revise subsidy eligibility criteria provided that:

(A) Low wage and modest wage employees of small employers shall be eligible for subsidies if:

(1) (i) The small employer has not previously offered health insurance coverage *within the two years next preceding the date upon which health insurance is offered*; or

(2) (ii) the small employer has previously offered health insurance coverage and a majority of such small employer's employees are low wage or modest wage employees as defined in K.S.A. 40-4701, and amendments thereto;

(B) any small employer's eligible employee with a child who is eligible for coverage under the state children's health insurance program established by K.S.A. 38-2001 *et seq.*, and amendments thereto, or in the state medical assistance program shall be eligible automatically for a subsidy and shall be included in the determination of

eligibility for the small employer and its low-and-modest wage employees; and

(C) at least 70% of the small employer's eligible employees without group health insurance coverage from another source are insured through the partnership; and

(2) determine and arrange for eligibility determination for subsidies of low wage or modest wage employees; and

(3) develop subsidy schedules based upon eligible employee wage levels and family income; and

(4) *be responsible for arranging for the provision of affordable health care coverage for eligible employees of small employers and evaluating and creating the opportunity to improve health care provided by plans in the small group health insurance program.*

(g) The health committee shall oversee and monitor the ongoing operation of any subsidy program and the financial accountability of all subsidy funds. If, in the judgment of the health committee, the entity selected to serve as the health partnership fails to perform as intended, the health committee may terminate its selection and designation of that entity as the health partnership and may issue a new request for proposal and select a different qualified entity to serve as the health partnership.

(h) The health committee is hereby authorized to accept funds from the federal government, or its agencies, or any other source whatsoever for research studies, investigation, planning and other purposes related to implementation of the objectives of this act. Any funds so received shall be deposited in the state treasury and shall be credited to a special revenue fund which is hereby created and shall be known as the health committee insurance fund and used in accordance with or direction of the contributing federal agencies. Expenditures from such fund may be made for any purpose in keeping with the responsibilities, functions and authority of the department. Warrants on such fund shall be drawn in the same manner as required of other state agencies upon vouchers signed by the secretary of the department of social and rehabilitation services upon receiving prior approval of the health committee.

(i) The health committee is authorized to develop policies for the administration of the subsidy program and for the use of additional federal or private funds to subsidize health insurance coverage for low-and-modest wage employees of predominantly low-wage small employers. *The health committee shall be responsible for setting benefit levels and establishing performance measures for health plans providing health care coverage for this program that include quality, preventative health and other supplementary measures. The health committee shall limit access to the program subsidy to the projected annualized expenditure.*

(j) The health committee is hereby authorized to organize, or cause to be organized, one or more advisory committees. No member of any advisory committee established under this subsection shall have previously received or currently receive any payment or other compensation from the health partnership. The membership of each advisory committee established under this subsection shall contain at least one representative who is a small employer and one representative who is an eligible employee as defined in K.S.A. 40-4701, and amendments thereto, and one representative of the insurance industry.

(k) *The health committee shall report on an annual basis on the following subjects:*

- (1) *Quality assurance measures;*
- (2) *disease prevention activities;*
- (3) *disease management activities; and*
- (4) *other activities or programs the committee decides to include.*

Sec. 16. From and after July 1, 2004, K.S.A. 2003 Supp. 40-4704 is hereby amended to read as follows: 40-4704. The health partnership shall develop and offer two or more health benefit plans to small employers. In any health benefit plan developed under this act, any carrier may contract for coverage within the scope of this act notwithstanding any mandated coverages otherwise required by state law. Except for preventative and health screening services, the pro-

visions of K.S.A. 40-2,100 to 40-2,105, inclusive, 40-2114 and subsection (i) of 40-2209 and 40-2229 and 40-2230, and 40-2,163, 40-2,164, 40-2,165 and 40-2,166, and amendments thereto, shall not be mandatory with respect to any health benefit plan developed under this act. In performing these duties, the health partnership shall:

(a) Develop and offer two or more lower-cost benefit plans such that:

(1) Each health benefit plan is consistent with any criteria established by the health partnership;

(2) each health benefit plan shall be offered by all participating carriers except that no participating carrier shall be required to offer any health benefit plan, or portion thereof, which such participating carrier is not licensed or authorized to offer in this state;

(3) no participating carrier shall offer any health benefit plan developed under this act to any small employer unless such small employer is covered through the health partnership.

(b) Develop and make available one or more supplemental health benefit plans or one or more other benefit options so that the total package of health benefits available to all children eligible for the state children's health insurance program established pursuant to K.S.A. 68-2001 *et seq.*, and amendments thereto, meets, at a minimum, standards established by the federal health insurance program.

(c) Offer coverage to any qualifying small employer.

(d) Offer eligible employees of participating small employers a choice of participating carriers where feasible.

(e) (1) Include centralized and consolidated enrollment, billing and customer service functions;

(2) use one standard enrollment form for all participating carriers; and

(3) submit one consolidated bill to the small employer.

(f) Issue or cause to be issued a request for proposals and contract with a qualified vendor for any administrative or other service not performed by the health committee or provided to the health committee under subsection (b) of K.S.A. 40-4702, and amendments thereto.

(g) Issue a request for proposals and selectively contract with carriers.

(h) Establish conditions of participation for small employers that conform with K.S.A. 40-2209b *et seq.*, and amendments thereto, and the health insurance portability and accountability act of 1996 (Public Law 104-191).

(i) Enroll small employers and their eligible employees and dependents in health benefit plans developed under this act.

(j) Bill and collect premiums from participating small employers including any share of the premium paid by such small employer's enrolled employees.

(k) Remit funds collected under subsection (h) to the appropriate contracted carriers.

(l) Provide that each low-or-modest wage employee shall be permitted to enroll in such employee's choice of participating carrier where available.

(m) Develop premium rating policies for small employers.

(n) In consultation with the health committee, the health partnership shall ensure, to the maximum extent possible, that the combined effect of the premium rating and subsidy policies is that subsidized eligible employees and the dependents of such subsidized eligible employees can afford coverage.

(o) Any rating policy developed under this subsection may vary with respect to subsidy status of eligible employees and the dependents of such eligible employees.

(p) Be authorized to contract for additional group vision, dental and life insurance plans, and other limited insurance products.

(q) Take whatever action is necessary to assure that any eligible employee or dependent of such eligible employee who receives health benefit coverage through the health partnership and who is eligible for the state medical assistance program shall remain eligible

(continued)

to participate in the state health insurance premium payment program.

(p) Coordinate with the department of social and rehabilitation services to assure that any funds available for the coverage of infants and pregnant women under the state medical assistance program are also available for the benefit of eligible infants and pregnant women who receive health benefit coverage through the health partnership as an eligible employee or dependent of such eligible employee.

(q) *Work with the department of social and rehabilitation services office of medical policy and medicaid to develop a single employee application that may be used by the health plan and the medicaid and state children's health insurance program to determine eligibility.*

(r) *Screen employee applications for subsidy eligibility and dependent children for medicaid and state children's health insurance program premium support eligibility.*

Sec. 17. From and after July 1, 2004, K.S.A. 2003 Supp. 40-4706 is hereby amended to read as follows: 40-4706. The department of social and rehabilitation services shall investigate and pursue all possible policy options to bring into this partnership title XIX and the title XXI eligible families of any eligible employees employed by a small employer. Further, the department of social and rehabilitation services shall develop and seek federal approval of any appropriate variance or state plan amendment for the state children's health insurance program established by K.S.A. 38-2001 *et seq.*, and amendments thereto, and the state medical assistance program required to accomplish the purposes of this act. *The department of social and rehabilitation services office of medical policy and medicaid shall work with the health partnership to develop a single employee application that may be used by the health plan and the medicaid and state children's health insurance program to determine eligibility.*

Sec. 18. On and after January 1, 2005, K.S.A. 2003 Supp. 40-2404, as amended by section 6 of this act, is hereby further amended to read as follows: 40-2404. The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) *Misrepresentations and false advertising of insurance policies.* Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission or comparison which:

(a) Misrepresents the benefits, advantages, conditions or terms of any insurance policy;

(b) misrepresents the dividends or share of the surplus to be received on any insurance policy;

(c) makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy;

(d) is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates;

(e) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;

(f) is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy;

(g) is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or

(h) misrepresents any insurance policy as being shares of stock.

(2) *False information and advertising generally.* Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, misrepresentation or statement with respect to the business of insurance or with respect to any person in the conduct of such person's insurance business, which is untrue, deceptive or misleading.

(3) *Defamation.* Making, publishing, disseminating or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of any person, and which is calculated to injure such person.

(4) *Boycott, coercion and intimidation.* Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance, or by any act of boycott, coercion or intimidation monopolizing or attempting to monopolize any part of the business of insurance.

(5) *False statements and entries.* (a) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of a person.

(b) Knowingly making any false entry of a material fact in any book, report or statement of any person or knowingly omitting to make a true entry of any material fact pertaining to the business of such person in any book, report or statement of such person.

(6) *Stock operations and advisory board contracts.* Issuing or delivering or permitting agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance. Nothing herein shall prohibit the acts permitted by K.S.A. 40-232, and amendments thereto.

(7) *Unfair discrimination.* (a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

(c) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness. With respect to all other conditions, including the underlying cause of the blindness or partial blindness, persons who are blind or partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are sighted persons. Refusal to insure includes denial by an insurer of disability insurance coverage on the grounds that the policy defines "disability" as being presumed in the event that the insured loses such person's eyesight. However, an insurer may exclude from coverage disabilities consisting solely of blindness or partial blindness when such condition existed at the time the policy was issued.

(d) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available for accident and health and life insurance to an applicant who is the proposed insured or charge a different rate for the same coverage or excluding or limiting coverage for losses or denying a claim incurred by an insured as a result of abuse based on the fact that the applicant who is the proposed insured is, has been, or may be the subject of domestic abuse, except as provided in subpart (v). "Abuse" as used in this subsection (7)(d) means one or more acts defined in subsection (a) or (b) of K.S.A. 60-3102 and amendments thereto between family members, current or former household members, or current or former intimate partners.

(i) An insurer may not ask an applicant for life or accident and health insurance who is the proposed insured if the individual is, has been or may be the subject of domestic abuse or seeks, has sought or had reason to seek medical or psychological treatment or counseling specifically for abuse, protection from abuse or shelter from abuse.

(ii) Nothing in this section shall be construed to prohibit a person from declining to issue an insurance policy insuring the life of an individual who is, has been or has the potential to be the subject of abuse if the perpetrator of the abuse is the applicant or would be the owner of the insurance policy.

(iii) No insurer that issues a life or accident and health policy to an individual who is, has been or may be the subject of domestic abuse shall be subject to civil or criminal liability for the death or any injuries suffered by that individual as a result of domestic abuse.

(iv) No person shall refuse to insure, refuse to continue to insure, limit the amount, extent or kind of coverage available to an individual or charge a different rate for the same coverage solely because of physical or mental condition, except where the refusal, limitation or rate differential is based on sound actuarial principles.

(v) Nothing in this section shall be construed to prohibit a person from underwriting or rating a risk on the basis of a preexisting physical or mental condition, even if such condition has been caused by abuse, provided that:

(A) The person routinely underwrites or rates such condition in the same manner with respect to an insured or an applicant who is not a victim of abuse;

(B) the fact that an individual is, has been or may be the subject of abuse may not be considered a physical or mental condition; and

(C) such underwriting or rating is not used to evade the intent of this section or any other provision of the Kansas insurance code.

(vi) Any person who underwrites or rates a risk on the basis of preexisting physical or mental condition as set forth in subsection (7)(d)(v), shall treat such underwriting or rating as an adverse underwriting decision pursuant to K.S.A. 40-2,112, and amendments thereto.

(vii) The provisions of subsection (d) shall apply to all policies of life and accident and health insurance issued in this state after the effective date of this act and all existing contracts which are renewed on or after the effective date of this act.

(8) *Rebates.* (a) Except as otherwise expressly provided by law, knowingly permitting, offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon; paying, allowing, giving or offering to pay, allow or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, selling, purchasing or offering to give, sell or purchase as inducement to such insurance contract or annuity or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(b) Nothing in subsection (7) or (8)(a) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(i) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance. Any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office

of the insurer in an amount which fairly represents the saving in collection expenses; or

(iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(9) *Unfair claim settlement practices.* It is an unfair claim settlement practice if any of the following or any rules and regulations pertaining thereto are: (A) Committed flagrantly and in conscious disregard of such provisions, or (B) committed with such frequency as to indicate a general business practice.

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(d) refusing to pay claims without conducting a reasonable investigation based upon all available information;

(e) failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(g) compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(h) attempting to settle a claim for less than the amount to which a reasonable person would have believed that such person was entitled by reference to written or printed advertising material accompanying or made part of an application;

(i) attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

(j) making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made;

(k) making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(l) delaying the investigation or payment of claims by requiring an insured, claimant or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(m) failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or

(n) failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(10) *Failure to maintain complaint handling procedures.* Failure of any person, who is an insurer on an insurance policy, to maintain a complete record of all the complaints which it has received since the date of its last examination under K.S.A. 40-222, and amendments thereto; but no such records shall be required for complaints received prior to the effective date of this act. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaints, the date each complaint was originally received by the insurer and the date of final disposition of each complaint. For purposes of this subsection, "complaint" means any written communication primarily expressing a grievance related to the acts and practices set out in this section.

(continued)

(11) *Misrepresentation in insurance applications.* Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual.

(12) *Statutory violations.* Any violation of any of the provisions of K.S.A. 40-216, 40-276a, 40-2,155 or 40-1515 and amendments thereto.

(13) *Disclosure of information relating to adverse underwriting decisions and refund of premiums.* Failing to comply with the provisions of K.S.A. 40-2,112, and amendments thereto, within the time prescribed in such section.

(14) *Rebates and other inducements in title insurance.* (a) No title insurance company or title insurance agent, or any officer, employee, attorney, agent or solicitor thereof, may pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to obtaining any title insurance business, any rebate, reduction or abatement of any rate or charge made incident to the issuance of such insurance, any special favor or advantage not generally available to others of the same classification, or any money, thing of value or other consideration or material inducement. The words "charge made incident to the issuance of such insurance" includes, without limitations, escrow, settlement and closing charges.

(b) No insured named in a title insurance policy or contract nor any other person directly or indirectly connected with the transaction involving the issuance of the policy or contract, including, but not limited to, mortgage lender, real estate broker, builder, attorney or any officer, employee, agent representative or solicitor thereof, or any other person may knowingly receive or accept, directly or indirectly, any rebate, reduction or abatement of any charge, or any special favor or advantage or any monetary consideration or inducement referred to in (14)(a).

(c) Nothing in this section shall be construed as prohibiting:

(i) The payment of reasonable fees for services actually rendered to a title insurance agent in connection with a title insurance transaction;

(ii) the payment of an earned commission to a duly appointed title insurance agent for services actually performed in the issuance of the policy of title insurance; or

(iii) the payment of reasonable entertainment and advertising expenses.

(d) Nothing in this section prohibits the division of rates and charges between or among a title insurance company and its agent, or one or more title insurance companies and one or more title insurance agents, if such division of rates and charges does not constitute an unlawful rebate under the provisions of this section and is not in payment of a forwarding fee or a finder's fee.

(e) As used in paragraphs (e) through (i)(7) of this subpart, unless the context otherwise requires:

(i) "Associate" means any firm, association, organization, partnership, business trust, corporation or other legal entity organized for profit in which a producer of title business is a director, officer or partner thereof, or owner of a financial interest; the spouse or any relative within the second degree by blood or marriage of a producer of title business who is a natural person; any director, officer or employee of a producer of title business or associate; any legal entity that controls, is controlled by, or is under common control with a producer of title business or associate; and any natural person or legal entity with whom a producer of title business or associate has any agreement, arrangement or understanding or pursues any course of conduct, the purpose or effect of which is to evade the provisions of this section.

