



Kansas Register

Ron Thornburgh, Secretary of State

Vol. 24, No. 15 April 14, 2005 Pages 445-524

| In this issue . . . | Page |
|--|----------|
| Legislative bills and resolutions introduced March 31-April 1 | 447 |
| Kansas Development Finance Authority | |
| Notice of hearing on proposed revenue bonds..... | 447 |
| Heartland Works, Inc. | |
| Invitation for bids..... | 448 |
| Public notice..... | 448 |
| Pooled Money Investment Board | |
| Notice of investment rates..... | 448 |
| Criminal Justice Coordinating Council | |
| Notice of grant award meeting..... | 448 |
| Department of Administration | |
| Public notice..... | 448 |
| City of Wichita | |
| Notice to bidders..... | 448 |
| Attorney General | |
| Opinions 2005-8 through 2005-11..... | 449 |
| Social and Rehabilitation Services | |
| Requests for proposals..... | 450 |
| Notice of meetings on the Child Care and Development Fund Program..... | 450 |
| University of Kansas | |
| Notice to bidders..... | 451 |
| Department of Administration—Division of Purchases | |
| Notice to bidders for state purchases..... | 451 |
| Secretary of State | |
| Notice of corporations forfeited..... | 451 |
| Notice of hearing on proposed administrative regulations..... | 452 |
| Kansas, Inc. | |
| Request for proposals..... | 453 |
| Kansas Department of Revenue | |
| Notice of available publications..... | 453 |
| Department of Health and Environment | |
| Requests for comments on proposed air quality permits..... | 453, 454 |
| Notice concerning Kansas water pollution control permits..... | 454 |
| Notice of Bond Sale | |
| U.S.D. 229, Johnson County (Blue Valley)..... | 457 |
| City of Andover..... | 458 |
| City of Bonner Springs..... | 459 |

(continued on next page)

Temporary Administrative Regulations
 Kansas Lottery 460

Permanent Administrative Regulations
 State Corporation Commission..... 463
 Social and Rehabilitation Services..... 489

New State Laws
House Bill 2461, concerning states of emergency 498
House Bill 2156, concerning the state board of pharmacy; regarding registration of
 pharmacy technicians 498
House Bill 2347, concerning land conveyances; authorizing the state board of regents to sell
 and convey a certain tract of real estate located in Ellis county 499
Senate Bill 152, relating to district hospitals; relating to the sale of property 499
House Bill 2155, concerning pharmacists and pharmacy; relating to prescription refills..... 500
House Bill 2326, concerning insurance; pertaining to the Kansas Insurance Guaranty
 Association; relating to claims 500
House Bill 2102, concerning sales taxation; relating to exemptions 503
Senate Bill 58, concerning sales taxation; relating to countywide retailers' sales tax
 in Sedgwick county 503
Senate Bill 19, concerning the legislative post audit act; prescribing the confidentiality
 of responses to surveys administered for audits 507
House Bill 2265, concerning economic development; concerning qualified manufacturers of
 cellulose film; Kansas downtown redevelopment act..... 508
Senate Bill 110, concerning the Kansas commission on veterans affairs; relating to memorials
 for Kansas veterans who served in the armed forces of the United States of America 510
House Bill 2040, concerning sales taxation; relating to exemptions; repair of hearing aids 511
Index to administrative regulations..... 518

The KANSAS REGISTER (USPS 0662-190) is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The Kansas Register is published weekly by the Kansas Secretary of State, 1st Floor, Memorial Hall, 120 S.W. 10th Ave., Topeka, KS 66612-1594. One-year subscriptions are \$80 (Kansas residents must include applicable state and local sales tax). Single copies may be purchased, if available, for \$2 each. **Periodicals postage paid at Topeka, KS.**

POSTMASTER: Send change of address form to Kansas Register, Secretary of State, 1st Floor, Memorial Hall, 120 S.W. 10th Ave., Topeka, KS 66612-1594.

© Kansas Secretary of State 2005. Reproduction of this publication in its entirety or for commercial purposes is prohibited without prior permission. Official enactments of the Kansas Legislature and proposed and adopted administrative regulations of state agencies may be reproduced in any form without permission.

PUBLISHED BY
Ron Thornburgh
 Secretary of State
 1st Floor, Memorial Hall
 120 S.W. 10th Ave.
 Topeka, KS 66612-1594
 (785) 296-4564
 www.kssos.org



Register Office:
 1st Floor, Memorial Hall
 (785) 296-3489
 Fax (785) 368-8024
 kansasregister@kssos.org

State of Kansas

Legislature

Legislative Bills and Resolutions Introduced

The following numbers and titles of bills and resolutions were introduced March 31-April 1 by the 2005 Kansas Legislature. Copies of bills and resolutions are available free of charge from the Legislative Document Room, 145-N, State Capitol, 300 S.W. 10th Ave., Topeka, 66612, (785) 296-4096. Full texts of bills, bill tracking and other information may be accessed at www.kslegislature.org.

House Bills

HB 2533, An act concerning criminal use of weapons; amending K.S.A. 2004 Supp. 21-4201 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2534, An act concerning school districts; relating to the use of moneys appropriated by the legislature, by Committee on Appropriations.

HB 2535, An act concerning taxation; relating to county taxing authority; providing revenue for distribution to school districts; school finance; amending K.S.A. 2004 Supp. 12-187, 12-189, 12-192 and 19-101a and repealing the existing sections, by Committee on Taxation.

HB 2536, An act making and concerning appropriations for the fiscal years ending June 30, 2006, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Appropriations.

House Concurrent Resolutions

HCR 5018, A proposition to amend section 2 of article 2 of the constitution of the state of Kansas, relating to senators and representatives.

HCR 5019, A concurrent resolution recognizing the thousands of Freemasons in the state of Kansas and honoring them for their many contributions to the state throughout its history.

House Resolutions

HR 6032, A resolution congratulating and commending Kendra Wecker.

HR 6033, A resolution commending 60 years of cooperative efforts by the state of Kansas and The American Legion and Veterans of Foreign Wars.

Senate Bills

SB 311, An act concerning adult basic education programs; relating to tax levy authority of governing bodies of technical colleges and school boards; amending K.S.A. 72-4523 and K.S.A. 2004 Supp. 72-4470a and repealing the existing sections, by Committee on Ways and Means.

SB 312, An act concerning school districts; relating to school finance; relating to revenues therefor; amending K.S.A. 72-6410 and 72-6414 and K.S.A. 2004 Supp. 72-978, 79-32,110, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections, by Committee on Ways and Means.

Senate Concurrent Resolutions

SCR 1611, A concurrent resolution urging Congress to make the repeal of the death tax permanent.

Senate Resolutions

SR 1847, A resolution congratulating and commending Lakeside Elementary School.

SR 1848, A resolution congratulating and commending Cachet Hancock.

SR 1849, A resolution supporting a Taiwan-United States free trade agreement.

SR 1850, A resolution concerning endorsement of the participation of Taiwan in the World Health Organization.

SR 1851, A resolution memorializing the Congress of the United States to continue funding of the TRIO and GEARUP educational programs.

SR 1852, A resolution congratulating and commending the McPherson High School girls basketball team and Coach Scott Schaefer for winning the 2005 Class 5A State Basketball Championship.

SR 1853, A resolution congratulating and commending the 2005 Kansas Master Teachers.

SR 1854, A resolution honoring Albert "Jud" Wagner, the oldest Marine in Kansas.

SR 1855, A resolution congratulating and commending the Thomas More Prep-Marian High School boys basketball team and Coach Joe Hertel for winning the 3A Class 2005 State Basketball Championship.

SR 1856, A resolution memorializing the Congress of the United States to continue the federal moratorium on special hospitals.

SR 1857, A resolution congratulating and commending Kendra Wecker.

Doc. No. 031806

State of Kansas

Kansas Development Finance Authority

Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, April 28, in the offices of the Kansas Development Finance Authority, 555 S. Kansas Ave., Suite 202, Topeka, on the proposal for the KDFFA to issue its Agricultural Development Revenue Bond for the project numbered below in the respective maximum principal amount. The bond will be issued to assist the respective borrower named below (who will be the owner and operator of the project) to finance the cost in the amount of the bond of acquiring the project or for the purpose of refunding a bond previously issued to finance the project. The project shall be located as shown:

Project No. 000629—Principal Amount: \$25,812. Owner/Operator: Norman Bontrager. Description: Acquisition of 14.2 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is located at Section 14, Township 24, Reno County, Kansas, approximately 5.5 miles south of South Hutchinson on K-17 Highway.

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

All individuals who appear at the hearing will be given an opportunity to express their views, and all written comments previously filed with the KDFFA at its offices at 555 S. Kansas Ave., Suite 202, Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the KDFFA.

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

Stephen R. Weatherford
President

Doc. No. 031807

(Published in the Kansas Register April 14, 2005.)

Heartland Works, Inc.

Invitation for Bids

Heartland Works, Inc. is accepting bids for the purchase of legal services. To receive an invitation for bid, including all specifications, contact the Heartland Works office at 610 S.W. 10th Ave., Suite 210, Topeka, 66612, (785) 234-0500. Bids must be received not later than 3 p.m. May 12. Heartland Works, Inc. welcomes all interested attorneys or law firms to bid.

Kris Kitchen
Executive Director

Doc. No. 031830

(Published in the Kansas Register April 14, 2005.)

Heartland Works, Inc.

Public Notice

The Local Area II Workforce Investment Board is submitting its two-year plan as required under the Workforce Investment Act (WIA) of 1998. This plan is available for review and comment until May 15. The Local Area II Chief Elected Officials Board and the Workforce Investment Board will meet June 22 to approve the plan. The plan may be reviewed on the Heartland Works, Inc. Web site at www.heartlandworks.org.

Any questions or comments should be addressed to Kris Kitchen, executive director, at (785) 234-0500, 1-800-766-3777 (TDD), fax (785) 234-0552 or e-mail at aao@heartlandworks.org. Heartland Works, Inc. is an equal opportunity employer/program.

Kris Kitchen
Executive Director

Doc. No. 031839

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 4-11-05 through 4-17-05

| Term | Rate |
|-----------|-------|
| 1-89 days | 2.75% |
| 3 months | 2.80% |
| 6 months | 3.14% |
| 1 year | 3.47% |
| 18 months | 3.65% |
| 2 years | 3.75% |

Derl S. Treff
Director of Investments

Doc. No. 031805

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, April 29, in Room 530, Curtis State Office Building, 1000 S.W. Jackson, Topeka. Final grant award decisions will be made on the Federal Residential Substance Abuse Treatment and the Federal Bulletproof Vest Partnership grant programs.

Juliene Maska
Governor's Grants Program Administrator

Doc. No. 031810

State of Kansas

Department of Administration

Public Notice

Under requirements of K.S.A. 65-34,117 (c), records of the Division of Accounts and Reports show the unobligated balances are \$3,105,634.72 in the underground petroleum storage tank release trust fund and \$652,909.40 in the aboveground petroleum storage tank release trust fund at March 31, 2005.

Duane Goossen
Secretary of Administration

Doc. No. 031831

(Published in the Kansas Register April 14, 2005.)

City of Wichita, Kansas

Notice to Bidders

The city of Wichita will receive bids at the Purchasing Office, 455 N. Main, 12th Floor, Wichita, 67202, until 10 a.m. Friday, May 13, for the following project:

**(KDOT Project No. 87N-0305-01/472-84175/205384)
(OCA Code 706918)**

Paving

Meridian from 31st Street South to Pawnee

Requests for the bid documents and plans should be directed to City Blue Print at (316) 265-6224 or Marty Murphy at (316) 268-4488. Other questions should be directed to the respective design engineer, (316) 268-4501.

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

The successful bidder may contact Kim Pelton at (316) 268-4499 for extra sets of plans and specifications.

Marty Murphy
Administrative Aide
City of Wichita—Engineering

Doc. No. 031821

State of Kansas

Attorney General

Opinion 2005-8

Intoxicating Liquors and Beverages—Division of Alcoholic Beverage Control—Powers of Director.

Intoxicating Liquors and Beverages—Certain Prohibited Acts and Penalties—Consumption of Alcoholic Liquor Prohibited in Certain Places; Exemptions; Advertising and Display of Liquor; Restrictions.

State Boards, Commissions and Authorities—Department of Agriculture; Miscellaneous Provisions—Grape and Wine Industry Advisory Council; Duties, Authorities and Powers.

State Boards, Commissions and Authorities—Department of Commerce; Agricultural Products Development Division—Powers, Duties and Objectives Thereof. Representative William G. Mason, 75th District (Retired), El Dorado, March 15, 2005.

An exception to the statutory prohibition against public consumption of alcoholic liquor authorizes consumption of wine on the state fairgrounds if consumption is only for the purposes of judging competitions. The Director of the Alcoholic Beverage Control (ABC) Division has broad discretionary powers to govern the traffic in alcoholic liquors and to enforce the liquor laws in such a manner as will promote the public health and welfare, and his approval of a wine-judging competition at the state fair effectively would preclude ABC prosecution of those involved, as long as the competition is conducted in accordance with his guidance. Promotion of the grape and wine industry in Kansas is statutorily authorized. Cited herein: K.S.A. 41-102; 41-208; 41-210; 41-714; 41-715; K.S.A. 2004 Supp. 41-719; K.S.A. 41-3610; 74-551; K.S.A. 2004 Supp. 74-552; 74-553; and 74-50,156. LMG

Opinion 2005-9

Intoxicating Liquors and Beverages—Certain Prohibited Acts and Penalties—Location of Retail Store, Microbrewery, or Farm Winery; Restrictions. Senator Dennis M. Wilson, 37th District, Overland Park, March 29, 2005.

K.S.A. 41-710(c)(1) prohibits initial licensure of a retail liquor store when the licensed premises would be within 200 feet of a church, when measured in a straight line from the closest points between the church building and the building that would house the retail liquor store. Cited herein: K.S.A. 41-710. LMG

Opinion 2005-10

Crimes and Punishments—Kansas Criminal Code; Crimes Affecting Governmental Functions—Obstructing Legal Process or Official Duty; School District Officials; Interviews of Pupils on School Grounds.

Schools—General Provisions Relating to School Districts—Control of School Property; Pupils; Interviews by Law Enforcement Officers. Keith E. Schroeder, Reno County District Attorney, Hutchinson, March 29, 2005.

Unless an investigation involves child abuse or neglect, the identity of a pupil, or a pupil being taken into cus-

tody, a school official may lawfully refuse to permit a law enforcement officer to interview a pupil on school property in connection with a criminal investigation where the pupil may be a potential witness. Cited herein: K.S.A. 21-3808; 38-1624; 38-1523; 72-1033; 72-8202b; 72-53,106. MF

Opinion 2005-11

Public Health—Regulation of Pharmacists—Practice of Pharmacy; Legality of State of Kansas' Involvement in I-SaveRx Program that Directs American Consumers to Pharmacies in Canada and Other Countries. Representative Doug Mays, Speaker of the House, 54th District, Topeka, March 30, 2005.

The state of Kansas' promotion of the importation of pharmaceutical products from Canada or other foreign jurisdictions through the I-SaveRx program does not violate laws within the Kansas Pharmacy Act. Further, it does not appear that the state of Kansas' participation in that program violates any statute within the Kansas Food, Drug and Cosmetic Act, although the ultimate determination lies with the Secretary of Health and Environment who has jurisdiction over that Act.

In the absence of any case law that addresses a state's liability for the type of involvement such as the state of Kansas' in the I-SaveRx program, we are unable to say with any degree of certainty whether Kansas' involvement in that program would create any liability exposure for the state of Kansas or its employees.

Because a physician's participation in the I-SaveRx program is limited to a review and verification of a patient's medications and health information, we do not believe that these actions would result in civil liability against the physician. A physician who operates within the parameters of the I-SaveRx program would not be subject to discipline by the Board of Healing Arts.

Because the state of Kansas would not be considered a "supplier" for purposes of the Kansas Consumer Protection Act, the state's involvement in that program does not create express or implied warranty issues under the Kansas Consumer Protection Act.

The Federal Food, Drug and Cosmetic Act (FFDCA) prohibits the importation and reimportation of prescription drugs into the United States if such drugs are unapproved by the Food and Drug Administration (FDA), are labeled incorrectly, or are dispensed without a valid prescription. Additionally, the FFDCA prohibits the "causing" of such violations. Whether a court would find that the state of Kansas' involvement in the I-SaveRx program would amount to a responsible share in furtherance of acts prohibited under the Federal Food Drug and Cosmetic Act, thus causing violation of prohibited acts, is difficult, if not impossible, to predict. However, based on FDA statements and the limited case law, we believe that Kansas' involvement, as described herein, comes perilously close to causing violations of the FFDCA.

The FDA is the only agency charged with the responsibility of enforcing the FFDCA. Thus, the decision whether to seek an injunction to enjoin the state of Kansas from participating in the I-SaveRx program lies solely with the FDA. To date, we are aware of no enforcement action on the part of the FDA to enjoin or penalize states

(continued)

or other governmental entities from participating in the way the state of Kansas is participating; however, there are a number of letters warning governmental entities of the FDA's concerns in this regard. Cited herein: K.S.A. 2004 Supp. 50-624; K.S.A. 50-623; 50-627; 50-635; 50-639; 65-656; 65-657; 65-658; 65-659; K.S.A. 2004 Supp. 65-1626; K.S.A. 65-1627; 65-1631; 65-1634; 65-1636; 65-1643; 65-1657; 21 U.S.C. §§ 201.15; 301; 314.50; 331; 352; 353; 355; 362; 363; 381. CN

Phill Kline
Attorney General

Doc. No. 031812

**State of Kansas
Social and Rehabilitation Services**

Request for Proposals

The Department of Social and Rehabilitation Services, Health Care Policy-Addiction and Prevention Services, announces the release of a request for proposals to provide out-patient alcohol and drug treatment services to individuals who are deaf or hard of hearing and who have been identified with substance abuse and addiction problems in the Kansas City metro area. Service providers interested in receiving a request for proposal should contact Billie Fuller, SRS-Addiction and Prevention Services, 10th Floor North, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612, (785) 296-6807.

Gary J. Daniels
Acting Secretary of Social and
Rehabilitation Services

Doc. No. 031828

**State of Kansas
Social and Rehabilitation Services**

Request for Proposals

The Department of Social and Rehabilitation Services announces the release of a request for proposals by the Northeast Region of SRS, Children and Family Services, to provide services to children and families for the prevention of out-of-home placement. New and innovative methods and services are requested to either prevent initial placement out-of-home or to decrease the number of children currently in out-of-home placement. The RFP will be available April 19. Vendors interested in receiving a request for proposal should contact Marti Malcolm at (785) 296-4295, fax (785) 296-4676, or e-mail at MLM@srs.kansas.org. Please provide an e-mail address, as the RFP will be sent by e-mail. Complete proposals must be received not later than 5 p.m. May 16.

Gary J. Daniels
Acting Secretary of Social and
Rehabilitation Services

Doc. No. 031829

**State of Kansas
Social and Rehabilitation Services**

Notice of Meetings

The Kansas Department of Social and Rehabilitation Services is the lead agency to administer the Child Care and Development Fund (CCDF) Program. The CCDF funds the child care subsidy program; assistance to low-income employed parents for child care; early learning quality initiatives such as child care provider professional development, resource and referral; Kansas Early Head Start; and regulation and licensure of child care facilities. A new state plan describing the services to be provided is submitted every two years. Topics to be discussed include child care services, professional development, early learning guidelines, statewide system development, and expansion of quality and availability in Kansas.

Public meetings have been scheduled to receive comments on the proposed 2006-2007 biennial state plan. Dates, times and locations of the hearings are listed below. A copy of the proposed state plan is available either on the SRS Web site or by request to jem@srskansas.org. Comments on the state plan may be submitted at the public meetings, sent to the local SRS Service Center or e-mailed to earlylearning@srskansas.org.