(ii) "Financial interest" means any direct or indirect interest, legal or beneficial, where the holder thereof is or will be entitled to 1% or more of the net profits or net worth of the entity in which such interest is held. Notwithstanding the foregoing, an interest of less than 1% or any other type of interest shall constitute a "financial interest" if the primary purpose of the acquisition or retention of that

interest is the financial benefit to be obtained as a consequence of that interest from the referral of title business.

(iii) "Person" means any natural person, partnership, association, cooperative, corporation, trust or other legal entity.

(iv) "Producer of title business" or "producer" means any person, including any officer, director or owner of 5% or more of the equity or capital or both of any person, engaged in this state in the trade, business, occupation or profession of:

(A) Buying or selling interests in real property;

(B) making loans secured by interests in real property; or

(C) acting as broker, agent, representative or attorney for a person who buys or sells any interest in real property or who lends or borrows money with such interest as security.

(v) "Refer" means to direct or cause to be directed or to exercise any power or influence over the direction of title insurance business, whether or not the consent or approval of any other person is sought or obtained with respect to the referral.

(f) No title insurer or title agent may accept any order for, issue a title insurance policy to, or provide services to, an applicant if it knows or has reason to believe that the applicant was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate, or both, have a financial interest in the title insurer or title agent to which business is referred unless the producer has disclosed to the buyer, seller and lender the financial interest of the producer of title business or associate referring the title insurance business.

(g) No title insurer or title agent may accept an order for title insurance business, issue a title insurance policy, or receive or retain any premium, or charge in connection with any transaction if: (i) The title insurer or title agent knows or has reason to believe that the transaction will constitute controlled business for that title insurer or title agent, and (ii) ~~20%~~ 70% or more of the ~~gross operating revenue~~ closed title orders of that title insurer or title agent during the ~~six~~ 12 full calendar months immediately preceding the month in which the transaction takes place is derived from controlled business. The prohibitions contained in this subparagraph shall not apply to transactions involving real estate located in a county that has a population, as shown by the last preceding decennial census, of 10,000 or less.

(h) Within 90 days following the end of each business year, as established by the title insurer or title agent, each title insurer or title agent shall file with the department of insurance and any title insurer with which the title agent maintains an underwriting agreement, a report executed by the title insurer's or title agent's chief executive officer or designee, under penalty of perjury, stating the percent of closed title orders originating from controlled business. The failure of a title insurer or title agent to comply with the requirements of this section, at the discretion of the commissioner, shall be grounds for the suspension or revocation of a license or other disciplinary action, with the commissioner able to mitigate any such disciplinary action if the title insurer or title agent is found to be in substantial compliance with competitive behavior as defined by federal housing and urban development statement of policy 1996-2.

(i) (1) No title insurer or title agent may accept any title insurance order or issue a title insurance policy to any person if it knows or has reason to believe that such person was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate, or both, have a financial interest in the title insurer or title agent to which business is referred unless the producer has disclosed in writing to the person so referred the fact that such producer or associate has a financial interest in the title insurer or title agent, the nature of the financial interest and a written estimate of the charge or range of charges generally made by the title insurer or agent for the title services. Such disclosure shall include language stating that the consumer is not obligated to use the title insurer or agent in which the referring producer or associate has a financial interest and shall include the names and telephone numbers of not less than three other title insurers or agents which operate in the county in which the property is located. If fewer than three in-

urers or agents operate in that county, the disclosure shall include all title insurers or agents operating in that county. Such written disclosure shall be signed by the person so referred and must have occurred prior to any commitment having been made to such title insurer or agent.

(2) No producer of title business or associate of such producer shall require, directly or indirectly, as a condition to selling or furnishing any other person any loan or extension thereof, credit, sale, property, contract, lease or service, that such other person shall purchase title insurance of any kind through any title agent or title insurer if such producer has a financial interest in such title agent or title insurer.

(3) No title insurer or title agent may accept any title insurance order or issue a title insurance policy to any person it knows or has reason to believe that the name of the title company was pre-printed in the sales contract, prior to the buyer or seller selecting that title company.

(4) Nothing in this subpart (i) shall prohibit any producer of title business or associate of such producer from referring title business to any title insurer or title agent of such producer's or associate's choice, and, if such producer or associate of such producer has any financial interest in the title insurer, from receiving income, profits or dividends produced or realized from such financial interest, so long as:

(a) Such financial interest is disclosed to the purchaser of the title insurance in accordance with part (i)(1) through (4) of this subpart;

(b) the payment of income, profits or dividends is not in exchange for the referral of business; and

(c) the receipt of income, profits or dividends constitutes only a return on the investment of the producer or associate.

(5) Any producer of title business or associate of such producer who violates the provisions of paragraphs (i)(2) through (i)(4), or any title insurer or title agent who accepts an order for title insurance knowing that it is in violation of paragraphs (i)(2) through (i)(4), in addition to any other action which may be taken by the commissioner of insurance, shall be subject to a fine by the commissioner in an amount equal to five times the premium for the title insurance and, if licensed pursuant to K.S.A. 58-3034 et seq., and amendments thereto, shall be deemed to have committed a prohibited act pursuant to K.S.A. 58-3602, and amendments thereto, and shall be liable to the purchaser of such title insurance in an amount equal to the premium for the title insurance.

(6) Any title insurer or title agent that is a competitor of any title insurer or title agent that, subsequent to the effective date of this act, has violated or is violating the provisions of subpart (i), shall have a cause of action against such title insurer or title agent and, upon establishing the existence of a violation of any such provision, shall be entitled, in addition to any other damages or remedies provided by law, to such equitable or injunctive relief as the court deems proper. In any such action under this subsection, the court may award to the successful party the court costs of the action together with reasonable attorney fees.

(7) The commissioner shall also require each title agent to provide core title services as required by the real estate settlement procedures act.

~~(g)~~ (j) The commissioner shall adopt any regulations necessary to carry out the provisions of this act.

(15) *Disclosure of nonpublic personal information.* (a) No person shall disclose any nonpublic personal information contrary to the provisions of title V of the Gramm-Leach-Bliley act of 1999 (public law 106-102). The commissioner may adopt rules and regulations necessary to carry out this section. Such rules and regulations shall be consistent with and not more restrictive than the model regulation adopted on September 26, 2000, by the national association of insurance commissioners entitled "Privacy of consumer financial and health information regulation".

(b) Any rules and regulations adopted by the commissioner which implement article V of the model regulation adopted on September 26, 2000, by the national association of insurance commissioners entitled "Privacy of consumer financial and health information regulation" shall become effective on and after February 1, 2002.

(c) Nothing in this paragraph (15) shall be deemed or construed to authorize the promulgation or adoption of any regulation which preempts, supersedes or is inconsistent with any provision of Kansas law concerning requirements for notification of, or obtaining consent from, a parent, guardian or other legal custodian of a minor relating to any matter pertaining to the health and medical treatment for such minor.

Sec. 19. K.S.A. 40-241, 40-246b, 40-246f, 40-2,131, 40-2118, 40-2122, 40-2124 and 40-4503 are hereby repealed.

Sec. 20. From and after July 1, 2004, K.S.A. 40-216, 40-2209, 75-4105 and 75-4109 and K.S.A. 2003 Supp. 40-2c01, 40-2404, 40-4702, 40-4704 and 40-4706 are hereby repealed.

Sec. 21. From and after January 1, 2005, K.S.A. 2003 Supp. 40-2404, as amended by section 6 of this act, and K.S.A. 2003 Supp. 40-2404, as amended by section 1 of 2004 Senate Bill No. 66, are hereby repealed.

Sec. 22. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 27, 2004.)

SENATE Substitute for HOUSE BILL No. 2375

AN ACT concerning taxation; amending K.S.A. 8-2411, 10-306, 79-332a, 79-1427a, 79-1439, 79-1459, 79-3458, 79-4216 and 79-5205 and K.S.A. 2003 Supp. 12-187, 12-198, 12-1770a, as amended by section 25 of 2004 House Bill No. 2647, 79-201b, 79-201c, 79-412, 79-2005, 79-3408, 79-3651 and 79-4217 and repealing the existing sections.

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

Section 1. On and after July 1, 2004, K.S.A. 8-2411 is hereby amended to read as follows: 8-2411. (a) When any licensee is found to be allegedly violating any of the applicable provisions of this act, or any order or rule and regulation adopted pursuant thereto, the director upon the director's own motion or upon complaint may commence a hearing against the licensee, which hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Any person who is found to have violated any applicable provisions of this act, any rule and regulation adopted pursuant thereto or any applicable order of the director shall be subject to a civil penalty of not less than \$50 nor more than \$1,000 for each violation or such person's license may be suspended or revoked or both civil penalty and license suspension or revocation, *except that in addition to any civil penalty imposed pursuant to this subsection, the director shall suspend or revoke the license of any person who is found to have violated the provisions of K.S.A. 79-3601 et seq., and amendments thereto, by the failure to file returns and remit sales tax as required pursuant to K.S.A. 79-3607, and amendments thereto, or the provisions of K.S.A. 79-3294 et seq., and amendments thereto, by the failure to file returns and remit withholding tax as required pursuant to K.S.A. 79-3298, and amendments thereto, for three consecutive months.*

Sec. 2. On and after July 1, 2004, K.S.A. 10-306 is hereby amended to read as follows: 10-306. Except as provided in K.S.A. 10-307, and amendments thereto, and in any other statute which specifically exempts bonds from the statutory limitations on bonded indebtedness, the limitation on bonded indebtedness of counties shall be governed by the following provisions: ~~(a) The~~ (a) *Except as provided in subsection (b), the authorized and outstanding bonded*

(continued)

indebtedness of any county to which the provisions of subsection (b) does not apply shall not exceed 3% of the assessed value of all tangible taxable property within such county, as certified to the county clerk on the preceding August 25.

~~(b) The authorized and outstanding bonded indebtedness of Wyandotte county shall not exceed 30% of the assessed value of all tangible taxable property within such county, as certified to the county clerk on the preceding August 25.~~

(b) The authorized and outstanding bonded indebtedness of Wyandotte county shall not exceed 30% of the assessed value of all tangible taxable property within such county, as certified to the county clerk on the preceding August 25 and the authorized and outstanding bonded indebtedness of Franklin county shall not exceed 30% of the assessed value of all tangible taxable property within such county, as certified to the county clerk on the preceding August 25.

Sec. 3. On and after July 1, 2004, K.S.A. 2003 Supp. 12-187 is hereby amended to read as follows: 12-187. (a) (1) No city shall impose a retailers' sales tax under the provisions of this act without the governing body of such city having first submitted such proposition to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. The governing body of any city may submit the question of imposing a retailers' sales tax and the governing body shall be required to submit the question upon submission of a petition signed by electors of such city equal in number to not less than 10% of the electors of such city.

(2) The governing body of any class B city located in any county which does not impose a countywide retailers' sales tax pursuant to paragraph (5) of subsection (b) may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city, county or district hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home health care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(b) (1) The board of county commissioners of any county may submit the question of imposing a countywide retailers' sales tax to the electors at an election called and held thereon, and any such board shall be required to submit the question upon submission of a petition signed by electors of such county equal in number to not less than 10% of the electors of such county who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than $\frac{2}{3}$ of the membership of the governing body of each of one or more cities within such county which contains a population of not less than 25% of the entire population of the county, or upon receiving resolutions requesting such an election passed by $\frac{2}{3}$ of the membership of the governing body of each of one or more taxing subdivisions within such county which levy not less than 25% of the property taxes levied by all taxing subdivisions within the county.

(2) The board of county commissioners of Anderson, Atchison, Barton, Butler, Chase, Cowley, Cherokee, Crawford, Ford, Jefferson, Lyon, Montgomery, Neosho, Osage, Ottawa, Riley, Saline, Seward, Sumner, Wabaunsee, Wilson and Wyandotte counties may submit the question of imposing a countywide retailers' sales tax and pledging the revenue received therefrom for the purpose of financing the construction or remodeling of a courthouse, jail, law enforcement center facility or other county administrative facility, to the electors at an election called and held thereon. The tax imposed pursuant to

this paragraph shall expire when sales tax sufficient to pay all of the costs incurred in the financing of such facility has been collected by retailers as determined by the secretary of revenue. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Butler, Chase, Cowley, Lyon, Montgomery, Neosho, Riley, Sumner or Wilson county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189, and amendments thereto.

(3) (A) Except as otherwise provided in this paragraph, the result of the election held on November 8, 1988, on the question submitted by the board of county commissioners of Jackson county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the Banner Creek reservoir project. The tax imposed pursuant to this paragraph shall take effect on the effective date of this act and shall expire not later than five years after such date.

(B) The result of the election held on November 8, 1994, on the question submitted by the board of county commissioners of Ottawa county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the erection, construction and furnishing of a law enforcement center and jail facility.

(4) The board of county commissioners of Finney and Ford counties may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing all or any portion of the cost to be paid by Finney or Ford county for construction of highway projects identified as system enhancements under the provisions of paragraph (5) of subsection (b) of K.S.A. 68-2314, and amendments thereto, to the electors at an election called and held thereon. Such election shall be called and held in the manner provided by the general bond law. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Finney or Ford county pursuant to this paragraph to exceed the maximum rate prescribed in K.S.A. 12-189, and amendments thereto. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Finney county, the state treasurer shall remit such funds to the treasurer of Finney county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Ford county, the state treasurer shall remit such funds to the treasurer of Ford county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund.

(5) The board of county commissioners of any county may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. Whenever any county imposes a tax pursuant to this paragraph, any tax imposed pursuant to paragraph (2) of subsection (a) by any city located in such county shall expire upon the effective date of the imposition of the countywide tax, and thereafter the state treasurer shall remit to each such city that portion of the countywide tax revenue collected by retailers within such city as certified by the director of taxation. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city or county hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home care services, mental health services, indigent health

care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(6) The board of county commissioners of Allen county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% and pledging the revenue received therefrom for the purpose of financing the costs of operation and construction of a solid waste disposal area or the modification of an existing landfill to comply with federal regulations to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs incurred in the financing of the project undertaken. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Allen county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189 and amendments thereto.

(7) The board of county commissioners of Clay, Dickinson and Miami county may submit the question of imposing a countywide retailers' sales tax at the rate of .50% in the case of Clay and Dickinson county and at a rate of up to 1% in the case of Miami county, and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. *Except as otherwise provided*, the tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected. *The countywide retailers' sales tax imposed pursuant to this subsection in Clay county may be extended or reenacted for additional five-year periods upon the board of county commissioners of Clay county submitting such question to the electors at an election called and held thereon for each additional five-year period as provided by law.*

(8) The board of county commissioners of Sherman county may submit the question of imposing a countywide retailers' sales tax at the rate of .25%, .5% or .75% and pledging the revenue therefrom for the purpose of financing the costs of the county roads 64 and 65 construction and improvement project. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(9) The board of county commissioners of Cowley, Russell and Woodson county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% in the case of Russell and Woodson county and at a rate of up to .25%, in the case of Cowley county and pledging the revenue received therefrom for the purpose of financing economic development initiatives or public infrastructure projects. The tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected.

(10) The board of county commissioners of Franklin county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing recreational facilities. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such facilities.

(11) The board of county commissioners of Douglas county may submit to the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purposes of preservation, access and management of open space, and for industrial and business park related economic development.

(12) The board of county commissioners of Shawnee county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom to the city of Topeka for the purpose of financing the costs of rebuilding the Topeka boulevard bridge and other public infrastructure improvements associated with such project to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such project.

(13) The board of county commissioners of Jackson county may submit the question of imposing a countywide retailers' sales tax at a rate of .4% and pledging the revenue received therefrom as follows: 50% of such revenues for the purpose of financing for economic

development initiatives; and 50% of such revenues for the purpose of financing public infrastructure projects to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after seven years from the date such tax is first collected.