The public meetings for the Child Care State Plan are scheduled as follows:

| Date | Time | Place |
|--|--------------------|--|
| April 28 (Child Care and Early Education Advisory meeting) | 1 to 3:30 p.m. | SRS Learning Center 2650 S.W. East Circle Drive South Topeka |
| April 29 (Presentation at the Child Care Provider's Coalition Conference) | 12:30 to 2:30 p.m. | Holiday Inn Hotel & Suites Overland Park Conference Info: Becky Stewart (913) 384-4502 |
| May 2 | 1 to 3:30 p.m. | Great Bend SRS Office 1305 Patton Road Large Conference Room Great Bend |
| May 3 | 3 to 5 p.m. | Wichita SRS Office 230 E. William, Room 3080 Wichita |
| May 3 | 7 to 9 p.m. | Emporia State University Vissar Hall Jones Foundation Conference Room Emporia |
| May 4 | 10 a.m. to noon | Pittsburg SRS Office 318 S. Broadway Pittsburg |
| May 20 (KACCRR Agency Council meeting) | 10 a.m. | Salina Meeting Info: Leadell Ediger (785) 823-3343 |

Gary J. Daniels
Acting Secretary of Social and
Rehabilitation Services

Doc. No. 031768

State of Kansas

University of Kansas

Notice to Bidders

Sealed bids for the items listed below will be received by Educational and Institutional Cooperative Service, Inc. until 3 p.m. E.D.T. on the date indicated and then will be publicly opened. Interested bidders may contact Jennie Martinez, Contract Specialist, E & I Cooperative, 450 Wireless Blvd., Hauppauge, NY 11788-8827, (631) 630-8336, for additional information:

Thursday, May 5, 2005

RFP #682265—Copy and Duplicating Services

RFP #682265 Attachment B—Technical Section

Barry Swanson
Director, Business Services
and Purchasing
University of Kansas

Doc. No. 031846

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) 296-2376:

- 04/25/2005 08307 Financial Services — FICP
- 04/25/2005 08300 Reflective Sheeting for Traffic Control
- 04/25/2005 08237 Clothing, Maintenance Personnel Uniforms
- 04/29/2005 08323 Standby Generator System
- 05/02/2005 08302 Telecommunication Services— Digital T-1 Service
- 05/03/2005 08311 AV Equipment, Multimedia Projectors
- 05/18/2005 08310 Automated Tape Library

The above referenced bid documents may 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 or to obtain the following bid documents, call (785) 296-8899:

- 05/12/2005 A-9862 Armory Renovation—K.A.N.G. Bldg.—Chanute
- 05/12/2005 A-9863 Armory Renovation—K.A.N.G. Bldg.—Fort Scott

The above-referenced bid documents may be downloaded at the following Web site (please monitor this Web site on a regular basis for any changes):

<http://da.state.ks.us/fp>

Chris Howe
Director of Purchases

Doc. No. 031834

State of Kansas

Secretary of State

Notice of Corporations Forfeited

In accordance with K.S.A. 17-7510, the articles of incorporation of the following corporations organized under the laws of Kansas and the authority of the following foreign corporations authorized to do business in Kansas were forfeited during the month of March 2005 for failure to timely file an annual report and pay the annual franchise tax as required by the Kansas general corporation code:

Domestic Corporations

- AgPartners, L.L.C., Hiawatha, KS.
- Agrowland 3, L.L.C., Garden City, KS.
- Allied Exterminators, Incorporated, Shawnee Mission, KS.
- Applied Resources, Inc., Kansas City, MO.
- Art.Marble.Furniture.Inc., Shawnee, KS.
- Baldwin Community Arts Council, Ltd., Baldwin City, KS.
- Bazin Excavating, Inc., Spring Hill, KS.
- Belmont Blvd. Church of the Nazarene, Salina, KS.
- Bina Dozer Service, Inc., Lincolnville, KS.
- Business World Association, Lawrence, KS.
- Buu - Quang Temple, Inc., Wichita, KS.
- C & R Western Construction, Inc., Norton, KS.
- C-G Investments, Inc., Wichita, KS.
- Catholic Care Campus, Inc., Kansas City, KS.
- Cheyenne Country, Inc., Ottawa, KS.
- Christian Relief Services Kansas Affordable Housing Corporation, Inc., Lorton, VA.
- Class-C Enterprises, Inc., Ulysses, KS.
- Coffeyville Public School Foundation, Coffeyville, KS.
- Concerts for Young People, Inc., Lawrence, KS.
- Conlan Enterprises, Inc., Kansas City, KS.
- Crooks Warehouses of Kansas City, Inc., Kansas City, KS.
- Dents Unlimited Inc., Garden City, KS.
- Design Concrete Systems, Inc., Shawnee Mission, KS.
- Even Temp of Wichita, Inc., Wichita, KS.
- Foundation for Class, Inc., Columbus, KS.
- Friends of Leavenworth High School, Inc., Leavenworth, KS.
- Friends Youthquake Association, Wichita, KS.
- Gambucci's, Inc., Overland Park, KS.
- Gateway Plaza Homes Tenants Association, Kansas City, KS.
- Goode Feed Co., Stilwell, KS.
- Goodson & Associates, Inc., Lenexa, KS.
- Goss Service Company, Inc., Overland Park, KS.
- Grand Voiture of Kansas, Lasociete des Quarante Homes et Huit Chevaux, Wichita, KS.
- Greater Faith Center for Christ, Inc., Manhattan, KS.
- Hayden High School Foundation, Topeka, KS.
- Heartland Pregnancy Care Center, Inc., Newton, KS.
- Holloways, Inc., Wichita, KS.
- Hyde Parent-Teacher Organization, Inc., Wichita, KS.
- J,J, & K, Inc., Lenexa, KS.
- Jim's Restaurant Operations, Inc., Ellinwood, KS.
- Joyland Amusement Company, Inc., Wichita, KS.
- Kanoma Cooperative Association, Coffeyville, KS.
- Kansas Chess Association, Overland Park, KS.
- Kansas City Presidents' Organization, Kansas City, MO.
- Kansas Credit Union Association, Wichita, KS.
- Kansas Leadership Forum, Inc., Manhattan, KS.
- Kansas Scottish Rite Foundation, Inc., Wichita, KS.
- Kansas State Triangle Corporation, Merriam, KS.

(continued)

Lawrence Inter-Denominational Nutrition Kitchen, Inc., Lawrence, KS.
 Lawrence Rotary Foundation, Lawrence, KS.
 Mastercraft Pattern, Inc., Frontenac, KS.
 McPherson County Connections, Inc., McPherson, KS.
 MCW Investments, L.C., Salina, KS.
 Michael A. and Elizabeth A. Reisman Foundation, Scottsdale, AZ.
 Mid-States Healthy Homes Foundation, Kansas City, KS.
 Nelson Investment Company, Inc., Kansas City, KS.
 Northfield School of the Liberal Arts, Inc., Wichita, KS.
 Nova IQ, Inc., Overland Park, KS.
 OM2P, Inc., Manhattan, KS.
 ORS, Inc., Mission, KS.
 Parents and Children Together (PACT) Inc., Pratt, KS.
 Parsons Ranch & Farms, Inc., Burlingame, KS.
 Pearce-Keller American Leigon Auxiliary Unit #17, Inc., Manhattan, KS.
 Pharmat, Incorporated, Lawrence, KS.
 Pittsburg Lions Club, Inc., Pittsburg, KS.
 Pittsburg State University Foundation, Inc., Pittsburg, KS.
 RJM Sales, Inc., St. Marys, KS.
 Rohr Enterprises, Inc., Wichita, KS.
 Salina Heights Christian Church, Salina, KS.
 Scottie Booster Club, Highland, KS.
 SMNW Drill Team Boosters, Inc., Lenexa, KS.
 Sports Equipment Enterprises, Inc., Manhattan, KS.
 Suburban Water, Inc., Basehor, KS.
 The Big Red Apple Cooperative Preschool, Inc., Perry, KS.
 The Central Kansas Association of Insurance and Financial Advisors, Hoisington, KS.
 The Emmanuel Baptist Church of Overland Park, Kansas, Overland Park, KS.
 The K.U. Housing Corporation of Delta Gamma Alumnae, Inc., Columbus, OH.
 The Kansas Surplus Exchange, Inc., Topeka, KS.
 The Lions Club of Osage City, Kansas, Osage City, KS.
 The Paola Chamber of Commerce, Paola, KS.
 The Phi Delta Chi House Association, Emporia, KS.
 The Sylvia Cooperative Association, Sylvia, KS.
 The Unitarian Fellowship of Lawrence, Inc., Lawrence, KS.
 Third Street Outreach Ministries, Inc., Kansas City, KS.
 Thomas Hopkins Unit #4 American Legion Auxiliary, Wichita, KS.
 Topeka PC Users Club, Topeka, KS.
 Town East, Inc., Valley Falls, KS.
 Vornado Air Circulation Systems, Inc., Andover, KS.
 Wen-Poria, Inc., Emporia, KS.
 Wheat State Baldwin, Inc., Baldwin City, KS.
 Whitefield Academy Association, Overland Park, KS.
 Wichita Blue Lightning Soccer Club, Wichita, KS.
 Wichita Family Services Institute, Wichita, KS.
 Wichita Rotary Charitable Fund, Inc., Wichita, KS.
 Wichita Youth for Christ, Inc., Wichita, KS.
 Worldwide Aircraft Services, Inc., Springfield, MO.

Foreign Corporations

Accenture LLP, Chicago, IL.
 Autozone Parts, Inc., Memphis, TN.
 Baptist Women in Ministry, Inc., Kansas City, KS.
 Bisco Industries, Inc., Anaheim, CA.
 Broward Adjustment Services, Inc., Fort Lauderdale, FL.
 Cypress Point Insurance Services, Inc., San Diego, CA.
 Dendy Mechanical Contractors, Inc., Albertville, AL.
 FCStone Trading, LLC, West Des Moines, IA.
 Intellex Corporation, Wayne, PA.
 Interstate Realty Management Company, Marlton, NJ.
 Island Ink-Jet Systems (US) Inc., Auburn, WA.

Jennifer Convertibles, Inc., Woodbury, NY.
 Junior Chamber Family AIDS Network, Burlington, MA.
 Luby's Management, Inc., San Antonio, TX.
 Luby's Restaurants Limited Partnership, San Antonio, TX.
 National Psoriasis Foundation, Portland, OR.
 Sodexho Administration Corp., Gaithersburg, MO.
 Sodexho Education Services, Inc., Buffalo, NY.
 Success for All Foundation, Inc., Baltimore, MD.
 Teldata Consultants, Inc., Overland Park, KS.
 Texas, New Mexico & Oklahoma Coaches, Inc., Lubbock, TX.
 The Benedictine College Foundation, Atchison, KS.
 The Colonial Presbyterian Church, Kansas City, MO.
 The Greater Kansas City Psychoanalytic Society, Inc., Leawood, KS.
 The Kansas City Chorale, Leawood, KS.
 The Rutherford Institute, Charlottesville, VA.
 Tippin's Restaurants, Inc., Overland Park, KS.
 U S P & C Corporation, Shawnee Mission, KS.
 Unifirst Holdings, L.P., Wilmington, MA.
 United Migrant Opportunity Services/UMOS Inc., Milwaukee, WI.
 W. Scott and Company, St. Joseph, MO.

Ron Thornburgh
 Secretary of State

Doc. No. 031820

State of Kansas

Secretary of State

Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted 9 a.m. Wednesday, June 15, in the first floor conference room of the Secretary of State's Office, Room 120, Memorial Hall, 120 S.W. 10th Ave., Topeka, to consider proposed amended Kansas Administrative Regulation 7-41-1 and proposed new Kansas Administrative Regulations 7-41-14 through 7-41-33, regarding digital signatures. These regulations are proposed for adoption on a permanent basis.

K.A.R. 7-41-1 adds definitions to Article 41. **K.A.R. 7-41-14 through 7-41-33** set the standards for use of digital signatures and govern the use of digital signatures by state agencies. These regulations will have minimal economic impact.

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. Comments may be submitted prior to the hearing to Melissa Wangemann, Legal Counsel, Office of the Secretary of State, 1st Floor, Memorial Hall, 120 S.W. 10th Ave., Topeka, 66612-1594, or via e-mail to MelissaW@kssos.org.