(c) The boards of county commissioners of any two or more contiguous counties, upon adoption of a joint resolution by such boards, may submit the question of imposing a retailers' sales tax within such counties to the electors of such counties at an election called and held thereon and such boards of any two or more contiguous counties shall be required to submit such question upon submission of a petition in each of such counties, signed by a number of electors of each of such counties where submitted equal in number to not less than 10% of the electors of each of such counties who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than $\frac{2}{3}$ of the membership of the governing body of each of one or more cities within each of such counties which contains a population of not less than 25% of the entire population of each of such counties, or upon receiving resolutions requesting such an election passed by $\frac{2}{3}$ of the membership of the governing body of each of one or more taxing subdivisions within each of such counties which levy not less than 25% of the property taxes levied by all taxing subdivisions within each of such counties.

(d) Any city retailers' sales tax in the amount of .5% being levied by a city on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax or until repealed by the adoption of an ordinance so providing. In addition to any city retailers' sales tax being levied by a city on July 1, 1990, any such city may adopt an additional city retailers' sales tax in the amount of .25% or .5%, provided that such additional tax is adopted and approved in the manner provided for the adoption and approval of a city retailers' sales tax. Any countywide retailers' sales tax in the amount of .5% or 1% in effect on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax.

(e) A class D city shall have the same power to levy and collect a city retailers' sales tax that a class A city is authorized to levy and collect and in addition, the governing body of any class D city may submit the question of imposing an additional city retailers' sales tax in the amount of .125%, .25%, .5% or .75% and pledging the revenue received therefrom for economic development initiatives, strategic planning initiatives or for public infrastructure projects including buildings to the electors at an election called and held thereon. Any additional sales tax imposed pursuant to this paragraph shall expire no later than five years from the date of imposition thereof, except that any such tax imposed by any class D city after the effective date of this act shall expire no later than 10 years from the date of imposition thereof.

(f) Any city or county proposing to adopt a retailers' sales tax shall give notice of its intention to submit such proposition for approval by the electors in the manner required by K.S.A. 10-120, and amendments thereto. The notices shall state the time of the election and the rate and effective date of the proposed tax. If a majority of the electors voting thereon at such election fail to approve the proposition, such proposition may be resubmitted under the conditions and in the manner provided in this act for submission of the proposition. If a majority of the electors voting thereon at such election shall approve the levying of such tax, the governing body of any such city or county shall provide by ordinance or resolution, as the case may be, for the levy of the tax. Any repeal of such tax or any reduction or increase in the rate thereof, within the limits prescribed by K.S.A. 12-189, and amendments thereto, shall be accomplished in the manner provided herein for the adoption and approval of such tax except that the repeal of any such city retailers' sales tax may be accomplished by the adoption of an ordinance so providing.

(continued)

(g) The sufficiency of the number of signers of any petition filed under this section shall be determined by the county election officer. Every election held under this act shall be conducted by the county election officer.

(h) The governing body of the city or county proposing to levy any retailers' sales tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition.

Sec. 4. K.S.A. 2003 Supp. 12-198 is hereby amended to read as follows: 12-198. (a) A compensating use tax for the privilege of using or storing within a city or county any tangible personal property or any vehicle which is required to be registered under the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or any vessel, as defined by K.S.A. 82a-802, and amendments thereto, is hereby imposed by every city, county or municipal university imposing a retailers' sales tax. The rate of any such tax shall be fixed at the same rate as such city's, county's or university's retailers' sales tax. Any city, county or municipal university imposing a compensating use tax is prohibited from administering or collecting such tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect such tax. Such tax shall be identical in its application and exemptions therefrom to the Kansas compensating tax, and all laws and rules and regulations of the state department of revenue relating to the Kansas compensating tax shall apply to such local compensating use tax insofar as the same may be made applicable. *If any contractor has entered into a written, binding contract prior to July 1, 2003, for the construction, reconstruction, restoration, replacement, repair, equipment or improvement of a bridge or highway, street, road, alley, sewer, sewage system, water line, water system or other related improvement, and such contract includes the furnishing to or by the contractor of tangible personal property which is to become part of the completed improvement subject to the tax imposed by this section, and which would have been exempt from taxation pursuant to this section prior to its enactment effective on July 1, 2003, such furnishing of tangible personal property shall continue to be exempt from taxation pursuant to this section, if the contractor gives notice and proof of such contract to the director of taxation on or before July 10, 2004. Such notice and proof shall be in such form and of such sufficiency as the director prescribes.*

(b) The secretary of revenue is authorized to administer, enforce and collect a city's, county's or municipal university's compensating use tax and to adopt such rules and regulations necessary for the efficient and effective administration, enforcement and collection thereof. The state director of taxation shall cause such taxes to be collected within the boundaries of such taxing subdivision at the same time and in the same manner provided for the collection of the state compensating use tax. All moneys collected by the director of taxation pursuant to the provisions of this section shall be credited to the city and county compensating use tax fund or to the municipal university compensating use tax fund, which funds are hereby established in the state treasury. Any refund due on any city's, county's municipal university's compensating use tax collected pursuant to this section shall be paid out of the sales tax refund fund and reimbursement to such fund shall be made by the director of taxation from collections of local compensating use tax revenue. All moneys collected pursuant to this section for a city or county shall be remitted at least quarterly by the state treasurer to the treasurer of such city, county or university.

(c) All revenue received by any county treasurer from a countywide compensating use tax shall be apportioned among the county and each city located in such county in the same manner as provided in K.S.A. 12-192, and amendments thereto, for the apportionment of revenue received from a countywide retailers' sales tax.

Sec. 5. On and after July 1, 2004, K.S.A. 2003 Supp. 12-1770a, as amended by section 25 of 2004 House Bill No. 2647, is hereby

amended to read as follows: 12-1770a. As used in the bioscience development act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

(a) "Auto race track facility" means: (1) An auto race track facility and facilities directly related and necessary to the operation of an auto race track facility, including, but not limited to, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding (2) hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility.

(b) "Base year assessed valuation" means the assessed valuation of all real property within the boundaries of a redevelopment district on the date the redevelopment district was established.

(c) "Blighted area" means an area which:

(1) Because of the presence of a majority of the following factors, substantially impairs or arrests the development and growth of the municipality or constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use:

(A) A substantial number of deteriorated or deteriorating structures;

(B) predominance of defective or inadequate street layout;

(C) unsanitary or unsafe conditions;

(D) deterioration of site improvements;

(E) tax or special assessment delinquency exceeding the fair market value of the real property;

(F) defective or unusual conditions of title including but not limited to cloudy or defective titles, multiple or unknown ownership interests to the property;

(G) improper subdivision or obsolete platting or land uses;

(H) the existence of conditions which endanger life or property by fire or other causes; or

(I) conditions which create economic obsolescence; or

(2) has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation; feasibility study and remediation or other similar state or federal action; or

(3) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 *et seq.*, and amendments thereto.

(d) "Conservation area" means any improved area comprising 15% or less of the land area within the corporate limits of a city in which 50% or more of the structures in the area have an age of 35 years or more, which area is not yet blighted, but may become a blighted area due to the existence of a combination of two or more of the following factors:

(1) Dilapidation, obsolescence or deterioration of the structures;

(2) illegal use of individual structures;

(3) the presence of structures below minimum code standards;

(4) building abandonment;

(5) excessive vacancies;

(6) overcrowding of structures and community facilities; or

(7) inadequate utilities and infrastructure.

(e) "De minimus" means an amount less than 15% of the land area within a redevelopment district.

(f) "Developer" means any person, firm, corporation, partnership or limited liability company, other than a city and other than an agency, political subdivision or instrumentality of the state or a county when relating to a bioscience development district.

(g) "Eligible area" means a blighted area, conservation area, enterprise zone, historic theater, major tourism area or a major commercial entertainment and tourism area or bioscience development area as determined by the secretary.

(h) "Enterprise zone" means an area within a city that was designated as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107 through 12-17,113, and amendments thereto, prior to its

repeal and the conservation, development or redevelopment of the area is necessary to promote the general and economic welfare of such city.

(i) "Environmental increment" means the increment determined pursuant to subsection (b) of K.S.A. 12-1771a, and amendments thereto.

(j) "Environmentally contaminated area" means an area of land having contaminated groundwater or soil which is deemed environmentally contaminated by the department of health and environment or the United States environmental protection agency.

(k) "Feasibility study" means a study which shows whether a redevelopment project's, special bond project's or bioscience development project's benefits and tax increment revenue and other available revenues under K.S.A. 12-1774 (a)(1), and amendments thereto, are expected to exceed or be sufficient to pay for the redevelopment or special bond or bioscience development project costs and the effect, if any, the redevelopment project costs or special bond project will have on any outstanding special obligation bonds as authorized pursuant to subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto.

(l) "Historic theater" means a building constructed prior to 1940 which was constructed for the purpose of staging entertainment, including motion pictures, vaudeville shows or operas, that is operated by a nonprofit corporation and is designated by the state historic preservation officer as eligible to be on the Kansas register of historic places or is a member of the Kansas historic theatre association.

(m) "Historic theater sales tax increment" means the amount of state and local sales tax revenue imposed pursuant to K.S.A. 12-187 *et seq.*, 79-3601 *et seq.* and 79-3701 *et seq.*, and amendments thereto, collected from taxpayers doing business within the historic theater that is in excess of the amount of such taxes collected prior to the designation of the building as a historic theater for purposes of this act.

(n) "Major tourism area" means an area for which the secretary has made a finding the capital improvements costing not less than \$100,000,000 will be built in the state to construct an auto race track facility.

(o) "Real property taxes" means all taxes levied on an ad valorem basis upon land and improvements thereon, except that when relating to a bioscience development district, as defined in this section, "real property taxes" does not include property taxes levied for schools, pursuant to K.S.A. 72-6431, and amendments thereto.

(p) "Redevelopment project area" or "project area" means an area designated by a city within a redevelopment district.

(q) "Redevelopment project costs" means those costs necessary to implement a redevelopment plan or a bioscience development project plan, including, but not limited to costs incurred for:

- (1) Acquisition of property within the redevelopment project area;
- (2) payment of relocation assistance;
- (3) site preparation including utility relocations;
- (4) sanitary and storm sewers and lift stations;
- (5) drainage conduits, channels, levees and river walk canal facilities;
- (6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
- (7) street light fixtures, connection and facilities;
- (8) underground gas, water, heating and electrical services and connections located within the public right-of-way;
- (9) sidewalks and pedestrian underpasses or overpasses;
- (10) drives and driveway approaches located within the public right-of-way;
- (11) water mains and extensions;
- (12) plazas and arcades;
- (13) parking facilities;
- (14) landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and

(15) all related expenses to redevelop and finance the redevelopment project.

Redevelopment project costs shall not include costs incurred in connection with the construction of buildings or other structures to be owned by or leased to a developer, however, the "redevelopment project costs" shall include costs incurred in connection with the construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility or is in a redevelopment district including some or all of the land and buildings comprising a state mental institution closed pursuant to section 2 of chapter 219 of the 1995 Session Laws of Kansas.

(r) "Redevelopment district" means the specific area declared to be an eligible area in which the city may develop one or more redevelopment projects.

(s) "Redevelopment district plan" or "district plan" means the preliminary plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings, facilities and improvements in each that are proposed to be constructed or improved in each redevelopment project area.

(t) "Redevelopment project" means the approved project to implement a project plan for the development of the established redevelopment district.

(u) "Redevelopment project plan" or "project plan" means the plan adopted by a municipality for the development of a redevelopment project or projects which conforms with K.S.A. 12-1772, and amendments thereto, in a redevelopment district.

(v) "Secretary" means the secretary of commerce.

(w) "Substantial change" means, as applicable, a change wherein the proposed plan or plans differ substantially from the intended purpose for which the district plan or project plan was approved.

(x) "Tax increment" means that amount of real property taxes collected from real property located within the redevelopment district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

(y) "Taxing subdivision" means the county, city, unified school district and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created redevelopment district including a bioscience development district.

(z) "Special bond project" means a redevelopment project with at least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales revenues or for areas outside of metropolitan statistical areas, as defined by the federal office of management and budget the secretary finds the project meets the requirements of subsection (g) and would be of regional or statewide importance, but a "special bond project" shall not include a project for a gambling casino.

(aa) "Marketing study" means a study conducted to examine the impact of the redevelopment project or special bond project upon similar businesses in the projected market area.

(bb) "Projected market area" means any area within the state in which the redevelopment project or special bond project is projected to have a substantial fiscal or market impact upon businesses in such area.

(cc) "River walk canal facilities" means a canal and related water features located adjacent to a river which flows through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited to pedestrian walkways and promenades, landscaping and parking facilities.

(dd) "Commence work" means the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

(ee) "Major commercial entertainment and tourism area" may include, but not be limited to, a major multi-sport athletic complex.

(continued)

(ff) “Major multi-sport athletic complex” means an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other developments.

(gg) “Bioscience” means the use of compositions, methods and organisms in cellular and molecular research, development and manufacturing processes for such diverse areas as pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, plant biology, agriculture, industrial environmental and homeland security applications of bioscience and future developments in the biosciences. Bioscience includes biotechnology and life sciences.

(hh) “Bioscience development area” means an area that:

(1) Is or shall be owned, operated, or leased by, or otherwise under the control of the Kansas bioscience authority;

(2) is or shall be used and maintained by a bioscience company;

or

(3) includes a bioscience facility.

(ii) “Bioscience development district” means the specific area, created under K.S.A. 12-1771, and amendments thereto, where one or more bioscience development projects may be undertaken.

(jj) “Bioscience development project” means an approved project to implement a project plan in a bioscience development district.

(kk) “Bioscience development project plan” or “project plan” means the plan adopted by the authority for a bioscience development project pursuant to K.S.A. 12-1772, and amendments thereto, in a bioscience development district.

(ll) “Bioscience facility” means real property and all improvements thereof used to conduct bioscience research, including, without limitation, laboratory space, incubator space, office space and any and all facilities directly related and necessary to the operation of a bioscience facility.

(mm) “Bioscience project area” or “project area” means an area designated by the authority within a bioscience development district.

(nn) “Biotechnology” means those fields focusing on technological developments in such area as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing, bioinformatics and future developments associated with biotechnology.

(oo) “Board” means the board of directors of the Kansas bioscience authority.

(pp) “Life sciences” means the areas of medical sciences, pharmaceutical sciences, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry, physiology and any future advances associated with life sciences.

(qq) “Revenue increase” means that amount of real property taxes collected from real property located within the bioscience development district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

(rr) “Taxpayer” means a person, corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 *et seq.*, and amendments thereto.

(ss) “Flood-plain increment” means the increment determined pursuant to subsection (b) of section 20, and amendments thereto.

(tt) “100-year flood-plain area” means an area of land existing in a 100-year flood-plain as determined by either an engineering study of a Kansas certified engineer or by the United States federal emergency management agency.

Sec. 6. On and after July 1, 2004, K.S.A. 2003 Supp. 79-201b is hereby amended to read as follows: 79-201b. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All real property, and tangible personal property, actually and regularly used exclusively for hospital purposes by a hospital as

the same is defined by K.S.A. 65-425, and amendments thereto, or a psychiatric hospital as the same was defined by K.S.A. 59-2902, and amendments thereto, as in effect on January 1, 1976, which hospital or psychiatric hospital is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, or a public hospital authority; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such a corporation and used exclusively for hospital, psychiatric hospital or public hospital authority purposes. This exemption shall not be deemed inapplicable to property which would otherwise be exempt pursuant to this paragraph because any such hospital, psychiatric hospital or public hospital authority: (a) Uses such property for a nonexempt purpose which is minimal in scope and insubstantial in nature if such use is incidental to the exempt purpose enumerated in this paragraph; or (b) is reimbursed for the actual expense of using such property for the exempt purposes enumerated in this paragraph or paragraph second of K.S.A. 79-201, and amendments thereto; or (c) permits the use of such property for the exempt purposes enumerated in this paragraph or paragraph second of K.S.A. 79-201, and amendments thereto, by more than one agency or organization for one or more of such purposes.

Second. All real property, and tangible personal property, actually and regularly used exclusively for adult care home purposes by an adult care home as the same is defined by K.S.A. 39-923, and amendments thereto, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, charges to residents for services of which produce an amount which in the aggregate is less than the actual cost of operation of the home or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation, interest on indebtedness, acquisition costs, interest and other expenses of financing acquisition costs, lease expenses and costs of services provided by a parent corporation at its costs and contributions to which are deductible under the Kansas income tax act; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such corporation and used exclusively for adult care home purposes. For purposes of this paragraph and for all taxable years commencing after December 31, 1976, an adult care home which uses its property in a manner which is consistent with the federal internal revenue service ruling 72-124 issued pursuant to section 501(c)(3) of the federal internal revenue code, shall be deemed to be operating at the lowest feasible cost. The fact that real property or real or tangible personal property may be leased from a not-for-profit corporation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the internal revenue code of 1986, and amendments thereto, and which is the parent corporation to the not-for-profit operator of an adult care home, shall not be grounds to deny exemption or deny that such property is actually and regularly used exclusively for adult care home purposes by an adult care home, nor shall the terms of any such lease be grounds for any such denial. For all taxable years commencing after December 31, 1995, such property shall be deemed to be used exclusively for adult care home purposes when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto.

Third. All real property, and tangible personal property, actually and regularly used exclusively for private children’s home purposes by a private children’s home as the same is defined by K.S.A. 75-3329, and amendments thereto, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign,

not-for-profit corporation, charges to residents for services of which produce an amount which in the aggregate is less than the actual cost of operation of the home or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness, and contributions to which are deductible under the Kansas income tax act; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such a corporation and used exclusively for children's home purposes.

Fourth. All real property and tangible personal property, actually and regularly used exclusively for housing for elderly and handicapped persons having a limited or lower income, or used exclusively for cooperative housing for persons having a limited or low income, assistance for the financing of which was received under 12 U.S.C.A. 1701 *et seq.*, or under 42 U.S.C.A. 1437 *et seq.*, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such a corporation and used exclusively for the purposes of such housing. For the purposes of this subsection, cooperative housing ~~shall mean~~ *means* those not-for-profit cooperative housing projects operating or established pursuant to sections 236 or 221(d)(3), or both, of the national housing act and which have been approved as a cooperative housing project pursuant to applicable federal housing administration and U.S. Department of Housing and Urban Development statutes, and rules and regulations, during such time as the use of such properties are: (1) Restricted pursuant to such act, ~~statutes~~ or rules and regulations thereof; or (2) subject to affordability financing standards established pursuant to the national housing act during such time that such not-for-profit corporation has adopted articles of incorporation or by-laws, or both, requiring such corporation to continue to operate in compliance with the United States department of housing and urban development affordability income guidelines established pursuant to sections 236 or 221(d)(3) of the national housing act or rules and regulations thereof.

Fifth. All real property and tangible personal property, actually and regularly used exclusively for housing for elderly persons, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, in which charges to residents produce an amount which in the aggregate is less than the actual cost of operation of the housing facility or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness and contributions to which are deductible under the Kansas income tax act; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such corporation and used exclusively for the purpose of such housing. For purposes of this paragraph and for all taxable years commencing after December 31, 1976, an adult care home which uses its property in a manner which is consistent with the federal internal revenue service ruling 72-124 issued pursuant to section 501(c)(3) of the federal internal revenue code, shall be deemed to be operating at the lowest feasible cost. For all taxable years commencing after December 31, 1995, such property shall be deemed to be used exclusively for housing for elderly persons purposes when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto.

Sixth. All real property and tangible personal property actually and regularly used exclusively for the purpose of group housing of mentally ill or retarded and other handicapped persons which is operated by a corporation organized not for profit under the laws of the state

of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, in which charges to residents produce an amount which in the aggregate is less than the actual cost of operation of the housing facility or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness and contributions to which are deductible under the Kansas income tax act, and which is licensed as a facility for the housing of mentally ill or retarded and other handicapped persons under the provisions of K.S.A. 75-3307b, and amendments thereto, or as a rooming or boarding house used as a facility for the housing of mentally retarded and other handicapped persons which is licensed as a lodging establishment under the provisions of K.S.A. 36-501 *et seq.*, and amendments thereto.

The provisions of this section, except as otherwise specifically provided, shall apply to all taxable years commencing after December 31, 1998.

Sec. 7. On and after July 1, 2004, K.S.A. 2003 Supp. 79-201c is hereby amended to read as follows: 79-201c. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. The wearing apparel of every person.

Second. All household goods and personal effects not used for the production of income. The terms household goods and personal effects when used in this act, except as otherwise specifically provided, shall include all items of furniture, cooking utensils, refrigerators, deep freezers, washing and drying machines, dishwashers, stoves, ranges, ironers, vacuum cleaners, sewing machines, radios, record players, television sets, shop and hobby equipment used in or about the home, fishing equipment (not including boats), bicycles, yard and garden equipment, firearms, golf clubs, photographic equipment, jewelry, luggage, musical instruments, air conditioners if not a part of the central heating and air conditioning system, sailboards and pick-up truck shells. For the purposes of this paragraph, household goods and personal effects shall not be deemed to be used for the production of income when used in the home for day care home purposes if such home has been registered or licensed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto, or when used in the home for bed and breakfast home purposes as defined in K.S.A. 79-1439, and amendments thereto.

Third. All lands used exclusively as graveyards.

The provisions of this section shall apply to all taxable years commencing after December 31, ~~1998~~ 2003.

Sec. 8. K.S.A. 79-332a is hereby amended to read as follows: 79-332a. (a) Any person, corporation or association owning oil and gas leases or engaged in operating for oil or gas who fails to make and file a statement of assessment on or before April 1 shall be subject to a penalty as follows:

(1) The appraiser shall, after having ascertained the assessed value of the property of such taxpayer, add 5% thereto as a penalty for late filing if the failure is not for more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 25% in the aggregate.

(2) If the statement of assessment is filed more than one year from April 1, the appraiser shall, after having ascertained the assessed value of the property of such taxpayer, add 50% thereto as a penalty for late filing. *The county treasurer may not distribute any taxes assessed under this section and paid under protest by the taxpayer pursuant to K.S.A. 79-2005, and amendments thereto, until such time as the appeal is final.*

(b) For good cause shown the county appraiser may extend the time in which to make and file such statement. Such request for extension of time shall be in writing and shall be received by the county appraiser prior to the due date of the statement of assessment.

(continued)

(c) Whenever any person, corporation or association owning oil and gas leases or engaged in operating for oil or gas shall fail to make and deliver to the county appraiser of every county wherein the property to be assessed is located, a full and complete statement of assessment relative to such property as required by blank forms prepared or approved for the purpose by the director of property valuation to elicit the information necessary to fix the valuation of the property, the appraiser shall ascertain the assessed value of the property of such taxpayer, and shall add 50% thereto as a penalty for failing to file such statement.

(d) The board of tax appeals shall have the authority to abate any penalty imposed under the provisions of this section and order the refund of the abated penalty, whenever excusable neglect on the part of the person, corporation or association required to make and file the statement of assessment is shown, or whenever the property for which a statement of assessment was not filed as required by law is repossessed, judicially or otherwise, by a secured creditor and such secured creditor pays the taxes and interest due.

Sec. 9. On and after July 1, 2004, K.S.A. 2003 Supp. 79-412 is hereby amended to read as follows: 79-412. It shall be the duty of the county or district appraiser to value the land and improvements; ~~but~~ The value of the land and improvements shall be entered on the assessment roll in a single aggregate, except as hereinafter provided. Improvements owned by entities other than the owner of the land shall be assessed to the owners of such improvements, if the lease agreement has been recorded or filed in the office of the register of deeds. *The words "building on leased ground" shall appear on the first page of the lease agreement. It shall be the responsibility of the person recording or filing the lease agreement to include such words as provided in this section. Failure to include such words as provided in this section may result in such improvements being assessed to the owner of the land. As used in this section, the term "person" means any individual, business, domestic or foreign corporation, partnership or association.* Delinquent taxes imposed on such improvements may be collected by levy and sale of the interests of such owners the same as in cases of the collection of taxes on personal property.

Sec. 10. K.S.A. 79-1427a is hereby amended to read as follows: 79-1427a. (a) If, the county appraiser discovers, after the tax roll has been certified to the county clerk, that any tangible personal property subject to taxation has been omitted from the tax rolls, the county clerk shall place such property on the tax roll as an added tax, or if, after one year from the date prescribed by K.S.A. 79-306, and amendments thereto, for the listing of tangible personal property, the county appraiser discovers that any tangible personal property which was subject to taxation in any year or years within two years next preceding January 1 of the calendar year in which it was discovered has not been listed or has been underreported for whatever reason, such property shall be deemed to have escaped taxation. In the case of property which has not been listed, it shall be the duty of the county appraiser to list and appraise such property and, for an added tax, add penalties as prescribed in K.S.A. 79-1422, and amendments thereto, and which shall be designated on the appraisal roll as an added appraisal for that year. In the case of property which has escaped taxation, it shall be the duty of the county appraiser to list and appraise such property and add 50% thereto as a penalty for escaping taxation for each such year during which such property was not listed, and it shall be designated on the appraisal roll as "escaped appraisal" for each such preceding year or years. In the case of property which has been listed but underreported, it shall be the duty of the county appraiser to list and appraise the underreported portion of such property and add 50% thereto as a penalty for escaping taxation for each such year during which such property was underreported, and it shall be designated on the appraisal roll as "escaped appraisal" for each such preceding year or years. The county clerk, upon receipt of the valuation for such property in either of the aforementioned cases, shall place such property on the tax rolls and com-

pute the amount of tax due based upon the mill levy for the year or years in which such tax should have been levied, and shall certify such amount to the county treasurer as an added or escaped appraisal. The amount of such tax shall be due immediately and payable within 45 days after the issuance of an additional or escaped property tax bill by the county treasurer. *The county treasurer may not distribute any taxes assessed under this section and paid under protest by the taxpayer pursuant to K.S.A. 79-2005, and amendments thereto, until such time as the appeal is final.* No interest shall be imposed unless the tax remains unpaid after such 45 day period. Taxes levied pursuant to this section which remain unpaid after such 45 day period shall be deemed delinquent and the county treasurer shall collect and distribute such tax in the same manner as prescribed by law for the collection and distribution of other taxes levied upon property which are delinquent. If the owner of such property is deceased, taxes charged as herein provided shall be levied against the estate of such deceased person for only two calendar years preceding death and shall be paid by the legal representative or representatives of such estate. In the event that such escaped appraisal is due to any willful or clerical error of the county appraiser, such property shall be appraised at its fair market value and no penalty shall be added.

(b) A taxpayer with a grievance as to any penalty applied pursuant to the provisions of this section, may appeal to the state board of tax appeals on forms prepared by the state board of tax appeals and provided by the county appraiser. The state board of tax appeals shall have the authority to abate any penalty imposed under the provisions of this section and order the refund of the abated penalty, whenever excusable neglect on the part of the person required to make and file the statement listing property for assessment and taxation purposes is shown, or whenever the property which has been deemed to have escaped taxation is repossessed, judicially or otherwise, by a secured creditor and such creditor pays the taxes and interest due. No interest shall be assessed during the pendency of this appeal.

(c) The provisions of this section shall apply to any tangible personal property discovered during the calendar years 1982, 1983, 1984 and any year thereafter to have escaped appraisal and taxation during any such year or any year within two years next preceding any such year.

Sec. 11. On and after July 1, 2004, K.S.A. 79-1439 is hereby amended to read as follows: 79-1439. (a) All real and tangible personal property which is subject to general ad valorem taxation shall be appraised uniformly and equally as to class and, unless otherwise specified herein, shall be appraised at its fair market value, as defined in K.S.A. 79-503a, and amendments thereto.

(b) Property shall be classified into the following classes and assessed at the percentage of value prescribed therefor:

(1) Real property shall be assessed as to subclass at the following percentages of value:

(A) Real property used for residential purposes including multi-family residential real property, real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are located ~~and~~, residential real property used partially for day care home purposes if such home has been registered or licensed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto, *and residential real property used partially for bed and breakfast home purposes at 11.5%. As used in this paragraph "bed and breakfast home" means a residence with five or fewer bedrooms available for overnight guests who stay for not more than 28 consecutive days for which there is compliance with all zoning or other applicable ordinances or laws which pertain to facilities which lodge and feed guests;*

(B) land devoted to agricultural use valued pursuant to K.S.A. 79-1476, and amendments thereto, at 30%;

(C) vacant lots at 12%;

(D) real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code and included

herein pursuant to K.S.A. 79-1439a, and amendments thereto, at 12%;

(E) public utility real property, except railroad property which shall be assessed at the average rate all other commercial and industrial property is assessed, at 33%. As used in this paragraph, "public utility" shall have the meaning ascribed thereto by K.S.A. 79-5a01, and amendments thereto;

(F) real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use at 25%; and

(G) all other urban and rural real property not otherwise specifically subclassed at 30%.

(2) Personal property shall be classified into the following classes and assessed at the percentage of value prescribed therefor:

(A) Mobile homes used for residential purposes at 11.5%;

(B) mineral leasehold interests, except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests, the average daily production from which is 100 mcf or less, which shall be assessed at 25%, at 30%;

(C) public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed, at 33%. As used in this paragraph, "public utility" shall have the meaning ascribed thereto by K.S.A. 79-5a01, and amendments thereto;

(D) all categories of motor vehicles listed and taxed pursuant to K.S.A. 79-306d, and amendments thereto, and over-the-road motor vehicles defined pursuant to K.S.A. 79-6a01, and amendments thereto, at 30%;

(E) commercial and industrial machinery and equipment, including rolling equipment defined pursuant to K.S.A. 79-6a01, and amendments thereto, which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property as long as it is being used shall not be less than 20% of the retail cost when new of such property at 25%; and

(F) all other tangible personal property not otherwise specifically classified at 30%.

Sec. 12. On and after July 1, 2004, K.S.A. 79-1459 is hereby amended to read as follows: 79-1459. The county appraiser shall:

(a) Prepare an accurate appraisal map or maps of all real estate located within the county showing: (1) All property or lot lines; (2) the names of all subdivisions; (3) block and lot numbers in urban areas; (4) township, range and government lot numbers in rural areas; (5) street names; (6) rights-of-way; (7) recorded easements; and (8) any other information which may be deemed useful to the county appraiser or may be prescribed by the director of property valuation. Such map or maps shall be kept current.

(b) Utilizing the format prescribed or approved by the director of property valuation, prepare an appraisal record for each improvement or group of buildings which constitute an improvement showing: (1) Name and address of the property owner, the property classification and subclassification, taxing unit number and the city or township in which the property is located; (2) a description of the parcel of real estate adequate to locate it upon the appraisal map; (3) a sketch of the improvements showing dimensions and, if found advisable, a photograph thereof; (4) the building classification category as provided for by law; (5) the major building specifications of each improvement; (6) the exact or approximate date of construction of each building; (7) the value indicators of the improvements; (8) the appraised valuation of the improvements and of the land and of their total; and (9) any other information which may be deemed useful to the county appraiser or may be prescribed by the director of property valuation. If the appraisal record is contained on a card, the card shall have enough columns to show changes and appraised value of five or more successive years.

(c) Utilizing the format prescribed or approved by the director of property valuation, prepare an appraisal record for each parcel of land showing: (1) The name and address of the property owner, the property classification and subclassification, taxing unit number and city or township in which the property is located; (2) a description of the parcel of land adequate to locate it upon the appraisal map; (3) a sketch of the dimension of the land and the total number of acres; (4) the general classification of land as provided for by law and, if agricultural, the number of acres in each capability classification; (5) the value indicators of the appraised land; (6) the appraisal of the land and of the improvements and of their total; and (7) any other information which may be deemed useful to the county appraiser or may be prescribed by the director of property valuation. If the appraisal record is contained on a card, the card shall have enough columns to show changes and appraised value of five or more successive years.

(d) If it is found advisable, combine the land appraisal record and the improvements appraisal record provided for in subsections (b) and (c) showing all information required therein.