All interested parties will be given a reasonable opportunity at the hearing to present their views. It may be necessary to request each participant to limit any oral presentation to five minutes. Any person requiring visual or communication aid or assistance, building access assistance or other similar assistance should contact the Secretary of State's Office so appropriate arrangements may be made.

Copies of the regulations and the economic impact statement may be obtained at the address above or by calling (785) 296-2114.

Ron Thornburgh
 Secretary of State

Doc. No. 031811

State of Kansas

Kansas, Inc.

Request for Proposals

Kansas, Inc. is soliciting responses to a request for proposals to engage a contractor to develop software capability to electronically capture state and county data specific to a set number of economic variables and insert the data into Kansas, Inc.'s Indicators of the Kansas Economy (IKE) project.

The RFP may be obtained through written request to the president, Kansas, Inc., 632 S.W. Van Buren, Topeka, 66603, or by calling (785) 296-1460. The RFP and all accompanying documents also are available at <http://www.kansasinc.org>. The deadline for submission of proposals is 5 p.m. May 20.

Stan Ahlerich
Interim President

Doc. No. 031838

State of Kansas

Department of Health and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Anadarko Gathering Company - Moscow Station has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to add an engine with an air-fuel ratio controller unit-APC-4431C. Emissions of oxides of nitrogen and carbon monoxide were evaluated during the permit review process.

Anadarko Gathering Company - Moscow Station, P.O. Box 1330, Houston, TX 77251-1330, owns and operates the stationary source located at Section 4, Township 31 South, Range 37 West, Stevens County, Kansas, at which the engine with an air-fuel controller is to be added.

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 Michael J. Parhomek, (785) 296-1580, 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 Michael J. Parhomek, 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 May 16.

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 May 16 in order for the Secretary of Health and Environment to consider the request.

Roderick L. Bremby
Secretary of Health and Environment

Doc. No. 031826

State of Kansas

Department of Revenue

Notice of Available Publications

Listed below are all the Private Letter Rulings, Opinion Letters, Final Written Determinations, Revenue Rulings, Memorandums, Property Valuation Division Directives, Q&A's, Information Guides and Notices published by the Department of Revenue for March 2005. Copies may be obtained by accessing the Policy Information Library located on the Internet at www.ksrevenue.org or by calling the Office of Policy and Research at (785) 296-3081.

Private Letter Rulings

- P-2005-003 Organizations and/or entities exempt from sales tax.
- P-2005-004 Manufacturer's exemption.

Opinion Letters

No new publications

Final Written Determinations

No new publications

Revenue Rulings

No new publications

Notices

- Notice Environmental Assurance Fee of \$.01 per gallon effective May 1, 2005.
- Notice 05-01 Schedule A Deductions of Sales Tax.

Memorandums

No new publications

Property Valuation Division Directives

No new publications

Q&A's

- Q&A Kansas Photographers and photofinishers.
- Retailers' Sales Tax
- Q&A Kansas Prescription is required for purchase of prosthetic device or mobility enhancing equipment to be exempt, but prescription need not be written.
- Retailers' Sales Tax

Information Guides

No new publications

Joan Wagnon
Secretary of Revenue

Doc. No. 031808

State of Kansas

Department of Health
and Environment

Request for Comments

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

Griffin Wheel Company operates a steel foundry for the manufacture of railroad wheels that is located at 7111 Griffin Road, Kansas City, Kansas.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Topeka; and at the Department of Air Quality, 619 Ann Ave., Kansas City, Kansas. To obtain or review the proposed permit and supporting documentation, contact Brie Wilkins, (785) 296-6422, at the KDHE central office, or Moses Coss, (913) 573-6700, at the Department of Air Quality. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Moses Coss, Department of Air Quality, 619 Ann Ave., Kansas City, KS 66101. In order to be considered in formulating a final permit decision, written comments must be received before the close of business May 16.

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, KDHE, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366, not later than the close of business May 16 in order for the Secretary of Health and Environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA's 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity

during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Jon Knodel, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 031827

State of Kansas

Department of Health
and EnvironmentNotice Concerning Kansas
Water Pollution Control Permits

In accordance with Kansas Administrative Regulations 28-16-57 through 63, 28-18-1 through 15, 28-18a-1 through 32, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared and/or permit applications have been received for discharges to the waters of the United States and the state of Kansas for the class of discharges described below.

The determinations for permit content are based on staff review, applying the appropriate standards, regulations and effluent limitations of the state of Kansas and the EPA, and when issued will result in a State Water Pollution Control Permit and National Pollutant Discharge Elimination System Authorization subject to certain conditions.

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

Public Notice No. KS-AG-05-071/082
Pending Permits for Confined Feeding Facilities

| Name and Address of Applicant | Legal Description | Receiving Water |
|--|---|-------------------------------|
| C. B. Showalter Hogs LLC 8915 Broadacres Road Hutchinson, KS 67501 | NE/4 of Section 21, T24S, R06W, Reno County | Lower Arkansas River Basin |
| Kansas Permit No. A-ARRN-S016 | | |
| This is a renewal and modified permit for an existing facility. The modification consists of a reduction in swine greater than 55 pounds from 999 head (339.6 animal units) to 699 head (279.6 animal units), and includes 1,200 head (120 animal units) of swine less than 55 pounds not counted on the previous permit, for a total of 1,899 head (399.6 animal units) of swine. There is no change in animal units. | | |
| Name and Address of Applicant | Legal Description | Receiving Water |
| C. B. Showalter Hogs LLC, Finisher #1 2016 W. Red Rock Road Hutchinson, KS 67501 | SE/4 of Section 22, T24S, R06W, Reno County | Lower Arkansas River Basin |
| Kansas Permit No. A-ARRN-S017 | | |
| This is a renewal permit for an existing facility for 2,499 head (999.6 animal units) of swine weighing greater than 55 pounds. | | |

| Name and Address of Applicant | Legal Description | Receiving Water |
|---|--|-----------------------|
| McKee Dairy Charles and Anita McKee 31646 N Road Wetmore, KS 66550 | NW/4 of Section 18, T05S, R15E, Jackson County | Kansas River Basin |

Kansas Permit No. A-KSJA-M016

This is a new permit for expansion of the waste management system at an existing facility for 55 head (77 animal units) of milking dairy cows, 35 head (35 animal units) of dry cows and replacement heifers and 25 head (12.5 animal units) of dairy calves, for a total of 124.5 animal units. The proposed waste management system expansion consists of constructing two earthen wastewater retention structures, a concrete solids storage structure, a sedimentation basin and a grass buffer area.

| Name and Address of Applicant | Legal Description | Receiving Water |
|---|---|-------------------------------------|
| Nichols Dairy Carl Nichols 24928 N.W. Colorado Road Westphalia, KS 66093 | NW/4 of Section 05, T21S, R18E, Anderson County | Marais des Cygnes River Basin |

Kansas Permit No. A-MCAN-M014

This is a renewal permit for an existing facility for 200 head (280 animal units) of dairy cattle and 38 head (19 animal units) of dairy calves weighing 700 pounds or less. The dairy calf portion of the facility was not described in the previous permit and has been included in the renewal permit. There is no actual increase in the overall animal capacity of the facility.

| Name and Address of Applicant | Legal Description | Receiving Water |
|---|--|--------------------------|
| Dale Springer - Sloan Unit 5816 County Road 3300 Independence, KS 67301 | NE/4 of Section 15, T31S, R15E, Montgomery County | Verdigris River Basin |

Kansas Permit No. A-VEMG-S042

This is a renewal permit with a name change for an existing facility for 2,400 head (960 animal units) of swine weighing greater than 55 pounds.

| Name and Address of Applicant | Legal Description | Receiving Water |
|--|--|-------------------------|
| Alexander Feeders Ron Alexander P.O. Box 572 Plains, KS 67869 | NW/4 of Section 30, T32S, R30W, Meade County | Cimarron River Basin |

Kansas Permit No. A-CIME-S013

This is a renewal permit for an existing facility for 1,672 head (668 animal units) of swine weighing greater than 55 pounds.

| Name and Address of Applicant | Legal Description | Receiving Water |
|---|---|-----------------------|
| Carrol Soper 6127 N.E. Belleview Road Scammon, KS 66773 | SW/4 of Section 19, T32S, R25E, Cherokee County | Neosho River Basin |

Kansas Permit No. A-NECK-F022

This is a renewal permit for an existing facility for a maximum of 33,000 head (594 animal units) of turkeys.

| Name and Address of Applicant | Legal Description | Receiving Water |
|--|---|-------------------------------|
| Roenbaugh Cattle Pens Jacob W. Roenbaugh Route 1, Box 72 Haviland, KS 67059 | N/2 of Section 04, T26S, R16W, Edwards County | Lower Arkansas River Basin |

Kansas Permit No. A-ARED-C006 Federal Permit No. KS0097543

This is a new, first-time permit for an existing facility for 1,500 head (1,500 animal units) of beef cattle greater than 700 pounds.

| Name and Address of Applicant | Legal Description | Receiving Water |
|--|---|-----------------------|
| Taylor Branch Farms Keith Atkinson 9571 N.E. Liberty Road Pittsburg, KS 66762 | SE/4 of Section 34, T31S, R25E, Cherokee County | Neosho River Basin |

Kansas Permit No. A-NECK-P006 Federal Permit No. KS0098124

This is a renewal permit for an existing facility for 66,000 head (1,188 animal units) of turkeys.

| Name and Address of Applicant | Legal Description | Receiving Water |
|--|--|-------------------------------|
| Dillwyn Acres Roger F. Murphy 355 N.W. 30 Ave. Great Bend, KS 67530 | W/2 of Section 09, T24S, R14W, Stafford County | Lower Arkansas River Basin |

Kansas Permit No. A-ARSF-C003 Federal Permit No. KS0115681

This is a renewal permit for an existing facility for 4,000 head (4,000 animal units) of beef cattle weighing greater than 700 pounds.

| Name and Address of Applicant | Legal Description | Receiving Water |
|---|--|---------------------------|
| Wiechman Feedyard LP Jay Wiechman 4030 N. Hwy. 83 Scott City, KS 67871 | SW/4 of Section 30, T17S, R32W, Scott County | Smoky Hill River Basin |

Kansas Permit No. A-SHSC-C008 Federal Permit No. KS0115804

This is a renewal permit for an existing facility for 2,000 head (1,000 animal units) of beef cattle less than 700 pounds and 3,000 head (3,000 animal units) of beef cattle greater than 700 pounds, for a total of 5,000 head (4,000 animal units) of beef cattle. The total head count has increased by 100 from the previous permit; however, the animal units have decreased by 900.

| Name and Address of Applicant | Legal Description | Receiving Water |
|---|---|-------------------------------|
| Schriner Farms Randy Schriner 1312 N.W. 60 Road Albert, KS 67511 | NE/4 of Section 35, T18S, R16W, Rush County | Upper Arkansas River Basin |

Kansas Permit No. A-UARH-C001 Federal Permit No. KS0037711

This is a renewal permit for an existing facility for 2,000 head (2,000 animal units) of cattle weighing greater than 700 pounds each.