(e) Annually, as of January 1, classify all taxable and exempt real and personal property into one of the following classifications:

Residential. Residential property shall include all land and improvements utilized or intended to be utilized as a dwelling or home ~~and all personal property listed on residential personal property statements, including all land and improvements whether or not contiguous to the land accommodating a dwelling or home used to store household goods and personal effects not used for the production of income.~~

Commercial. Commercial property shall include all land and improvements utilized or intended to be utilized as a business or income producing enterprise and all personal property subject to ad valorem taxation listed on commercial personal property statements.

Agricultural. Agricultural property shall include all land and improvements utilized or intended to be utilized for the production of livestock or crops and all personal property listed on agricultural personal property statements.

State Appraised. State appraised property shall include all property designated by statute to be appraised by the director of the division of property valuation.

Public Service. Public service property shall include all land and improvements utilized for benevolent, charitable, religious or governmental purposes and all personal property listed on public service personal property statements.

The county appraiser shall, annually, as of January 1, subclassify each major classification of all taxable and exempt, real and personal property in a manner prescribed by the director of the division of property valuation.

Sec. 13. K.S.A. 2003 Supp. 79-2005 is hereby amended to read as follows: 79-2005. (a) Any taxpayer, before protesting the payment of such taxpayer's taxes, shall be required, either at the time of paying such taxes, or, if the whole or part of the taxes are paid prior to December 20, no later than December 20, or, with respect to taxes paid in whole on or before December 20 by an escrow or tax service agent, no later than January 31 of the next year, to file a written statement with the county treasurer, on forms approved by the state board of tax appeals and provided by the county treasurer, clearly stating the grounds on which the whole or any part of such taxes are protested and citing any law, statute or facts on which such taxpayer relies in protesting the whole or any part of such taxes. *When the grounds of such protest is an assessment of taxes made pursuant to K.S.A. 79-332a and 79-1427a, and amendments thereto, the county treasurer may not distribute the taxes paid under protest until such time as the appeal is final.* When the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the county treasurer shall forward a copy of the written statement of protest to the county appraiser who shall within 15 days of the receipt thereof, schedule an informal meeting

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with the taxpayer or such taxpayer's agent or attorney with reference to the property in question. The county appraiser shall review the appraisal of the taxpayer's property with the taxpayer or such taxpayer's agent or attorney and may change the valuation of the taxpayer's property, if in the county appraiser's opinion a change in the valuation of the taxpayer's property is required to assure that the taxpayer's property is valued according to law, and shall, within 15 business days thereof, notify the taxpayer in the event the valuation of the taxpayer's property is changed, in writing of the results of the meeting. In the event the valuation of the taxpayer's property is changed and such change requires a refund of taxes and interest thereon, the county treasurer shall process the refund in the manner provided by subsection (l).

(b) No protest appealing the valuation or assessment of property shall be filed pertaining to any year's valuation or assessment when an appeal of such valuation or assessment was commenced pursuant to K.S.A. 79-1448, and amendments thereto, nor shall the second half payment of taxes be protested when the first half payment of taxes has been protested. Notwithstanding the foregoing, this provision shall not prevent any subsequent owner from protesting taxes levied for the year in which such property was acquired, nor shall it prevent any taxpayer from protesting taxes when the valuation or assessment of such taxpayer's property has been changed pursuant to an order of the director of property valuation.

(c) A protest shall not be necessary to protect the right to a refund of taxes in the event a refund is required because the final resolution of an appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto, occurs after the final date prescribed for the protest of taxes.

(d) If the grounds of such protest shall be that the valuation or assessment of the property upon which the taxes so protested are levied is illegal or void, such statement shall further state the exact amount of valuation or assessment which the taxpayer admits to be valid and the exact portion of such taxes which is being protested.

(e) If the grounds of such protest shall be that any tax levy, or any part thereof, is illegal, such statement shall further state the exact portion of such tax which is being protested.

(f) Upon the filing of a written statement of protest, the grounds of which shall be that any tax levied, or any part thereof, is illegal, the county treasurer shall mail a copy of such written statement of protest to the state board of tax appeals and the governing body of the taxing district making the levy being protested.

(g) Within 30 days after notification of the results of the informal meeting with the county appraiser pursuant to subsection (a), the protesting taxpayer may, if aggrieved by the results of the informal meeting with the county appraiser, appeal such results to the state board of tax appeals.

(h) After examination of the copy of the written statement of protest and a copy of the written notification of the results of the informal meeting with the county appraiser in cases where the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act, unless waived by the interested parties in writing. If the grounds of such protest is that the valuation or assessment of the property is illegal or void the board shall notify the county appraiser thereof.

(i) In the event of a hearing, the same shall be originally set not later than 90 days after the filing of the copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the board. With regard to any matter properly submitted to the board relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination except that no such duty shall accrue to the county or district appraiser

with regard to leased commercial and industrial property unless the property owner has furnished to the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. In all instances where the board sets a request for hearing and requires the representation of the county by its attorney or counselor at such hearing, the county shall be represented by its county attorney or counselor.

(j) When a determination is made as to the merits of the tax protest, the board shall render and serve its order thereon. The county treasurer shall notify all affected taxing districts of the amount by which tax revenues will be reduced as a result of a refund.

(k) If a protesting taxpayer fails to file a copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the board within the time limit prescribed, such protest shall become null and void and of no effect whatsoever.

(l) (1) In the event the board orders that a refund be made pursuant to this section or the provisions of K.S.A. 79-1609, and amendments thereto, or a court of competent jurisdiction orders that a refund be made, and no appeal is taken from such order, or in the event a change in valuation which results in a refund pursuant to subsection (a), the county treasurer shall, as soon thereafter as reasonably practicable, refund to the taxpayer such protested taxes and, with respect to protests or appeals commenced after the effective date of this act, interest computed at the rate prescribed by K.S.A. 79-2968, and amendments thereto, minus two percentage points, per annum from the date of payment of such taxes from tax moneys collected but not distributed. Upon making such refund, the county treasurer shall charge the fund or funds having received such protested taxes, except that, with respect to that portion of any such refund attributable to interest the county treasurer shall charge the county general fund. In the event that the board or court finds that any time delay in making its decision is unreasonable and is attributable to the taxpayer, it may order that no interest or only a portion thereof be added to such refund of taxes.

(2) No interest shall be allowed pursuant to paragraph (1) in any case where the tax paid under protest was inclusive of delinquent taxes.

(m) Whenever, by reason of the refund of taxes previously received or the reduction of taxes levied but not received as a result of decreases in assessed valuation, it will be impossible to pay for imperative functions for the current budget year, the governing body of the taxing district affected may issue no-fund warrants in the amount necessary. Such warrants shall conform to the requirements prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by such section and may be issued without the approval of the state board of tax appeals. The governing body of such taxing district shall make a tax levy at the time fixed for the certification of tax levies to the county clerk next following the issuance of such warrants sufficient to pay such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized by law.

(n) The county treasurer shall disburse to the proper funds all portions of taxes paid under protest and shall maintain a record of all portions of such taxes which are so protested and shall notify the governing body of the taxing district levying such taxes thereof and the director of accounts and reports if any tax protested was levied by the state.

(o) This statute shall not apply to the valuation and assessment of property assessed by the director of property valuation and it shall not be necessary for any owner of state assessed property, who has an appeal pending before the board of tax appeals, to protest the payment of taxes under this statute solely for the purpose of protecting the right to a refund of taxes paid under protest should that owner be successful in that appeal.

Sec. 14. On and after July 1, 2004, K.S.A. 2003 Supp. 79-3408 is hereby amended to read as follows: 79-3408. (a) A tax per gallon or fraction thereof, at the rate computed as prescribed in K.S.A. 79-34,141, and amendments thereto, is hereby imposed on the use, sale or delivery of all motor vehicle fuels or special fuels which are used, sold or delivered in this state for any purpose whatsoever.

(b) Every retail pump for motor-vehicle fuels shall be conspicuously labeled to show the content and percentage of any ethyl alcohol or other alcohol combined or alone in excess of 1% by volume.

(c) Unless otherwise specified in K.S.A. 79-3408c, and amendments thereto, the incidence of this tax is imposed on the distributor of the first receipt of the motor fuel and such taxes shall be paid but once. Such tax shall be computed on all motor-vehicle fuels or special fuels received by each distributor, manufacturer or importer in this state and paid in the manner provided for herein, except that an allowance of 2.5% shall be made and deducted by the distributor to cover all ordinary losses which may have resulted from physical loss while handling such motor-vehicle fuels or special fuels. No such allowance shall be made on any motor-vehicle fuel or special fuel exported from the state or sold to the United States of America or any of its agencies or instrumentalities as are now or hereinafter exempt by law from liability to state taxation. No such allowance shall be made for any motor-vehicle fuel or special fuel sold or disposed of to a consumer in tank car, transport or pipeline lots.

(d) No tax is hereby imposed upon or with respect to the following transactions:

(1) The sale or delivery of motor-vehicle fuel or special fuel for export from the state of Kansas to any other state or territory or to any foreign country.

(2) The sale or delivery of motor-vehicle fuel or special fuel to the United States of America and such of its agencies as are now or hereafter exempt by law from liability to state taxation.

(3) The sale or delivery of motor-vehicle fuel or special fuel to a contractor for use in performing work for the United States or those agencies of the United States above mentioned, provided such contractor has in effect with the United States or any such agency a cost-plus-a-fixed-fee contract covering the work.

(4) The sale or delivery of motor-vehicle fuel or special fuel which is aviation fuel.

(5) The first sale or delivery of motor-vehicle fuel or special fuel from a refinery, pipeline terminal, pipeline tank farm or other place to a duly licensed distributor who in turn resells to another duly licensed distributor.

(6) The sale or delivery of special fuel which is indelibly dyed in accordance with regulations prescribed pursuant to 26 U.S.C. 4082 and such special fuel is only used for nonhighway purposes.

(7) *The sale of kerosene used as a fuel only to power antique steam motor vehicles first manufactured prior to 1940.*

(e) Each distributor, manufacturer, importer, exporter or retailer shall make full reports and furnish such further information as the director may require with reference to all transactions upon which no tax is to be paid.

Sec. 15. On and after July 1, 2004, K.S.A. 79-3458 is hereby amended to read as follows: 79-3458. After purchasing or acquiring for use motor-vehicle fuel or special fuel upon which refund of the tax may be due, a purchaser and claimant may file with the director a claim on a form furnished by the director. Such claim for refund must be filed within one year after the date of purchase of the motor-vehicle fuels or special fuels on which a tax refund is claimed. The claim shall show or include the following:

(1) The name, post office address and the refund permit number of the claimant;

(2) the total number of gallons of motor-vehicle fuel or special fuel purchased as ~~represented supported~~ by original invoices or automated invoices or self-generated lists which shall be attached, and which invoices shall approved by the director that show that the claimant has paid the distributor or retailer delivering price of such motor-vehicle fuel or special fuel in full, including the motor-vehicle

fuel or special fuel tax. If an original invoice ~~shall be~~ is lost or destroyed, a statement to that effect shall accompany the claim for refund and such statement shall also set forth the date of delivery, the serial number of the invoice, number of gallons of motor-vehicle fuel or special fuel purchased and the name of the distributor or retailer from whom purchased; and if the director finds that the invoice was originally properly issued and that the claim is otherwise regular, the director shall allow such claim for refund;

(3) the amount of the claim; and

(4) if motor-vehicle fuel or special fuel for motor vehicles using the public highways is generally purchased for delivery directly to the fuel tank of such vehicles, the name of the dealer from whom the greater portion of such purchases are made.

All applications for refunds furnished by the director shall contain a printed warning clause. Every such application for refund if made by an individual shall be signed by the claimant and if the claimant is a corporation or association it shall be signed by one of the principal officers of the corporation or association and in the case of a partnership, by one of the partners.

Sec. 16. On and after January 1, 2005, K.S.A. 2003 Supp. 79-3651 is hereby amended to read as follows: 79-3651. (a) For the purpose of the proper administration of the Kansas retailers' sales tax act and to prevent evasion of the tax imposed thereunder, it shall be presumed that all gross receipts from the sale of tangible personal property or enumerated services are subject to tax until the contrary is established. The burden of proving that a sale is not subject to tax is upon the seller unless the seller takes from the purchaser an exemption certificate to the effect that the property or service purchased is not subject to tax.

(b) An exemption certificate shall relieve the seller from collecting and remitting tax if the seller has obtained the required identifying information as determined by the director, from the purchaser and the reason for claiming the exemption at the time of purchase and has maintained proper records of exempt transactions pursuant to subsection (a) of K.S.A. 79-3609, and amendments thereto and provided them to the director when requested, except that a seller who fraudulently fails to collect the tax or solicits purchasers to participate in the unlawful claim of an exemption shall not be relieved from such liability. The seller shall obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred. The purchaser improperly claiming an exemption shall remain liable for the nonpayment of tax.

(c) The exemption certificate shall be substantially in such form as the director may prescribe. The seller shall use the standard form for claiming an exemption electronically as adopted by the director. A seller may require a purchaser to provide a copy of the purchaser's sales tax registration certificate with a resale certificate as a condition for honoring the purchaser's resale exemption claim. A purchaser is not required to provide a signature to claim an exemption from tax unless a paper exemption certificate is used.

(d) To lawfully present a resale exemption certificate the purchaser must be engaged in the business of selling property or services of the same kind that is purchased, hold a registration certificate, and at the time of purchase, either intend to resell the property in the regular course of business or be unable to ascertain whether the property will be resold or used for some other purpose.

(e) Any person who issues a resale certificate or other exemption certificate in order to unlawfully avoid payment of tax for business or personal gain shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment for not more than one year, or by both. In addition, if the director determines that a person issued a resale certificate in order to unlawfully avoid payment of tax for business or personal gain, the director shall increase any penalty that is due from the person under K.S.A. 79-3615, and amendments thereto, by \$250 or 10 times the tax due, whichever is greater, on each transaction where the misuse of a resale certificate occurred.

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(f) Exemption certificates issued by a ~~nonprofit~~ an entity claiming a specific exemption under K.S.A. 79-3606, and amendments thereto, *based on the status of the entity* shall bear the name ~~and~~, address of the entity *and identification number issued to the entity pursuant to section 21, and amendments thereto*, and indicate the subsection under which the exemption is being claimed. Such certificate shall be signed by an officer, office manager or other administrator of the nonprofit entity, if in paper form, and contain the driver's license number of the signer. The certificate shall be substantially in such form as the director may prescribe. Payments made on an exempt entity's check, warrant, voucher or is charged to the entity's account shall relieve the seller from collecting and remitting the tax if it is taken in good faith.

(g) It shall be the duty of every person who purchases tangible personal property or services that are taxable under this act to pay the full amount of tax that is lawfully due to the retailer making the sale. Any person who willfully and intentionally refuses to pay such tax to the retailer shall be guilty of a misdemeanor and upon conviction shall be punished and fined as provided by subsection (g) of K.S.A. 79-3615, and amendments thereto.

Sec. 17. On and after July 1, 2004, K.S.A. 79-4216 is hereby amended to read as follows: 79-4216. As used in this act, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them herein:

(a) "Barrel" for oil measurement means a barrel of 42 U.S. gallons of 231 cubic inches per gallon, computed at a temperature of 60 degrees Fahrenheit.

(b) "Director" means the director of taxation.

(c) "Gas" means natural gas taken from below the surface of the earth or water in this state, regardless of whether from a gas well or from a well also productive of oil or any other product.

(d) "Gross value" means the sale price of oil or gas at the time of removal of the oil or gas from the lease or production unit and if oil or gas is exchanged for something other than cash, or if no sale occurs at the time of removal or if the director determines that the relationship between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the director shall determine the value of the oil or gas subject to tax based on the cash price paid to one or more producers for the oil or gas or based on the cash price paid to producers for like quality oil or gas in the vicinity of the lease or production unit at the time of the removal of the oil or gas from the lease or production unit.

(e) "Lease number" means the number assigned by the director of taxation to identify each well, lease or combination of wells within a lease.

(f) "Oil" means petroleum, or other crude oil, condensate, casinghead gasoline, or other mineral oil which is severed or withdrawn from below the surface of the soil or water in this state.

~~(g)~~ (g) "Operator" means the person primarily responsible for the management and operation of coal, oil or gas productions from a lease, production unit or mine.

~~(h)~~ (h) "Person" means any natural person, firm, copartnership, joint venture, association, corporation, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number.

~~(i)~~ (i) "Producer" means any person owning, controlling, managing or leasing any coal, oil or gas property or oil or gas well or coal or salt mine, and any person who serves in any manner any coal, oil or gas in this state, and shall include any person owning any direct and beneficial interest in any coal, oil or gas produced, whether severed by such person or some other person on their behalf, either by lease, contract or otherwise, including a royalty owner.

~~(j)~~ (j) "Remove" or "removal" means the physical transportation of coal, oil or gas off of the lease or production unit or from the mine where severed; and if the manufacture or conversion of crude oil or natural gas into refined products occurs on the premises where sev-

ered, oil or gas shall be deemed to have been removed on the date such manufacture or conversion begins.

~~(k)~~ (k) "Secretary" means the secretary of revenue.

~~(l)~~ (l) "Severed" or "severing" means: (1) The production of oil through extraction or withdrawal of the same from below the surface of the soil or water, whether such extraction or withdrawal shall be by natural flow, mechanical flow, forced flow, pumping or any other means employed to get the oil from below the surface of the soil or water and shall include the withdrawal by any means whatsoever of oil upon which the tax has not been paid, from any surface reservoir, natural or artificial, or from a water surface; (2) the production of gas through the extraction or withdrawal of the same by any means whatsoever, from below the surface of the earth or water; and (3) the physical removal of coal from the earth.

~~(m)~~ (m) "Taxpayer" means any person liable for the taxes imposed by this act.

~~(n)~~ (n) "Disruption of production" means, in the case of oil, a continuous 24-hour period during which a well is not producing. Circulating and missed production days shall be considered production days if the operator can demonstrate that any lost production is subsequently recovered during a later production day. In the case of gas, a continuous one-hour period during which a well is not open to the pipeline shall be deemed to be a disruption of production. Missed production hours shall be considered production hours if the operator can demonstrate that any lost production is subsequently recovered during later production hours.

Sec. 18. On and after July 1, 2004, K.S.A. 2003 Supp. 79-4217 is hereby amended to read as follows: 79-4217. (a) There is hereby imposed an excise tax upon the severance and production of coal, oil or gas from the earth or water in this state for sale, transport, storage, profit or commercial use, subject to the following provisions of this section. Such tax shall be borne ratably by all persons within the term "producer" as such term is defined in K.S.A. 79-4216, and amendments thereto, in proportion to their respective beneficial interest in the coal, oil or gas severed. Such tax shall be applied equally to all portions of the gross value of each barrel of oil severed and subject to such tax and to the gross value of the gas severed and subject to such tax. The rate of such tax shall be 8% of the gross value of all oil or gas severed from the earth or water in this state and subject to the tax imposed under this act. The rate of such tax with respect to coal shall be \$1 per ton. For the purposes of the tax imposed hereunder the amount of oil or gas produced shall be measured or determined: (1) In the case of oil, by tank tables compiled to show 100% of the full capacity of tanks without deduction for overage or losses in handling; allowance for any reasonable and bona fide deduction for basic sediment and water, and for correction of temperature to 60 degrees Fahrenheit will be allowed; and if the amount of oil severed has been measured or determined by tank tables compiled to show less than 100% of the full capacity of tanks, such amount shall be raised to a basis of 100% for the purpose of the tax imposed by this act; and (2) in the case of gas, by meter readings showing 100% of the full volume expressed in cubic feet at a standard base and flowing temperature of 60 degrees Fahrenheit, and at the absolute pressure at which the gas is sold and purchased; correction to be made for pressure according to Boyle's law, and used for specific gravity according to the gravity at which the gas is sold and purchased, or if not so specified, according to the test made by the balance method.

(b) The following shall be exempt from the tax imposed under this section:

(1) The severance and production of gas which is: (A) Injected into the earth for the purpose of lifting oil, recycling or repressuring; (B) used for fuel in connection with the operation and development for, or production of, oil or gas in the lease or production unit where severed; (C) lawfully vented or flared; (D) severed from a well having an average daily production during a calendar month having a gross value of not more than \$87 per day, which well has not been significantly curtailed by reason of mechanical failure or other disruption

of production; in the event that the production of gas from more than one well is gauged by a common meter, eligibility for exemption hereunder shall be determined by computing the gross value of the average daily combined production from all such wells and dividing the same by the number of wells gauged by such meter; (E) inadvertently lost on the lease or production unit by reason of leaks, blowouts or other accidental losses; (F) used or consumed for domestic or agricultural purposes on the lease or production unit from which it is severed; or (G) placed in underground storage for recovery at a later date and which was either originally severed outside of the state of Kansas, or as to which the tax levied pursuant to this act has been paid;

(2) the severance and production of oil which is: (A) From a lease or production unit whose average daily production is five barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (B) from a lease or production unit, the producing well or wells upon which have a completion depth of 2,000 feet or more, and whose average daily production is six barrels or less per producing well or, if the price of oil as determined pursuant to subsection (d) is \$16 or less, whose average daily production is seven barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$15 or less, whose average daily production is eight barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$14 or less, whose average daily production is nine barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$13 or less, whose average daily production is 10 barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (C) from a lease or production unit, whose production results from a tertiary recovery process. "Tertiary recovery process" means the process or processes described in subparagraphs (1) through (9) of 10 C.F.R. 212.78(c) as in effect on June 1, 1979; (D) from a lease or production unit, the producing well or wells upon which have a completion depth of less than 2,000 feet and whose average daily production resulting from a water flood process, is six barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (E) from a lease or production unit, the producing well or wells upon which have a completion depth of 2,000 feet or more, and whose average daily production resulting from a water flood process, is seven barrels or less per producing well or, if the price of oil as determined pursuant to subsection (d) is \$16 or less, whose average daily production is eight barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$15 or less, whose average daily production is nine barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$14 or less, whose average daily production is 10 barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (F) test, frac or swab oil which is sold or exchanged for value; or (G) inadvertently lost on the lease or production unit by reason of leaks or other accidental means;

(3) (A) any taxpayer applying for an exemption pursuant to subsection (b)(2)(A) and (B) shall make application ~~annually~~ *biennially* to the director of taxation therefor. Exemptions granted pursuant to subsection (b)(2)(A) and (B) shall be valid for a period of ~~one year~~ *two years* following the date of certification thereof by the director of taxation; (B) any taxpayer applying for an exemption pursuant to subsection (b)(2)(D) or (E) shall make application ~~annually~~ *biennially* to the director of taxation therefor. Such application shall be accompanied by proof of the approval of an application for the utilization of a water flood process therefor by the corporation commission pursuant to rules and regulations adopted under the authority of K.S.A. 55-152 and amendments thereto and proof that the oil produced therefrom is kept in a separate tank battery and that separate books and records are maintained therefor. Such exemption shall be valid

for a period of ~~one year~~ *two years* following the date of certification thereof by the director of taxation; ~~and~~ (C) *any exemption granted pursuant to subsections (b)(2)(A), (B), (D) or (E) with an odd lease number and an exemption termination date between June 1, 2004, and May 31, 2005, inclusive, shall be valid for a period of one year following the date of certification; and* (D) notwithstanding the provisions of paragraph (A) or (B), any exemption in effect on the effective date of this act affected by the amendments to subsection (b)(2) by this act shall be redetermined in accordance with such amendments. Any such exemption, and any new exemption established by such amendments and applied for after the effective date of this shall be valid for a period commencing with May 1, 1998, and ending on April 30, 1999.

(4) the severance and production of gas or oil from any pool from which oil or gas was first produced on or after April 1, 1983, as determined by the state corporation commission and certified to the director of taxation, and continuing for a period of 24 months from the month in which oil or gas was first produced from such pool as evidenced by an affidavit of completion of a well, filed with the state corporation commission and certified to the director of taxation. Exemptions granted for production from any well pursuant to this paragraph shall be valid for a period of 24 months following the month in which oil or gas was first produced from such pool. The term "pool" means an underground accumulation of oil or gas in a single and separate natural reservoir characterized by a single pressure system so that production from one part of the pool affects the reservoir pressure throughout its extent;

(5) the severance and production of oil or gas from a three-year inactive well, as determined by the state corporation commission and certified to the director of taxation, for a period of 10 years after the date of receipt of such certification. As used in this paragraph, "three-year inactive well" means any well that has not produced oil or gas in more than one month in the three years prior to the date of application to the state corporation commission for certification as a three-year inactive well. An application for certification as a three-year inactive well shall be in such form and contain such information as required by the state corporation commission, and shall be made prior to July 1, 1996. The commission may revoke a certification if information indicates that a certified well was not a three-year inactive well or if other lease production is credited to the certified well. Upon notice to the operator that the certification for a well has been revoked, the exemption shall not be applied to the production from that well from the date of revocation;

(6) (A) The incremental severance and production of oil or gas which results from a production enhancement project begun on or after July 1, 1998, shall be exempt for a period of seven years from the startup date of such project. As used in this paragraph (6):

(1) "Incremental severance and production" means the amount of oil or natural gas which is produced as the result of a production enhancement project which is in excess of the base production of oil or natural gas, and is determined by subtracting the base production from the total monthly production after the production enhancement ~~projects~~ *project* is completed.

(2) "Base production" means the average monthly amount of production for the twelve-month period immediately prior to the production enhancement project beginning date, minus the monthly rate of production decline for the well or project for each month beginning 180 days prior to the project beginning date. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the well or project for the twelve-month period immediately prior to the production enhancement project beginning date, except that the monthly rate of production decline shall be equal to zero in the case where the well or project has experienced no monthly decline during the twelve-month period immediately prior to the production enhancement project beginning date. Such monthly rate of production decline shall be continued as the decline that would have occurred except for the enhancement project. Any

(continued)

well or project which may have produced during the twelve-month period immediately prior to the production enhancement project beginning date but is not capable of production on the project beginning date shall have a base production equal to zero. The calculation of the base production amount shall be evidenced by an affidavit and supporting documentation filed by the applying taxpayer with the state corporation commission.

(3) "Workover" means any downhole operation in an existing oil or gas well that is designed to sustain, restore or increase the production rate or ultimate recovery of oil or gas, including but not limited to acidizing, reperforation, fracture treatment, sand/paraffin/scale removal or other wellbore cleanouts, casing repair, squeeze cementing, initial installation, or enhancement of artificial lifts including plunger lifts, rods, pumps, submersible pumps and coiled tubing velocity strings, downsizing existing tubing to reduce well loading, downhole commingling, bacteria treatments, polymer treatments, upgrading the size of pumping unit equipment, setting bridge plugs to isolate water production zones, or any combination of the aforementioned operations; "workover" shall not mean the routine maintenance, routine repair, or like for-like replacement of downhole equipment such as rods, pumps, tubing packers or other mechanical device.

(4) "Production enhancement project" means performing or causing to be performed the following:

- (i) Workover;
- (ii) recompletion to a different producing zone in the same well bore, except recompletions in formations and zones subject to a state corporation commission proration order;
- (iii) secondary recovery projects;
- (iv) addition of mechanical devices to dewater a gas or oil well;
- (v) replacement or enhancement of surface equipment;
- (vi) installation or enhancement of compression equipment, line looping or other techniques or equipment which increases production from a well or a group of wells in a project;
- (vii) new discoveries of oil or gas which are discovered as a result of the use of new technology, including, but not limited to, three dimensional seismic studies.

(B) The state corporation commission shall adopt rules and regulations necessary to efficiently and properly administer the provisions of this paragraph (6) including rules and regulations for the qualification of production enhancement projects, the procedures for determining the monthly rate of production decline, criteria for determining the share of incremental production attributable to each well when a production enhancement project includes a group of wells, criteria for determining the start up date for any project for which an exemption is claimed, and determining new qualifying technologies for the purposes of paragraph (6)(A)(4)(vii).

(C) Any taxpayer applying for an exemption pursuant to this paragraph (6) shall make application to the director of taxation. Such application shall be accompanied by a state corporation commission certification that the production for which an exemption is sought results from a qualified production enhancement project and certification of the base production for the enhanced wells or group of wells, and the rate of decline to be applied to that base production. The secretary of revenue shall provide credit for any taxes paid between the project startup date and the certification of qualifications by the commission.

(D) The exemptions provided for in this paragraph (6) shall not apply for 12 months beginning July 1 of the year subsequent to any calendar year during which: (1) In the case of oil, the secretary of revenue determines that the weighted average price of Kansas oil at the wellhead has exceeded \$20.00 per barrel; or (2) in the case of natural gas the secretary of revenue determines that the weighted average price of Kansas gas at the wellhead has exceeded \$2.50 per Mcf.

(E) The provisions of this paragraph (6) shall not affect any other exemption allowable pursuant to this section; and

(7) for the calendar year 1988, and any year thereafter, the severance or production of the first 350,000 tons of coal from any mine as certified by the state geological survey.

(c) No exemption shall be granted pursuant to subsection (b)(3) or (4) to any person who does not have a valid operator's license issued by the state corporation commission, and no refund of tax shall be made to any taxpayer attributable to any production in a period when such taxpayer did not hold a valid operator's license issued by the state corporation commission.

(d) On April 15, 1988, and on April 15 of each year thereafter, the secretary of revenue shall determine from statistics compiled and provided by the United States department of energy, the average price per barrel paid by the first purchaser of crude oil in this state for the six-month period ending on December 31 of the preceding year. Such price shall be used for the purpose of determining exemptions allowed by subsection (b)(2)(B) or (E) for the twelve-month period commencing on May 1 of such year and ending on April 30 of the next succeeding year.

Sec. 19. On and after July 1, 2004, K.S.A. 79-5205 is hereby amended to read as follows: 79-5205. (a) At such time as the director of taxation shall determine that a dealer has not paid the tax as provided by K.S.A. 79-5204, and amendments thereto, the director may immediately assess a tax based on personal knowledge or information available to the director of taxation; mail to the taxpayer at the taxpayer's last known address or serve in person, a written notice of the amount of tax, penalties and interest; and demand its immediate payment. If payment is not immediately made, because collection of every assessment made hereunder is presumed to be in jeopardy due to the nature of the commodity being taxed, the director may immediately collect the tax, penalties and interest in any manner provided by K.S.A. 79-5212, and amendments thereto.

~~(b) The taxpayer may appeal the assessment within 15 days from the date of mailing of the notice or the date of personal service of the notice given pursuant to subsection (a), by requesting in writing a hearing by the director on the correctness of the assessment. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. An appeal of the assessment shall not stay the collection of the assessment but shall stay the sale of real or personal property seized pursuant to K.S.A. 79-5212 until the director rules on the correctness of the assessment.~~

~~(c) The tax, penalties and interest assessed by the director of taxation are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show their incorrectness or invalidity. Any statement filed by the director of taxation with the court or any other certificate by the director of taxation of the amount of tax, penalties and interest determined or assessed is admissible in evidence and is prima facie evidence of the facts it contains.~~

~~(c) In making an assessment pursuant to subsection (a), the director of taxation may consider but shall not be bound by a plea agreement or judicial determination made in any criminal case.~~

(d) Within 15 days after the mailing or personal service of such notice of assessment pursuant to subsection (a), the taxpayer may request an informal conference with the secretary of revenue or the secretary's designee relating to the tax, penalties and interest assessed by filing a written request with the secretary or the secretary's designee. Such written request shall set forth the taxpayer's objections to the assessment. The purpose of such conference shall be to review and reconsider all facts and issues that underlie the assessment. The informal conference shall not constitute an adjudicative proceeding under the Kansas administrative procedure act and the rules of evidence shall not apply. No record of the informal conference shall be made except at the request and expense of the taxpayer. The taxpayer may be represented at the informal conference by an attorney licensed in the state of Kansas. The taxpayer may also present written or verbal information from other persons. The secretary or the secretary's designee may confer at any time with any employee of the department of revenue who has factual information relating to the assessment under reconsideration. The secretary or the secretary's

designee shall issue a written final determination within 270 days of the date of the request for informal conference unless the parties agree in writing to extend the time for issuing such final determination. A final determination issued within or after 270 days, with or without extension, constitutes final agency action subject to administrative review by the state board of tax appeals pursuant to K.S.A. 74-2438, and amendments thereto. In the event that a written final determination is not rendered within 270 days or within an agreed extension, the taxpayer may appeal the assessment to the state board of tax appeals within 30 days after the expiration date of the 270 days or agreed extension. A taxpayer's request for an informal conference shall not stay the collection of the assessment but shall stay the sale of real or personal property seized pursuant to K.S.A. 79-5212, and amendments thereto, until the final determination is made by the secretary or the secretary's designee. A taxpayer's appeal to the state board of tax appeals shall not stay the collection of the assessment but shall stay the sale of real or personal property seized pursuant to K.S.A. 79-5212, and amendments thereto, until a decision is rendered by the state board of tax appeals.