Public Notice No. KS-ND-05-005/010

| Name and Address of Applicant | Legal Location | Type of Discharge |
|---|-----------------------------|-------------------|
| Tyson Fresh Meats, Inc. 800 Stevens Port Drive, Suite 709 Dakota Dunes, SD 57049 | See Below* Finney County | Nonoverflowing |

Kansas Permit No. I-UA18-NP03

Facility Location: West Highway 50, Holcomb, KS 67851

Legal Location: Brine Ponds: SW¼, S2, T24S, R34W

Wastewater Treatment

Ponds: NW¼, S22, T24S, R34W

Irrigation Storage Ponds: NW¼, S22, T24S, R34W

Facility Description: The proposed action is to reissue an existing permit for operation of an existing wastewater treatment facility. This facility is engaged in beef packinghouse and blue chrome hide tanning operations. The facility's process design capacity is 6,000 head/day, maximum. There are two distinct wastewater streams generated at the facility. Brine waste stream from hide processing and softener regeneration is directed to a double synthetically-lined cell (fka West cell) brine pond with an intermediate leak detection system. The brine pond effluent is directed to a Class I nonhazardous waste injection well. The injection well is regulated under Kansas Underground Injection Control Permit KS-01-055-002. The average flow of hide curing brine wastewater is about 40,000 gallons/day. The biological process wastewater stream from the packinghouse is directed

(continued)

to a wastewater treatment plant (WWTP) consisting of three DAF units for oil and grease removal, a double synthetically-lined four-cell anaerobic lagoon with an intermediate leak detection system, and two single synthetically-lined irrigation storage lagoons. An aerated lagoon in front of the irrigation storage lagoons is inactive. Wastewater from the storage lagoons is applied onto agricultural cropland through center pivot irrigation systems. The average wastewater flow from biological process is 3.4 million gallons/day. Stormwater runoff from the plant site drains to a borrow site near the brine pond. Process sludges, solids and paunch manure are land applied to agricultural cropland. Hide chrome-contaminated tanning sludges and solids are disposed in accordance with permits issued by the KDHE, Bureau of Waste Management. Included in this permit is a schedule of compliance requiring the permittee to provide information on various operational and maintenance items at the facility. Discharge of wastewater from this treatment facility to surface waters of the state of Kansas is prohibited by this permit.

| Name and Address of Applicant | Legal Location | Type of Discharge |
|--|----------------|-------------------|
| Southern Star Central Gas Pipeline Co. 4700 Highway 56 Owensboro, KY 42301 | See Below* | Nonoverflowing |

Kansas Permit No. I-NE02-NP01
Legal Location: S22, T18S, R10E, Lyon County
Facility Address: 2143 County Road East, Emporia, KS 66801-7653
Facility Name: Americus Compressor Station

Kansas Permit No. I-VE09-NP02
Legal Location: NE¼, S27, T33S, R15E, Montgomery County
Facility Address: 3390 Country Road 3400, Independence, KS 67301
Facility Name: Graham Compressor Station

Kansas Permit No. I-MC31-NP04
Legal Location: NW¼, S32, T16S, R20E, Franklin County
Facility Address: 3243 Nebraska Road, Ottawa, KS 66067
Facility Name: Ottawa Compressor Station

Kansas Permit No. I-AR84-NP01
Legal Location: NW¼, S19, T25S, R11W, Stafford County
Facility Address: RFD 1, Stafford County, KS 67578
Facility Name: Stafford Compressor Station

Kansas Permit No. I-KS71-NP04
Legal Location: S34, T10S, R21E, Leavenworth County
Facility Address: 20031 - 207th St., Tonganoxie, KS 66086
Facility Name: Tonganoxie Compressor Station

Facility Description: These are permit renewals for natural gas compressor stations named above. Stormwater, facility washdown water, boiler blowdown water and engine coolant water (which may contain some glycol), collected in the compressor station basement sumps, is pumped to a 10,000-gallon aboveground steel tank on the station site. When the tank is full the wastewater is tested, and if it meets the permit requirements, it is irrigated onsite through an irrigation system of pipes or sprinkler heads. Treatment, if needed, is provided by treatment trailers that contain sand and carbon filters and an oil/water separator. If the wastewater cannot meet the land application limitations, it is hauled offsite. An annual report shall be submitted to KDHE that summarizes the amount of wastewater generated, amount of wastewater land applied, wastewater and soil analytical results, crops grown on the land application site, other nutrients applied to the land application site and any other pertinent information regarding the land application. The proposed permits include generic water-quality language to protect waters of the state. Discharge of wastewater from this treatment facility to surface waters of the state of Kansas is prohibited by these permits.

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 ap-

plications, 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 May 14 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-05-071/082, KS-ND-05-005/010) and name of applicant/application as listed when preparing comments.

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

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

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

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

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

Southwest District Office, 302 W. McArtor Road,
Dodge City, 67801-6098, (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. 031824

(Published in the Kansas Register April 14, 2005.)

**Summary Notice of Bond Sale
Unified School District No. 229
Johnson County, Kansas
(Blue Valley)**

\$56,000,000*

**General Obligation School Bonds
Series 2005-A**

\$47,390,000*

**General Obligation Refunding Bonds
Series 2005-B**

Bids

Subject to the notice of bond sale and preliminary official statement dated April 11, 2005, sealed and electronic bids will be received by (1) in the case of sealed bids, the district clerk of Unified School District No. 229, Johnson County, Kansas (the issuer), on behalf of the governing body at the school district's offices, 15020 Metcalf, P.O. Box 23901, Overland Park, KS 66283, and (2) in the case of electronic bids, through *PARITY* electronic bid submission system, until 11 a.m. Monday, April 25, 2005, for the purchase of \$56,000,000* principal amount of General Obligation School Bonds, Series 2005-A, and \$47,390,000* General Obligation Refunding Bonds, Series 2005-B (together, the bonds). No bid of less than 100 percent of the principal amount of the Series 2005-A Bonds and accrued interest will be considered. No bid of less than 99.25 percent of the principal amount of the Series 2005-B Bonds and accrued interest will be considered.

Bond Details

The bonds will be dated May 1, 2005, and will mature serially on October 1 in the years and in the amounts set forth below. The bonds will be initially issued as fully registered bonds, each in the denomination of \$5,000 or integral multiples thereof not exceeding the principal amount of bonds maturing on the same maturity date.

Interest on the Series 2005-A Bonds will be payable semiannually on April 1 and October 1, beginning April 1, 2006. The Series 2005-A Bonds will become due as follows:

| Series 2005-A Bonds | | | |
|----------------------------|----------------|-----------------|----------------|
| Maturity | Amount* | Maturity | Amount* |
| 10/01/06 | \$1,575,000 | 10/01/16 | \$2,390,000 |
| 10/01/07 | 4,195,000 | 10/01/17 | 2,510,000 |
| 10/01/08 | 3,125,000 | 10/01/18 | 2,635,000 |
| 10/01/09 | 1,950,000 | 10/01/19 | 2,770,000 |
| 10/01/10 | 2,775,000 | 10/01/20 | 2,905,000 |
| 10/01/11 | 3,675,000 | 10/01/21 | 3,050,000 |
| 10/01/12 | 2,040,000 | 10/01/22 | 3,205,000 |
| 10/01/13 | 2,115,000 | 10/01/23 | 3,365,000 |
| 10/01/14 | 2,195,000 | 10/01/24 | 3,535,000 |
| 10/01/15 | 2,280,000 | 10/01/25 | 3,710,000 |

Interest on the Series 2005-B Bonds will be payable semiannually on April 1 and October 1, beginning October 1, 2005. The Series 2005-B Bonds will become due as follows:

| Series 2005-B Bonds | | | |
|----------------------------|----------------|-----------------|----------------|
| Maturity | Amount* | Maturity | Amount* |
| 10/01/05 | \$ 105,000 | 10/01/13 | \$3,915,000 |

| | | | |
|----------|-----------|----------|-----------|
| 10/01/06 | 225,000 | 10/01/14 | 4,045,000 |
| 10/01/07 | 230,000 | 10/01/15 | 4,185,000 |
| 10/01/08 | 1,110,000 | 10/01/16 | 4,385,000 |
| 10/01/09 | 1,145,000 | 10/01/17 | 4,620,000 |
| 10/01/10 | 3,575,000 | 10/01/18 | 4,865,000 |
| 10/01/11 | 3,700,000 | 10/01/19 | 3,645,000 |
| 10/01/12 | 3,805,000 | 10/01/20 | 3,835,000 |

Redemption

The bonds will be subject to redemption as provided in the notice of bond sale.

Paying Agent and Bond Registrar

The Kansas State Treasurer, Topeka, Kansas.

Bidder's Option Municipal Bond Insurance

The school district has applied to several insurers for bidder's option municipal bond insurance on each series of bonds. The premium for any such bond insurance, if elected by the successful bidder, will be paid by the successful bidder. Further information is provided in the notice of bond sale.

Good Faith Deposit

Each bid for a series of bonds must be accompanied by a cashier's or certified check or a financial surety bond in the amount of 2 percent of the principal amount of such series of 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 May 12, 2005, or on such date as may be agreed upon by the school district and each successful bidder.

Assessed Valuation and Bonded Indebtedness

The total assessed valuation of the taxable tangible property within the school district for the year 2004 (except for motor vehicle valuations, which are as of January 20, 2005) is \$2,100,261,624. The total general obligation indebtedness of the school district as of the expected date of delivery of the bonds, including the bonds in the amounts shown above and excluding the refunded bonds, is \$295,330,000.

Approval of Bonds

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

Information

Additional copies of this notice of bond sale, the official bid form or further information may be obtained from George K. Baum & Company, 4801 Main St., Suite 500, Kansas City, MO 64112, (816) 474-1100, the school district's financial advisor.

Dated April 11, 2005.

Unified School District No. 229
Johnson County, Kansas
By Diane Mitchell, District Clerk

* Subject to change as provided in the notice of bond sale.

Doc. No. 031822

(Published in the Kansas Register April 14, 2005.)

Summary Notice of Bond Sale**City of Andover, Kansas****\$1,168,720****General Obligation Internal Improvement Bonds****Series A, 2005****(General obligation bonds payable from
unlimited ad valorem taxes)****Details of the Sale**

Subject to the terms and conditions of the complete official notice of bond sale dated April 12, 2005, of the city of Andover, Kansas, in connection with the city's General Obligation Internal Improvement Bonds, Series A, 2005, hereinafter described, written bids shall be received at the office of the city administrator at City Hall, 909 N. Andover Road, Andover, Kansas, or by telefacsimile at (316) 733-4634, at or prior to 4 p.m. Tuesday, April 26, 2005, for the purchase of the bonds. All bids shall be publicly opened, read aloud and tabulated by city staff on said date and at said time, and shall thereafter be considered and acted upon by the governing body of the city at its regular meeting at 7 p.m. on said date.