New Sec. 20. (a) The governing body of a city may establish an increment in ad valorem taxes using the procedure set forth in subsection (b) for projects that are initiated upon a finding that the area is a blighted area as defined under K.S.A. 12-1770a, and amendments thereto, when the following conditions exist:

(1) The proposed district has been identified by a Kansas certified engineer or the United States federal emergency management agency as a majority of property existing in the 100-year flood-plain; and

(2) the city intends to establish a redevelopment district pursuant to K.S.A. 12-1771, and amendments thereto, to wholly finance or partially finance the investigation and remediation of a flood-plain within such a district.

(b) A flood-plain increment, established after a city has found that the conditions described in subsection (c) of K.S.A. 12-1770a, and amendments thereto, exist, shall be set on a yearly basis. For purposes of this section, a yearly basis shall be a calendar year. Each year's increment shall be an amount sufficient to pay the direct cost of investigation and remediation of the flood-plain condition anticipated to be incurred that year including principal and interest due on any special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part the remediation and investigation, costs relating to remediation investigation and feasibility studies, operation and maintenance expenses and other expenses relating directly to the investigation of flooding. Each year's flood-plain increment shall not exceed 20% of the amount of taxes that are produced by all taxing subdivisions within any currently existing or subsequently created redevelopment district area in the year the redevelopment district is first established, notwithstanding that such subdivision was not required to receive notice of the establishment of the district.

(c) The budget that established the yearly flood-plain increment shall be certified by the city to the county clerk and county treasurer no later than August 15th, preceding the calendar year for which the budget is being set. Funds derived from a flood-plain increment established by this section and interest on all funds derived from a flood-plain increment established by this section may be used only for projects involving the investigation and remediation of the flood-plain in the district.

(d) The real property taxes produced by the flood-plain increment established under subsection (b) from a redevelopment district established under the provisions of K.S.A. 12-1771, and amendments

thereto, and this section shall be allocated and paid by the county treasurer to the treasurer of the city and deposited in a special separate fund of the city to pay the direct cost of investigation and remediation of flooding in the redevelopment district.

(e) A redevelopment district created under the provisions of this section shall constitute a separate taxing district. If all costs for such investigation and remediation of flooding in the redevelopment district have been paid and moneys remain in the special fund, such moneys shall be remitted to each taxing subdivision which paid moneys into the special fund on the basis of the proportion which the total amount of moneys paid by such taxing subdivision into the special fund bears to the total amount of all moneys paid by all taxing subdivisions into the fund.

(f) Nothing in this section shall prevent any city from establishing a redevelopment district for other purposes pursuant to K.S.A. 12-1770 *et seq.*, and amendments thereto, which may include part or all of the real property included in the district established under this section.

(g) Redevelopment projects relating to flooding investigation and remediation under this section, shall be completed within 20 years.

(h) Nothing in this section shall be construed to affect the obligations of the county to annually review the fair market value of property in accordance with procedures set by law or to affect the right of any taxpayer to protest and appeal the appraised or reappraised value of their property in accordance with procedures set forth by law.

(i) For the purposes of this act, the governing body of a city may pledge increments receivable in future years to pay costs directly relating to the investigation and remediation of flood-plain areas. The provisions in such contracts pertaining to pledging increments in future years shall not be subject to K.S.A. 10-1101 *et seq.* or 79-2925 *et seq.*, and amendments thereto.

(j) The provisions of this section shall be effective on and after July 1, 2004.

New Sec. 21. On and after January 1, 2005, any entity or organization claiming an exemption from sales tax on its purchases of tangible personal property or services based on the status of the entity or organization, under the specific exemptions, including but not limited to those listed in this section, shall prior to claiming any such exemption, apply to and obtain from the secretary of revenue an exempt organization identification number. Such exemptions are subsections (b), (c), (s), (z), (hh), (ii), (jj), (ll), (oo), (qq), (ss), (tt), (uu), (vv), (ww), (xx), (yy), (zz), (aaa), (ccc) and (ggg) of K.S.A. 79-3606, and amendments thereto. The secretary shall prescribe the application form for such number, and such entity or organization shall provide with the application information sufficient to establish that such entity or organization qualifies for the sales tax exemption. Such entity shall enter the issued identification number on any exemption certificate presented to any retailer when claiming the sales tax exemption on any purchases.

Sec. 22. K.S.A. 79-332a and 79-1427a and K.S.A. 2003 Supp. 12-198 and 79-2005 are hereby repealed.

Sec. 23. On and after July 1, 2004, K.S.A. 8-2411, 10-306, 79-1439, 79-1459, 79-3458, 79-4216 and 79-5205 and K.S.A. 2003 Supp. 12-187, 12-1770a, as amended by section 25 of 2004 House Bill No. 2647, 79-201b, 79-201c, 79-412, 79-3408 and 79-4217 are hereby repealed.

Sec. 24. On and after January 1, 2005, K.S.A. 2003 Supp. 79-3651 is hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the Kansas register.

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the Kansas Register issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the 2003 Volumes of the Kansas Administrative Regulations.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 1-6-21 to 1-49-12.

AGENCY 4: DEPARTMENT OF AGRICULTURE

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 4-4-900 to 4-25-16.

AGENCY 5: DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 5-1-1 to 5-3-1.

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 5-3-1b to 5-25-20.

AGENCY 7: SECRETARY OF STATE

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 7-16-1 to 7-16-2.

AGENCY 9: ANIMAL HEALTH DEPARTMENT

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AGENCY 14: DEPARTMENT OF REVENUE—DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 14-13-9 to 14-15-2.

AGENCY 17: STATE BANK COMMISSIONER (see Agency 75, this index)

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 17-8-1 to 17-24-4.

AGENCY 19: GOVERNMENTAL ETHICS COMMISSION

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AGENCY 26: DEPARTMENT ON AGING

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 26-2-3 to 26-2-9.

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28-45-5	Revoked	V. 22, p. 1306	30-14-28	Amended	V. 22, p. 434	44-12-601	Amended (T)	V. 23, p. 387
28-45-5a	New (T)	V. 22, p. 533	30-44-5	New	V. 22, p. 1047	44-12-1002	Amended (T)	V. 22, p. 384
28-45-5a	New	V. 22, p. 1306	30-60-1	Amended	V. 22, p. 1090	44-12-1002	Amended	V. 22, p. 1232
28-45-6	Revoked (T)	V. 22, p. 534	30-60-2	Amended	V. 22, p. 1090	44-13-201b	Amended (T)	V. 22, p. 384
28-45-6	Revoked	V. 22, p. 1306	30-60-5	Amended	V. 22, p. 1090	44-13-201b	Amended	V. 22, p. 1232
28-45-6a	New (T)	V. 22, p. 534	30-60-6	Amended	V. 22, p. 1091	AGENCY 51: DEPARTMENT OF HUMAN RESOURCES—DIVISION OF WORKERS COMPENSATION		
28-45-6a	New	V. 22, p. 1306	30-60-7	Amended	V. 22, p. 1092	Reg. No.	Action	Register
28-45-7	Revoked (T)	V. 22, p. 535	30-60-8	New	V. 22, p. 1092	51-9-7	Amended	V. 22, p. 1804
28-45-7	Revoked	V. 22, p. 1308	30-60-10	Amended	V. 22, p. 1093	51-9-17	New	V. 22, p. 2031
28-45-7a	New (T)	V. 22, p. 535	30-60-11	Amended	V. 22, p. 1093	AGENCY 61: BOARD OF BARBERING		
28-45-7a	New	V. 22, p. 1308	30-60-12	Amended	V. 22, p. 1093	Reg. No.	Action	Register
28-45-8	Revoked (T)	V. 22, p. 536	30-60-13	New	V. 22, p. 1094	61-4-2	Amended (T)	V. 22, p. 1304
28-45-8	Revoked	V. 22, p. 1309	30-60-14	New	V. 22, p. 1094	61-7-1	Amended (T)	V. 22, p. 1304
28-45-8a	New (T)	V. 22, p. 536	30-60-15	New	V. 22, p. 1094	AGENCY 65: BOARD OF EXAMINERS IN OPTOMETRY		
28-45-8a	New	V. 22, p. 1309	30-60-16	New	V. 22, p. 1094	Reg. No.	Action	Register
28-45-9	Revoked (T)	V. 22, p. 536	30-60-17	Amended	V. 22, p. 1095	65-5-6	Amended	V. 22, p. 1575
28-45-9	Revoked	V. 22, p. 1309	30-60-18	Amended	V. 22, p. 1095	AGENCY 66: BOARD OF TECHNICAL PROFESSIONS		
28-45-9a	New (T)	V. 22, p. 536	30-16-19	Amended	V. 22, p. 1096	Reg. No.	Action	Register
28-45-9a	New	V. 22, p. 1309	30-60-25	Amended	V. 22, p. 1096	66-8-5	Amended	V. 23, p. 95
28-45-10	Revoked (T)	V. 22, p. 536	30-60-26	Amended	V. 22, p. 1097	AGENCY 68: BOARD OF PHARMACY		
28-45-10	Revoked	V. 22, p. 1309	30-60-27	Amended	V. 22, p. 1097	Reg. No.	Action	Register
28-45-10a	New (T)	V. 22, p. 536	30-60-28	Amended	V. 22, p. 1097	68-2-9	Amended	V. 22, p. 118
28-45-10a	New	V. 22, p. 1309	30-60-29	New	V. 22, p. 1097	68-2-10	Amended	V. 22, p. 118
28-45-11	Revoked (T)	V. 22, p. 537	30-60-30	New	V. 22, p. 1098	68-2-11	Amended	V. 22, p. 118
28-45-11	Revoked	V. 22, p. 1310	30-60-40	Amended	V. 22, p. 1098	68-2-12a	Amended	V. 22, p. 118
28-45-11a	New (T)	V. 22, p. 537	30-60-41	Amended	V. 22, p. 1098	68-2-15	Amended	V. 22, p. 430
28-45-11a	New	V. 22, p. 1310	30-60-45	Amended	V. 22, p. 1099	68-2-20	Amended	V. 22, p. 119
28-45-12	through		30-60-46	Amended	V. 22, p. 1099	68-7-12	Amended	V. 22, p. 119
28-45-30	New (T)	V. 22, p. 537-548	30-60-47	Amended	V. 22, p. 1099	68-7-12a	Amended	V. 22, p. 120
28-45-12	through		30-60-48	New	V. 22, p. 1099	68-7-12b	New	V. 22, p. 120
28-45-30	New	V. 22, p. 1310-1321	30-60-49	New	V. 22, p. 1100	68-7-20	New	V. 23, p. 382
28-45a-1	through		30-60-50	Amended	V. 22, p. 1100	68-8-1	Amended	V. 22, p. 431
28-45a-1	through		30-60-51	New	V. 22, p. 1101	68-9-2	Amended	V. 22, p. 121
28-45a-19	New (T)	V. 22, p. 548-557	30-60-55	Amended	V. 22, p. 1102	68-11-1	Amended	V. 22, p. 122
28-45a-1	through		30-60-56	New	V. 22, p. 1103	68-11-2	Amended	V. 22, p. 122
28-45a-19	New	V. 22, p. 1321-1331	30-60-57	New	V. 22, p. 1103	68-12-2	Amended	V. 22, p. 122
28-51-100	Amended	V. 22, p. 2099	30-60-60	Revoked	V. 22, p. 1103	68-12-2	Amended	V. 22, p. 122
28-51-108	Amended	V. 22, p. 2100	30-60-61	Revoked	V. 22, p. 1103	68-13-1	Amended	V. 22, p. 122
28-51-113	through		30-60-62	Amended	V. 22, p. 1103	AGENCY 70: BOARD OF VETERINARY EXAMINERS		
28-51-116	New	V. 22, p. 2100-2102	30-60-63	New	V. 22, p. 1104	Reg. No.	Action	Register
AGENCY 30: SOCIAL AND REHABILITATION SERVICES			30-60-64	New	V. 22, p. 1105	70-5-1	Amended	V. 23, p. 360
Reg. No.	Action	Register	30-60-70	Amended	V. 22, p. 1108	AGENCY 71: KANSAS DENTAL BOARD		
30-4-39	Amended	V. 22, p. 1533	30-60-71	Amended	V. 22, p. 1108	Reg. No.	Action	Register
30-4-55	Amended	V. 22, p. 1533	30-60-72	Amended	V. 22, p. 1108	71-1-1	Revoked	V. 23, p. 151
30-4-96	Revoked	V. 22, p. 249	30-60-73	Amended	V. 22, p. 1108	71-1-2	Revoked	V. 23, p. 151
30-4-110	Amended	V. 22, p. 1534	30-60-74	Amended	V. 22, p. 1109	71-1-3	Revoked	V. 23, p. 151
30-5-59	Amended	V. 22, p. 2087	30-60-75	Revoked	V. 22, p. 1109	71-1-8	Revoked	V. 23, p. 151
30-5-64	Amended	V. 23, p. 694	30-60-76	Amended	V. 22, p. 1109	71-1-10	Revoked	V. 23, p. 151
30-5-78	Amended	V. 22, p. 2090	30-61-1	Amended	V. 22, p. 1109	71-1-11	Revoked	V. 23, p. 151
30-5-81u	Amended (T)	V. 22, p. 83	30-61-2	Amended	V. 22, p. 1109	71-1-15	Amended	V. 23, p. 151
30-5-81u	Amended	V. 22, p. 432	30-61-5	Amended	V. 22, p. 1109	71-2-1	Revoked	V. 23, p. 151
30-5-89	Amended	V. 22, p. 1355	30-61-6	Amended	V. 22, p. 1110	71-2-4	Revoked	V. 23, p. 151
30-5-89a	Amended	V. 22, p. 1355	30-61-10	Amended	V. 22, p. 1110	71-2-5	Amended	V. 23, p. 717
30-5-102	Amended (T)	V. 22, p. 83	30-61-11	New	V. 22, p. 1110	71-2-6	Revoked	V. 23, p. 718
30-5-102	Amended	V. 22, p. 2090	30-61-15	Amended	V. 22, p. 1110	71-2-7	Amended	V. 23, p. 718
30-5-105	Amended (T)	V. 22, p. 83	30-61-15	Amended	V. 22, p. 1110	71-2-9	Revoked	V. 23, p. 151
30-5-105	Amended	V. 22, p. 2091	30-61-16	Revoked	V. 22, p. 1111	71-2-12	Revoked	V. 23, p. 151
30-5-107	Amended	V. 22, p. 1043	AGENCY 36: DEPARTMENT OF TRANSPORTATION			<i>(continued)</i>		
30-5-107a	Amended	V. 22, p. 1044	Reg. No.	Action	Register			
30-5-116	Amended	V. 22, p. 2091	36-40-1	through				
30-5-300	Amended	V. 22, p. 2091	36-40-9	New	V. 22, p. 1806, 1807			
30-6-65	Amended	V. 22, p. 1044	AGENCY 40: KANSAS INSURANCE DEPARTMENT					
30-6-103	Amended (T)	V. 22, p. 84	Reg. No.	Action	Register			
30-6-103	Amended	V. 22, p. 433	40-1-48	Amended	V. 23, p. 426			
30-6-106	Amended	V. 22, p. 249	40-1-50	New (T)	V. 23, p. 244			
30-6-108	Amended	V. 22, p. 1045	40-1-51	New	V. 23, p. 361			
			40-2-26	Amended	V. 23, p. 151			
			40-3-20	Revoked	V. 23, p. 693			