No oral or auction bids for the bonds shall be considered, and no bids for less than the entire amount of the bonds shall be considered.

Bids shall be accepted only on the official bid form that has been prepared for the public bidding on these bonds, which may be obtained from the city or the city's financial advisor. Bids may be submitted by mail or delivered in person at the address stated above, or may be submitted by telefacsimile at (316) 733-4634, and must be received at the place and not later than the date and time hereinbefore specified. Each bid shall be accompanied by a good faith deposit in the form of a certified or cashier's check drawn on a bank located within the United States and made payable to the order of the city, or in the form of a financial surety bond payable to the order of the city and meeting requirements therefor as set forth in the official notice of bond sale, and shall be in an amount equal to 2 percent of the principal amount of the bonds.

Details of the Bonds

The bonds will be in an aggregate principal amount of \$1,168,720. The bonds shall be issued as fully registered bonds in the denomination of \$5,000, except one bond in the first principal maturity in the amount of \$3,720, or any integral multiple thereof not exceeding the principal amount of bonds maturing on the respective principal payment dates. The bonds shall bear a dated date of May 1, 2005. The bonds shall bear interest, payable as hereinafter set forth, at the rates specified by the successful bidder for the bonds. Certain of the bonds are subject to redemption prior to their respective maturities as set forth in the official notice of bond sale.

Interest on the bonds shall be payable semiannually on May 1 and November 1 in each year, commencing May 1, 2006, and the bonds shall mature serially on November 1 in each of the years and principal amounts as follows:

| Principal Amount | Year of Maturity |
|-------------------------|-------------------------|
| \$ 33,720 | 2006 |
| 60,000 | 2007 |
| 65,000 | 2008 |
| 65,000 | 2009 |
| 70,000 | 2010 |
| 70,000 | 2011 |
| 75,000 | 2012 |
| 80,000 | 2013 |
| 80,000 | 2014 |
| 85,000 | 2015 |
| 90,000 | 2016 |
| 95,000 | 2017 |
| 95,000 | 2018 |
| 100,000 | 2019 |
| 105,000 | 2020 |

Redemption of Bonds

Certain of the bonds are subject to optional redemption prior to their maturities as set forth in the official notice of bond sale. Additionally, a bidder may elect to have all or a portion of the bonds shown in the above maturity schedule issued as one or more term bonds, which would be subject to mandatory redemption requirements. (Reference is made to the official notice of bond sale for complete details regarding redemption of the bonds.)

Payment of Principal and Interest

The Kansas State Treasurer, Topeka, Kansas, has been designated as paying agent and bond registrar for the bonds (hereinafter called the paying agent), and the principal of the bonds shall be payable upon surrender at the paying agent's principal offices in the city of Topeka, Kansas. Interest shall be paid by the mailing of a check or draft of the paying agent to the registered owners of the bonds.

Book-entry Bonds

The bonds will be registered under a book-entry-only system administered through the Depository Trust Company, New York, New York (DTC).

Security for the Bonds

The bonds and the interest thereon shall constitute general obligations of the city, and the full faith, credit and resources of the city shall be pledged to the payment thereof. The city is obligated to levy ad valorem taxes without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the city for the purpose of paying the bonds and the interest thereon. (Reference is made to the official notice of bond sale and the preliminary official statement for a further discussion of security for the bonds.)

Delivery of the Bonds

The bonds, duly printed, executed and registered, shall be furnished and delivered at the expense of the city to the successful bidder, or at its direction, on or before Thursday, May 12, 2005, to DTC for the account of the successful bidder or at such bank or trust company or other qualified depository in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder. Delivery elsewhere shall be made at the expense of the successful bidder.

Legal Opinion

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

Financial Matters

The city's equalized assessed tangible valuation for computation of bonded debt limitations is \$77,817,605. The total outstanding general obligation bonded indebtedness of the city, at May 1, 2005, will be \$27,872,947 (35.82%). This amount includes the within described bonds. The city's outstanding general obligation bonded indebtedness subject to bonded indebtedness limitations at May 1, 2005, will be \$9,085,464.21 (11.67%), including the bonds.

Official Statement

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

Continuing Disclosure

The city has adopted an ordinance establishing a master undertaking to provide ongoing disclosure concerning the city in connection with its general obligation bonds for the benefit of owners of such bonds and notes, including the bonds described herein, as required under Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12. The ordinance is included as an appendix to the preliminary official statement.

Additional Information

For additional information regarding the city, the bonds and the sale, interested parties are invited to request copies of the complete official notice of bond sale and official bid form and the city's preliminary official statement for the bonds, all of which may be obtained from the undersigned or from the city's financial advisor, Jerry D. Rayl, Gold Capital Management, Inc., 245 N. Waco, Suite 525, Wichita, KS 67202, (316) 265-9411.

Jeffrey K. Bridges, Jr.
 City Clerk/Administrator
 City Hall
 909 N. Andover Road
 P.O. Box 295
 Andover, KS 67007
 (316) 733-1303
 Fax (316) 733-4634

(Published in the Kansas Register April 14, 2005.)

Summary Notice of Bond Sale
City of Bonner Springs, Kansas
\$3,500,000*
General Obligation Bonds, Series 2005-A
(General obligation bonds payable from
unlimited ad valorem taxes)

Bids

Subject to the notice of bond sale dated March 28, 2005, bids will be received by the city clerk of the city of Bonner Springs, Kansas, on behalf of the governing body at City Hall, 205 E. 2nd St., Bonner Springs, KS 66012, or, in the case of electronic proposals, via *PARITY* electronic bid submission system, until 2 p.m. April 25, 2005, for the purchase of \$3,500,000* principal amount of General Obligation Bonds, Series 2005-A. No bid of less than the entire par value of the bonds, plus accrued interest to the date of delivery, will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated May 1, 2005, and will become due on September 1 in the years as follows:

| Year | Principal Amount* |
|------|-------------------|
| 2006 | \$225,000 |
| 2007 | 305,000 |
| 2008 | 315,000 |
| 2009 | 330,000 |
| 2010 | 345,000 |
| 2011 | 360,000 |
| 2012 | 380,000 |
| 2013 | 395,000 |
| 2014 | 415,000 |
| 2015 | 430,000 |

The bonds will bear interest from that date at rates to be determined when the bonds are sold as provided, which interest will be payable semiannually on March 1 and September 1 in each year, beginning March 1, 2006. A bidder may elect to have all or a portion of the bonds scheduled to mature in consecutive years issued as term bonds subject to the requirements set forth in the notice of sale.

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States or a financial surety bond in a form that complies with the requirements set forth in the notice of sale in the amount of \$70,000 (2 percent of the principal amount of the bonds).

Delivery

The city will pay for preparation of the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about May 11, 2005, at the offices of the Depository Trust Company, New York, New York.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 2004 is \$64,364,496. The total applicable general obligation indebtedness of the city as of the date of the bonds, including the bonds being sold, is \$6,144,176.

Approval of Bonds

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

Additional Information

Additional information regarding the bonds may be obtained from the city clerk, (913) 422-1020; from the city's financial advisor, George K. Baum & Company, 4801 Main St., Suite 500, Kansas City, MO 64112, Attention: David Arteberry, (816) 474-1100; or from bond counsel, Kutak Rock LLP, 444 W. 47th St., Suite 200, Valencia Place, Kansas City, MO 64112-1914, (816) 960-0090, Attention: Dorothea Riley.

Dated April 14, 2005.

City of Bonner Springs, Kansas
By Rita Hoag
City Clerk
City Hall
205 E. 2nd St.
Bonner Springs, KS 66012

* Preliminary, subject to change.

Doc. No. 031823

State of Kansas**Kansas Lottery****Temporary Administrative
Regulations****Article 2.—LOTTERY RETAILERS**

111-2-173. R&C Petroleum winner awareness "Starburst" promotion. (a) In addition to compensation specified in K.A.R. 111-2-4 and 111-2-6, the Kansas lottery shall also conduct a "Starburst" promotion to enhance winner awareness at all R&C Petroleum corporate locations.

(b) The winner awareness sales promotion will commence at 5:00 a.m. on Friday, April 1, 2005, and end at the end of the business day as defined at K.A.R. 111-6-1 on Saturday, April 30, 2005.

(c) Beginning April 1, 2005, and concluding April 30, 2005, the lottery will conduct a "Starburst" promotion at all the R&C Petroleum corporate stores located in Kansas. The stores must place a starburst decal on a visible wall or counter for every winning instant or online ticket that is redeemed at that retailer which wins \$10 or more. Each starburst placed should contain, where possible, the amount won, the ticket itself, and the name of the winner if written permission is obtained from the winner.

(d) For every 10 winning starbursts placed in a visible location at the retail establishment, the retailer will re-

ceive the lottery's choice of a promotional item, with a maximum of 10 items per store. For every 25 winning starbursts placed in a visible location at the retail establishment, that retailer will be entered into a drawing for a prize from the lottery. The grand prize is a \$300 credit on the retailer's lottery account. Second prize is a \$50 credit on the retailer's lottery account, and third prize is a \$25 credit on the retailer's lottery account. Each retail location is eligible to win only one of the three credit prizes.

(e) During the week preceding the start of the promotion, an information sheet will be provided for all participating retailers so that they may all start on the same day. Starbursts will be provided by the lottery. The drawings for the grand prize, second prize, and third prize will be conducted at the lottery's Great Bend regional office on May 6, 2005. Lottery security will approve drawing procedures to be used for the drawing. (Authorized by K.S.A. 74-8710; implementing K.S.A. 74-8710 and K.S.A. 74-8708; effective, T-111-3-29-05, March 18, 2005.)

111-2-174. Felts Oil winner awareness "Starburst" promotion. (a) In addition to compensation specified in K.A.R. 111-2-4 and 111-2-6, the Kansas lottery shall also conduct a "Starburst" promotion to enhance winner awareness at all Felts Oil corporate locations.

(b) The winner awareness sales promotion will commence at 5:00 a.m. on Friday, April 1, 2005, and end at the end of the business day as defined at K.A.R. 111-6-1 on Saturday, April 30, 2005.

(c) Beginning April 1, 2005, and concluding April 30, 2005, the lottery will conduct a "Starburst" promotion at all the Felts Oil Petroleum corporate stores located in Kansas. The stores must place a starburst decal on a visible wall or counter for every winning instant or online ticket that is redeemed at that retailer which wins \$10 or more. Each starburst placed should contain, where possible, the amount won, the ticket itself, and the name of the winner if written permission is obtained from the winner.

(d) For every 10 winning starbursts placed in a visible location at the retail establishment, the retailer will receive the lottery's choice of a promotional item, with a maximum of 10 items per store. For every 25 winning starbursts placed in a visible location at the retail establishment, that retailer will be entered into a drawing for a prize from the lottery. The grand prize is a \$300 credit on the retailer's lottery account. Second prize is a \$50 credit on the retailer's lottery account, and third prize is a \$25 credit on the retailer's lottery account. Each retail location is eligible to win only one of the three credit prizes.

(e) During the week preceding the start of the promotion, an information sheet will be provided for all participating retailers so that they may all start on the same day. Starbursts will be provided by the lottery. The drawings for the grand prize, second prize, and third prize will be conducted at the lottery's Great Bend regional office on May 6, 2005. Lottery security will approve drawing procedures to be used for the drawing. (Authorized by K.S.A. 74-8710; implementing K.S.A. 74-8710 and K.S.A. 74-8708; effective, T-111-3-29-05, March 18, 2005.)

Article 4.—INSTANT GAMES AND DRAWINGS

111-4-2242. “Cash Blowout” instant ticket lottery game number 465. (a) The Kansas lottery shall conduct an instant winner lottery game entitled “Cash Blowout” commencing on or after April 5, 2005. The rules for this game are contained in K.A.R. 111-3-1 *et seq.* and 111-4-2242.

(b) The “play symbols” and “play symbol captions” for this game are as follows:

| Play Symbols | Play Symbol Captions |
|------------------------------|----------------------|
| \$2.00 | TWO\$ |
| \$5.00 | FIVE\$ |
| 10.00 | TEN\$ |
| 15.00 | FIFTEEN |
| 20.00 | TWENTY |
| 30.00 | THIRTY |
| 50.00 | FIFTY |
| 75.00 | SVTYFIV |
| \$100\$ | ONE-HUN |
| \$250\$ | TWOFIFTY |
| \$500\$ | FIV-HUN |
| \$1000 | ONETHOU |
| \$5000 | FIV-THOU |
| \$25000 | 25-THOU |
| 01 | ONE |
| 02 | TWO |
| 03 | THR |
| 04 | FOR |
| 05 | FIV |
| 06 | SIX |
| 07 | SEV |
| 08 | EGT |
| 09 | NIN |
| 10 | TEN |
| 11 | ELVN |
| 12 | TWLV |
| 13 | THRTN |
| 14 | FOURTN |
| 15 | FIFTN |
| 16 | SIXTN |
| 17 | SEVTN |
| 18 | EIGHTN |
| 19 | NINTN |
| 20 | TWNTY |
| 21 | TWYONE |
| 22 | TWYTWO |
| 23 | TWYTHR |
| 24 | TWYFR |
| 25 | TWYFIV |
| Symbol of a stack of cash | CASH |
| Symbol of a gold bar | BAR |
| Symbol of a piggy bank | PGYBNK |
| Symbol of a treasure | TRESRE |
| Symbol of a gold nugget | NUGGET |
| Symbol of a vault | VAULT |
| Symbol of a bankroll | BNKRLL |
| Symbol of a wallet | WALLET |
| Symbol of a pot of gold | PTGLD |
| Symbol of a four-leaf clover | 4LEAF |
| Symbol of the sun | SUN |

| | |
|-------------------------|--------|
| Symbol of a horseshoe | HRSHOE |
| Symbol of a cherry | CHERRY |
| Symbol of the moon | MOON |
| Symbol of a rainbow | RANBOW |
| Symbol of a coin | COIN |
| Symbol of a club | CLUB |
| Symbol of a spade | SPADE |
| Symbol of a heart | HEART |
| Symbol of a casino chip | CHIP |
| Symbol of a diamond | DMND |
| Symbol of a crown | CROWN |
| Symbol of a gem | GEM |
| Symbol of a bell | BELL |
| Symbol of a lemon | LEMON |

(c) For this game, a play symbol shall appear in each of 39 play spots within the play area or areas.

(d) The ticket numbers in each book of tickets in this game shall start with 000 and end with 059.

(e) The three letters comprising the retailer validation codes used in this game shall appear in three of eight varying locations among the play symbols. The retailer validation codes for this game and their meanings are as follows:

| | | |
|-----|---|----------|
| FIV | = | \$5.00 |
| TEN | = | \$10.00 |
| FTN | = | \$15.00 |
| TWY | = | \$20.00 |
| TRY | = | \$30.00 |
| FTY | = | \$50.00 |
| STF | = | \$75.00 |
| HUN | = | \$100.00 |
| FHN | = | \$500.00 |

(f) The price of instant tickets sold by a retailer for this game shall be \$5.00 each.

(g) “Cash Blowout” is a five-part game. Game 1 is a symbol reveal game. The player will remove the scratch-off material to reveal three play symbols. If a “BANK ROLL” symbol is revealed, the player wins the prize shown. If two “BANK ROLL” symbols are revealed, the player wins double the prize shown. If three “BANK ROLL” symbols are revealed, the player wins triple the prize shown. A player can win once in this play area.

Game 2 is a key number match game. The player will remove the scratch-off material to reveal 10 “YOUR NUMBERS,” 10 prize amounts, and two “BLOWOUT NUMBERS.” If a player matches any of the “YOUR NUMBERS” to either of the “BLOWOUT NUMBERS,” the player wins the prize amount shown below that number. A player can win up to 10 times in this play area.

Game 3 is a legend match game. A player will remove the scratch-off material to reveal five play symbols. If a player reveals from one to five “COIN” symbols, the player wins a prize according to the prize legend on the ticket front. Only the highest prize won in this game will be awarded. A player can win once in this play area.

Game 4 is a key prize match game. A player will remove the scratch-off material to reveal three “LUCKY PRIZE AMOUNTS” and eight “YOUR PRIZE AMOUNTS.” If a player matches any of the “LUCKY PRIZE AMOUNTS” to any “YOUR PRIZE AMOUNTS,”

(continued)

the player wins that prize. A player can win up to eight times in this play area.

Game 5 is a symbol match game. A player will remove the scratch off material to reveal six play symbols and one prize amount. If a player reveals two like symbols, the player wins the prize in the prize box. If a player reveals three like symbols, the player wins double the prize. A player can win once in this play area.

(h) Each ticket in this game may win up to 21 times.

(i) Approximately 600,000 tickets shall be ordered initially for this instant game. Additional ticket orders shall have the same prize structure, the same number of prizes per prize pool of 300,000 tickets, and the same odds as were contained in the initial ticket order.

(j) The expected number and value of instant prizes in this game shall be as follows:

| Prize | Expected Number of Prizes in Game | Expected Value in Game |
|---|-----------------------------------|------------------------|
| \$5 | 86,000 | \$ 430,000 |
| \$10 | 6,000 | 60,000 |
| \$10 (\$5D) | 6,600 | 66,000 |
| \$10 (\$5x2) | 6,400 | 64,000 |
| \$10 (\$2x5) | 10,800 | 108,000 |
| \$15 | 1,600 | 24,000 |
| \$15 (\$5x3) | 2,200 | 33,000 |
| \$15 (\$5T) | 2,200 | 33,000 |
| \$20 | 1,600 | 32,000 |
| \$20 (\$2x10) | 2,400 | 48,000 |
| \$20 (\$2x7)+(\$2T) | 2,600 | 52,000 |
| \$30 | 2,000 | 60,000 |
| \$30 (\$2x10)+(\$5D) | 2,200 | 66,000 |
| \$50 | 1,200 | 60,000 |
| \$50 (\$5T)+(\$5D)+(\$5x5) | 1,600 | 80,000 |
| \$50 (\$10x5) | 1,600 | 80,000 |
| \$75 | 600 | 45,000 |
| \$75 (\$2x10)+(\$5T)+(\$20x2) | 1,000 | 75,000 |
| \$75 (\$5T)+(\$10D)+(\$10x4) | 900 | 67,500 |
| \$100 | 600 | 60,000 |
| \$100 (\$5x20) | 800 | 80,000 |
| \$500 | 90 | 45,000 |
| \$500 (\$250D) | 90 | 45,000 |
| \$500 (\$100x5) | 90 | 45,000 |
| \$1,000 | 6 | 6,000 |
| \$1,000 (\$250D)+(\$10D)+\$100+(\$30x2)+(\$20x16) | 6 | 6,000 |
| \$5,000 | 6 | 30,000 |
| \$25,000 | 2 | 50,000 |
| \$25,000 (\$5,000x3)+(\$1,000x8)+(\$500T)+(\$100D)+(\$50x6) | 4 | 100,000 |
| TOTAL | 141,194 | \$1,950,500 |

D - Denotes doubler symbol
T - Denotes tripler symbol.

(k) The odds of winning a prize in this game are approximately one in 4.25. (Authorized by K.S.A. 74-8710; implementing K.S.A. 74-8710 and K.S.A. 74-8720; effective, T-111-3-29-05, March 18, 2005.)

111-4-2243. "Harley-Davidson" instant ticket lottery game number 452. (a) The Kansas lottery shall conduct an instant winner lottery game entitled "Harley-Davidson" commencing on or after April 5, 2005. The rules for this game are contained in K.A.R. 111-3-1 *et seq.* and 111-4-2243.

(b) The "play symbols" and "play symbol captions" for this game are as follows:

| Play Symbols | Play Symbol Captions |
|-------------------|----------------------|
| FREE | TICKET |
| \$1 ⁰⁰ | ONE\$ |
| \$2 ⁰⁰ | TWO\$ |
| \$3 ⁰⁰ | THR\$ |
| \$4 ⁰⁰ | FOUR\$ |
| \$5 ⁰⁰ | FIVE\$ |
| \$6 ⁰⁰ | SIX\$ |
| 10 ⁰⁰ | TEN\$ |
| 12 ⁰⁰ | TWELVE |
| 15 ⁰⁰ | FIFTEEN |
| 24 ⁰⁰ | TWEN-FOR |
| 25 ⁰⁰ | TWEN-FIV |
| 50 ⁰⁰ | FIFTY |
| \$100\$ | ONE-HUN |
| \$500\$ | FIVE-HUN |
| \$1000 | ONETHOU |
| \$10000 | 10-THOU |
| 01 | ONE |
| 02 | TWO |
| 03 | THR |
| 04 | FOR |
| 05 | FIV |
| 06 | SIX |
| 07 | SEV |
| 08 | EGT |
| 09 | NIN |
| 10 | TEN |
| 11 | ELVN |
| 12 | TWLV |
| 13 | THR TN |
| 14 | FOUR TN |
| 15 | FIFTN |
| 16 | SIX TN |
| 17 | SEV TN |
| 18 | EGHTN |
| 19 | NINTN |
| 20 | TWNTY |
| 21 | TWYONE |
| 22 | TWYWO |
| 23 | TWYTHR |
| 24 | TWYFR |
| 25 | TWYFIV |

Symbol of a money bag

(c) For this game, a play symbol shall appear in each of 15 play spots within the play area or areas.

(d) The ticket numbers in each book of tickets in this game shall start with 000 and end with 149.