71-3-5	Revoked	V. 23, p. 151
71-4-1	Amended	V. 23, p. 151
71-4-3	Revoked	V. 23, p. 152
71-6-1	Amended	V. 23, p. 383
71-6-5	Amended	V. 23, p. 718
71-7-1	New	V. 23, p. 152

AGENCY 74: BOARD OF ACCOUNTANCY

Reg. No.	Action	Register
74-1-1	Amended	V. 22, p. 1894
74-1-2	Amended	V. 22, p. 1894
74-1-3	Amended	V. 22, p. 1894
74-1-6	Amended	V. 22, p. 1895
74-1-8	New	V. 22, p. 1895
74-2-1	Amended	V. 22, p. 1896
74-2-4	Revoked	V. 22, p. 1896
74-4-7	Amended	V. 22, p. 1896
74-4-8	Amended	V. 22, p. 1896
74-4-9	Amended	V. 22, p. 1897
74-5-202	Amended	V. 22, p. 1898
74-11-6	Amended	V. 22, p. 1898
74-11-7	Amended	V. 22, p. 1898
74-12-1	Amended	V. 22, p. 1898

AGENCY 75: STATE BANK**COMMISSIONER—DIVISION OF CONSUMER AND MORTGAGE LENDING**

Reg. No.	Action	Register
75-6-33	New	V. 22, p. 1815
75-6-34	New	V. 22, p. 1454

AGENCY 82: STATE CORPORATION COMMISSION

Reg. No.	Action	Register
82-1-201	Revoked	V. 22, p. 1650
82-1-202	Amended	V. 22, p. 1650
82-1-204	Amended	V. 22, p. 1650
82-1-204a	New	V. 22, p. 1652
82-1-205	Amended	V. 22, p. 1652
82-1-206	Amended	V. 22, p. 1652
82-1-207	Amended	V. 22, p. 1652
82-1-208	Amended	V. 22, p. 1652
82-1-212	Amended	V. 22, p. 1652
82-1-214	Amended	V. 22, p. 1653
82-1-215	Amended	V. 22, p. 1653
82-1-216	Amended	V. 22, p. 1653
82-1-218	Amended	V. 22, p. 1653
82-1-219	Amended	V. 22, p. 1654
82-1-220	Amended	V. 22, p. 1655
82-1-221	Amended	V. 22, p. 1655
82-1-221b	Revoked	V. 22, p. 1656
82-1-222	Amended	V. 22, p. 1656
82-1-224	Amended	V. 22, p. 1656
82-1-225	Amended	V. 22, p. 1656
82-1-226	Amended	V. 22, p. 1657
82-1-227	Amended	V. 22, p. 1657
82-1-228	Amended	V. 22, p. 1657
82-1-229	Amended	V. 22, p. 1658
82-1-230	Amended	V. 22, p. 1659
82-1-230a	New	V. 22, p. 1659
82-1-231	Amended	V. 22, p. 1660
82-1-231a	Amended	V. 22, p. 1663
82-1-231b	Amended	V. 22, p. 1664
82-1-232	Amended	V. 22, p. 1665
82-1-235	Amended	V. 22, p. 1666
82-1-237	Amended	V. 22, p. 1666
82-1-238	Amended	V. 22, p. 1666
82-1-239	Amended	V. 22, p. 1667
82-3-101	Amended	V. 23, p. 426
82-3-600	Amended	V. 23, p. 429
82-3-600a	Amended	V. 23, p. 430
82-3-600b	Revoked	V. 23, p. 430
82-3-601a	Amended	V. 23, p. 430
82-3-601b	Amended	V. 23, p. 431
82-3-602	Amended	V. 23, p. 431
82-3-603	Amended	V. 23, p. 431
82-3-604	Amended	V. 23, p. 432
82-3-605	Revoked	V. 23, p. 432
82-3-606	Amended	V. 23, p. 432
82-3-607	New	V. 23, p. 433
82-3-700		
through		
82-3-704	Amended (T)	V. 23, p. 152-155

82-3-700		
through		
82-3-704	Amended	V. 23, p. 538-541
82-3-705		
through		
82-3-710	New (T)	V. 23, p. 155-158
82-3-705		
through		
82-3-710	New	V. 23, p. 541-544
82-4-2	Amended	V. 22, p. 86
82-4-3a	New (T)	V. 23, p. 578
82-4-20	Amended	V. 22, p. 86
82-4-21	Amended	V. 22, p. 87
82-4-23	Amended	V. 22, p. 87
82-4-26	Amended	V. 22, p. 87
82-4-26a	Amended	V. 22, p. 88
82-4-27	Amended	V. 22, p. 88
82-4-27a	Amended	V. 22, p. 88
82-4-27e	Amended	V. 22, p. 89
82-4-28	Amended	V. 22, p. 89
82-4-28a	Amended	V. 22, p. 89
82-4-29	Amended	V. 22, p. 90
82-4-29a	Amended	V. 22, p. 90
82-4-30a	Amended	V. 22, p. 90
82-4-32	Amended	V. 22, p. 90
82-4-35	Amended	V. 22, p. 91
82-4-46	Amended	V. 22, p. 91
82-4-49b		
through		
82-4-49e	Revoked	V. 22, p. 91
82-7-2		
through		
82-7-5	Revoked	V. 22, p. 91
82-8-1	Amended	V. 22, p. 91
82-8-2	Amended	V. 22, p. 91
82-8-3	Amended	V. 22, p. 92
82-11-1	Amended	V. 22, p. 1078
82-11-3	Amended	V. 22, p. 1079
82-11-4	Amended	V. 22, p. 1079
82-11-8	Amended	V. 22, p. 1084
82-11-10	Amended	V. 22, p. 1084

AGENCY 88: BOARD OF REGENTS

Reg. No.	Action	Register
88-23-2	Amended	V. 23, p. 276
88-23-2a	New	V. 23, p. 278
88-23-3	Revoked	V. 23, p. 279
88-23-3a	New	V. 23, p. 279
88-23-7	New	V. 22, p. 1709

AGENCY 91: DEPARTMENT OF EDUCATION

Reg. No.	Action	Register
91-1-201	Amended	V. 22, p. 2125
91-1-203	Amended	V. 22, p. 2126
91-1-206	Amended	V. 22, p. 2129
91-1-213	Amended	V. 22, p. 2130
91-18-24	Revoked	V. 23, p. 280
91-18-27	Revoked	V. 23, p. 280
91-18-29	Revoked	V. 23, p. 280
91-18-34	Revoked	V. 23, p. 280
91-18-40	Revoked	V. 23, p. 280
91-31-16		
through		
91-31-30	Revoked	V. 22, p. 124
91-31-31		
through		
91-31-42	New	V. 22, p. 124-128
91-38-1	Amended	V. 22, p. 356
91-38-2	Amended	V. 22, p. 356
91-38-3	Amended	V. 22, p. 357
91-38-5	Amended	V. 22, p. 357
91-38-6	Amended	V. 22, p. 358
91-38-7	Amended	V. 22, p. 360

AGENCY 92: DEPARTMENT OF REVENUE

Reg. No.	Action	Register
92-19-200		
through		
92-19-203	New	V. 22, p. 431
92-51-24	Amended	V. 23, p. 40
92-51-25	Amended	V. 23, p. 40
92-51-28	New	V. 23, p. 40
92-51-29	New	V. 23, p. 41

92-51-34a	New	V. 23, p. 41
92-52-9	Amended	V. 23, p. 41

AGENCY 93: DEPARTMENT OF REVENUE—DIVISION OF PROPERTY VALUATION

Reg. No.	Action	Register
93-6-4	Amended	V. 22, p. 666
93-6-7	New	V. 22, p. 666

AGENCY 94: BOARD OF TAX APPEALS

Reg. No.	Action	Register
94-2-4	Amended (T)	V. 22, p. 1504
94-2-4	Amended	V. 22, p. 2009
94-2-19	Amended (T)	V. 22, p. 1504
94-2-19	Amended	V. 22, p. 1509
94-2-20	Amended (T)	V. 22, p. 2004
94-2-20	Amended	V. 22, p. 2010
94-2-21	New (T)	V. 22, p. 1505
94-2-21	New	V. 22, p. 2010

AGENCY 100: BOARD OF HEALING ARTS

Reg. No.	Action	Register
100-11-1	Amended (T)	V. 23, p. 580
100-22-4	New	V. 22, p. 690
100-29-9	Amended	V. 22, p. 1892
100-29-10	Amended	V. 22, p. 1893
100-54-2		
through		
100-54-8	Amended	V. 22, p. 1926-1929
100-54-4	Amended (T)	V. 23, p. 383
100-55-4	Amended (T)	V. 23, p. 383
100-55-5	Amended	V. 22, p. 690
100-55-9	Amended	V. 22, p. 690
100-72-1		
through		
100-72-7	New (T)	V. 22, p. 79-81
100-72-1		
through		
100-72-6	New	V. 22, p. 691, 692
100-72-7	New	V. 22, p. 1893
100-75-1	New (T)	V. 22, p. 82
100-75-1	New	V. 22, p. 693

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Reg. No.	Action	Register
102-1-3a	Amended (T)	V. 22, p. 1267
102-1-3a	Amended	V. 22, p. 1808
102-1-3b	New (T)	V. 22, p. 1268
102-1-3b	New	V. 22, p. 1809
102-1-8	Amended	V. 22, p. 1148
102-1-10a	Amended	V. 22, p. 2179
102-1-15	Amended	V. 22, p. 1149
102-2-2b	New (T)	V. 22, p. 1269
102-2-2b	New	V. 22, p. 1810
102-2-2c	New (T)	V. 22, p. 1270
102-2-2c	New	V. 22, p. 1811
102-2-4a	Amended	V. 22, p. 1150
102-2-7	Amended	V. 22, p. 2182
102-2-9	Amended	V. 22, p. 1151
102-2-11	Amended	V. 22, p. 1151
102-2-12	Amended	V. 22, p. 1084
102-3-3a	Amended	V. 22, p. 1302
102-3-4b	New (T)	V. 22, p. 1271
102-3-4b	New	V. 22, p. 1811
102-3-7a	Amended	V. 22, p. 1085
102-3-9a	Amended	V. 22, p. 1151
102-3-10a	Amended	V. 22, p. 1152
102-3-12a	Amended	V. 22, p. 2184
102-4-4b	New (T)	V. 22, p. 1272
102-4-4b	New	V. 22, p. 1812
102-4-6a	Amended	V. 22, p. 2186
102-4-9a	Amended	V. 22, p. 1153
102-4-10a	Amended	V. 22, p. 1153
102-4-12	Amended	V. 22, p. 2187
102-5-3	Amended	V. 22, p. 1087
102-5-4b	New (T)	V. 22, p. 1273
102-5-4b	New	V. 22, p. 1813
102-5-7a	Amended	V. 22, p. 1088
102-5-9	Amended	V. 22, p. 1155
102-5-10	Amended	V. 22, p. 1155
102-5-12	Amended	V. 22, p. 2189
102-5-16	New	V. 22, p. 1158
102-6-9	Amended	V. 22, p. 1159

102-6-10 Amended V. 22, p. 1159

AGENCY 108: STATE EMPLOYEES HEALTH CARE COMMISSION

Reg. No.	Action	Register
108-1-4	Amended	V. 22, p. 2177

AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES

Reg. No.	Action	Register
109-3-2	New	V. 23, p. 202
109-5-4	Amended	V. 22, p. 1805
109-7-1	Amended	V. 22, p. 1805

AGENCY 110: DEPARTMENT OF COMMERCE

Reg. No.	Action	Register
110-8-1 through 110-8-6	New	V. 22, p. 2032, 2033
110-8-8 through 110-8-11	New	V. 22, p. 2033, 2034
110-10-1	New (T)	V. 22, p. 1815
110-10-1	New	V. 23, p. 180

AGENCY 111: KANSAS LOTTERY

A complete index listing all regulations filed by the Kansas Lottery from 1988 through 2000 can be found in the Vol. 19, No. 52, December 28, 2000 Kansas Register. A list of regulations filed by the Kansas Lottery from 2001 through 2003 can be found in the Vol. 22, No. 52, December 25, 2003 Kansas Register. The following regulations were filed after January 1, 2004:

Reg. No.	Action	Register
111-2-151 through 111-2-156	New	V. 23, p. 95, 96
111-2-154	Amended	V. 23, p. 261
111-2-155	Amended	V. 23, p. 262

111-2-156	Amended	V. 23, p. 262
111-2-157	New	V. 23, p. 262
111-2-158	New	V. 23, p. 459
111-3-22	Amended	V. 23, p. 97
111-4-881	Amended	V. 23, p. 97
111-4-1448	Amended	V. 23, p. 98
111-4-2052	Amended	V. 23, p. 262
111-4-2055	Amended	V. 23, p. 263
111-4-2057	Amended	V. 23, p. 263
111-4-2074	Amended	V. 23, p. 98
111-4-2093	Amended	V. 23, p. 309
111-4-2094	New	V. 23, p. 100
111-4-2095		

111-4-2115	New	V. 23, p. 264-275
111-4-2097	Amended	V. 23, p. 310
111-4-2098	Amended	V. 23, p. 310
111-4-2116 through 111-4-2125	New	V. 23, p. 311-318
111-4-2126 through 111-4-2146	New	V. 23, p. 459-471
111-5-96	Amended	V. 23, p. 101
111-5-111 through 111-5-115	New	V. 23, p. 245, 246
111-5-113	Amended	V. 23, p. 472
111-5-114	Amended	V. 23, p. 472
111-7-188 through 111-7-192	New	V. 23, p. 319, 320
111-7-190	Amended	V. 23, p. 473
111-7-192	Amended	V. 23, p. 473

AGENCY 112: RACING AND GAMING COMMISSION

Reg. No.	Action	Register
112-3-11	Amended	V. 22, p. 1427
112-4-1	Amended	V. 22, p. 2057
112-4-1a	New	V. 22, p. 278

112-4-1b	New	V. 22, p. 279
112-6-4	Amended	V. 22, p. 85
112-8-4	Amended	V. 22, p. 1428
112-8-5	Amended	V. 22, p. 1428
112-9-44	Amended	V. 22, p. 279
112-10-2	Amended	V. 22, p. 85
112-10-3	Amended	V. 23, p. 93
112-10-13	New	V. 23, p. 495
112-11-20	Amended	V. 22, p. 281
112-12-10	Amended	V. 22, p. 86
112-13-2	Amended	V. 23, p. 94
112-18-9	Amended	V. 22, p. 1710
112-18-11	Amended	V. 22, p. 1710
112-18-18	Amended	V. 22, p. 1710

AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

Reg. No.	Action	Register
115-1-1	Amended	V. 22, p. 1930
115-2-1	Amended	V. 22, p. 1932
115-4-6	Amended	V. 22, p. 1227
115-4-11	Amended	V. 22, p. 436
115-17-6 through 115-17-9	Amended	V. 22, p. 437-439
115-18-8	Amended	V. 22, p. 1229
115-18-10	Amended	V. 22, p. 439
115-21-1	Amended	V. 22, p. 1506
115-21-2	Amended	V. 22, p. 1507

AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
117-1-1	Amended	V. 22, p. 684
117-2-1	Amended	V. 22, p. 684
117-3-1	Amended	V. 22, p. 685
117-4-1	Amended	V. 22, p. 686
117-5-2	Amended	V. 22, p. 2007
117-6-1	Amended	V. 22, p. 687
117-6-2	Amended	V. 22, p. 688
117-6-3	Amended	V. 22, p. 688
117-8-1	Amended	V. 23, p. 337
117-9-1	Amended	V. 23, p. 150

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