(e) The three letters comprising the retailer validation codes used in this game shall appear in three of eight varying locations among the play symbols. The retailer validation codes for this game and their meanings are as follows:

| | | |
|-----|---|-------------|
| FRE | = | Free Ticket |
| TWO | = | \$2.00 |
| FOR | = | \$4.00 |
| SIX | = | \$6.00 |
| TWL | = | \$12.00 |
| TFO | = | \$24.00 |
| FTY | = | \$50.00 |

| | | |
|-----|---|----------|
| HUN | = | \$100.00 |
| FHN | = | \$500.00 |

(f) The price of instant tickets sold by a retailer for this game shall be \$2.00 each.

(g) "Harley-Davidson" is a key number match game. A player will remove the scratch-off material to reveal three "WINNING NUMBERS," and 12 "YOUR NUMBERS" with a prize amount below each of the "YOUR NUMBERS." If a player matches any of the "WINNING NUMBERS" to any of the "YOUR NUMBERS," the player wins the prize shown below that matched number. If a player reveals a "MONEY BAG" symbol, the player wins the corresponding prize automatically.

(h) Each ticket in this game may win up to 12 times.

(i) Approximately 600,000 tickets shall be ordered initially for this instant game. Additional ticket orders shall have the same prize structure, the same number of prizes per prize pool of 300,000 tickets, and the same odds as were contained in the initial ticket order.

(j) The expected number and value of instant prizes in this game shall be as follows:

| | Prize | Expected Number of Prizes in Game | Expected Value in Game |
|---|-------------|-----------------------------------|------------------------|
| Free Ticket | Free Ticket | 60,000 | \$0 |
| \$2 | \$2 | 18,000 | 36,000 |
| \$2 (Moneybag) | \$2 | 17,600 | 35,200 |
| \$4 | \$4 | 6,000 | 24,000 |
| \$4 (Moneybag) | \$4 | 6,000 | 24,000 |
| \$4 (\$2 x 2) | \$4 | 6,000 | 24,000 |
| \$4 (\$2 + \$2 Moneybag) | \$4 | 7,500 | 30,000 |
| \$6 | \$6 | 7,500 | 45,000 |
| \$6 (\$2 x 3) | \$6 | 4,000 | 24,000 |
| \$6 (\$3 + \$3 Moneybag) | \$6 | 4,000 | 24,000 |
| \$12 | \$12 | 2,000 | 24,000 |
| \$12 (Moneybag) | \$12 | 2,400 | 28,800 |
| \$12 (\$2 x 6) | \$12 | 2,760 | 33,120 |
| \$12 (\$1 x 12) | \$12 | 2,200 | 26,400 |
| \$24 | \$24 | 1,050 | 25,200 |
| \$24 (\$6 x 4) | \$24 | 1,100 | 26,400 |
| \$24 (\$2 x 12) | \$24 | 1,100 | 26,400 |
| \$50 | \$50 | 400 | 20,000 |
| \$50 (\$4 x 10) + (\$5 + \$5) | \$50 | 400 | 20,000 |
| \$50 (\$5 x 10) | \$50 | 350 | 17,500 |
| \$50 (\$10 x 4) + (\$10 Moneybag) | \$50 | 98 | 4,900 |
| \$50 (\$10 x 5) | \$50 | 90 | 4,500 |
| \$50 (\$10 x 2) + (\$25 x 1) + \$5 x 1) | \$50 | 90 | 4,500 |
| \$100 | \$100 | 40 | 4,000 |
| \$100 (\$15 x 3) + (\$50 x 1) + (\$5 x 1) | \$100 | 60 | 6,000 |
| \$500 | \$500 | 20 | 10,000 |
| \$1,000 | \$1,000 | 6 | 6,000 |
| \$10,000 | \$10,000 | 6 | 60,000 |
| SUBTOTAL | | 150,770 | \$613,920 |
| Harley Prize Package | \$27,757.50 | 2 | 55,515 |
| Prize Packages | \$580 | 112 | 64,960 |
| TOTAL | | <u>150,884</u> | <u>\$734,395</u> |

(k) The odds of winning a prize in this game are approximately one in 3.98. (Authorized by K.S.A. 74-8710; implementing K.S.A. 74-8710 and K.S.A. 74-8720; effective, T-111-3-29-05, March 18, 2005.)

Ed Van Petten
Executive Director

Doc. No. 031802

State of Kansas
State Corporation Commission
Permanent Administrative
Regulations

Article 4.—MOTOR CARRIERS OF PERSONS
AND PROPERTY

82-4-3. Exemption from the motor carrier safety regulations. The commission's safety regulations and the federal safety regulations adopted by reference in this article shall not apply to the following:

(a) The occasional transportation of personal property by private motor carriers that is not for compensation and is not in the furtherance of a commercial enterprise;

(b) the operation of fire trucks and rescue vehicles while involved in emergency and related operations;

(c) the operation of commercial motor vehicles designed or used to transport between nine and 15 passengers, including the driver, not for compensation, if the commercial motor vehicle does not otherwise meet the definition of a commercial motor vehicle, except that motor carriers operating these vehicles shall comply with 49 C.F.R. 390.15; 49 C.F.R. 390.19, and 49 C.F.R. 390.21(a), as adopted by K.A.R. 82-4-3f;

(d) the operation of commercial motor vehicles designed or used to transport between nine and 15 passengers, including the driver, for direct compensation, if the vehicle is not being operated beyond a radius of 75 air miles from the driver's normal work-reporting location and if the vehicle does not otherwise meet the definition of a commercial motor vehicle, except that motor carriers operating these vehicles shall comply with 49 C.F.R. 390.15, 49 C.F.R. 390.19, and 49 C.F.R. 390.21(a), as adopted by K.A.R. 82-4-3f. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective Jan. 1, 1971; modified, L. 1981, ch. 424, May 1, 1981; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987; amended April 30, 1990; amended Sept. 16, 1991; amended July 6, 1992; amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 30, 1995; amended Jan. 4, 1999; amended, T-82-9-13-99, Sept. 13, 1999; amended March 3, 2000; amended, T-82-4-7-00, April 17, 2000; amended July 28, 2000; amended, T-82-10-25-01, Oct. 25, 2001; amended Dec. 28, 2001; amended, T-82-12-29-04, Dec. 29, 2004; amended April 29, 2005.)

82-4-3a. Hours of service. (a) With the following exceptions, 49 C.F.R. Part 395, as in effect on October 1, 2003, is hereby adopted by reference:

(1) 49 C.F.R. 395.0 shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 395.1:

(A) 49 C.F.R. 395.1(a)(2), 49 C.F.R. 395.1(h), and 49 C.F.R. 395.1(i) shall be deleted.

(B) 49 C.F.R. 395.1(k) shall be deleted and replaced by the following:

"(k)(1) The provisions of this regulation shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in the state if the transportation meets the following conditions:

"(A) Is limited to an area within a 100-air-mile radius from the source of the commodities or the distribution point for the farm supplies; and

(continued)

“(B) is conducted within the planting and harvesting seasons.

“(2) ‘Planting and harvesting seasons’ means the time periods for planting and harvesting that occur between January 1 and December 31.

“(3) ‘Agricultural commodities’ means the unprocessed products of agriculture, horticulture, and cultivation of the soil, including wheat, corn, hay, milo, sorghum, sunflowers, and soybeans. Agricultural commodities shall not include livestock and livestock products, milk, honey, poultry products, timber products, and nursery stock, nor shall the term include the transportation of hazardous materials of the type or quantity that requires the vehicle to be placarded.

“(4) ‘Farm supplies’ means supplies or equipment for use in the planting or harvesting of agricultural commodities, but shall not include the transportation of hazardous materials of the type or quantity that requires the vehicle to be placarded.

“(5) ‘Hazardous materials of the type or quantity that requires the vehicle to be placarded,’ as used in 49 C.F.R. 395.1(k)(3) and (4), means materials that require placarding pursuant to 49 C.F.R. Part 172, as adopted in K.A.R. 82-4-20, but shall not include fertilizer, animal waste used as fertilizer, anhydrous ammonia, and pesticides.”

(3) The following revisions shall be made to 49 C.F.R. 395.2:

(A) The definition of “sleeper berth” shall be deleted and replaced by the following: “‘Sleeper berth’ means a berth conforming to the requirements of 49 C.F.R. 393.76, as adopted in K.A.R. 82-4-3(a)(4).”

(B) The phrase “found by the Secretary to be hazardous under 49 U.S.C. 5103 in a quantity requiring placarding under regulations issued to carry out such section,” which appears in the definition of “transportation of construction materials and equipment,” shall be deleted and replaced by “requiring placarding pursuant to 49 C.F.R. Part 172, as adopted in K.A.R. 82-4-20.”

(4) The following revisions shall be made to 49 C.F.R. 395.8:

(A) The last sentence in 49 C.F.R. 395.8(a)(1) shall be deleted.

(B) The “Note” that appears between 49 C.F.R. 395.8(c) and (d) shall be deleted.

(C) 49 C.F.R. 395.8(e) shall be deleted.

(D) The “Note” that appears between 49 C.F.R. 395.8(h)(5) and (i) shall be deleted.

(E) The “Note,” including the graphic, that appears after 49 C.F.R. 395.8(k)(2) shall be deleted.

(5) The following revisions shall be made to 49 C.F.R. 395.13:

(A) 49 C.F.R. 395.13(c)(2) shall be deleted and replaced by the following:

“Within fifteen days following the date any driver is placed out of service, the motor carrier that employed the driver shall personally deliver or place in the U.S. mail to the division administrator or the state director of the federal motor carrier safety administration a signed certification in a form acceptable to the commission. Any signed certification acceptable to the commission shall include the following information:

“(i) All violations have been corrected;

“(ii) action has been taken to assure compliance with 49 C.F.R. 395.1, 49 C.F.R. 395.2, 49 C.F.R. 395.3, 49 C.F.R. 395.5, 49 C.F.R. 395.8, 49 C.F.R. 395.13, and 49 C.F.R. 395.15; and

“(iii) the motor carrier understands that false certification can result in appropriate enforcement action.”

(B) The phrase “as adopted in K.A.R. 82-4-3k” shall be added before the phrase “pertaining to attendance and surveillance of commercial motor vehicles,” which appears in 49 C.F.R. 395.13(d)(4).

(6) The last sentence in 49 C.F.R. 395.15(b)(3) shall be deleted.

(7)(A) The phrase “special agent of the Federal Motor Carrier Safety Administration (as defined in appendix B to this subchapter),” which appears in 49 C.F.R. 395.1, 49 C.F.R. 395.2, 49 C.F.R. 395.3, 49 C.F.R. 395.5, 49 C.F.R. 395.8, 49 C.F.R. 395.13, and 49 C.F.R. 395.15, shall be deleted and replaced by “any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(B) The phrases “Federal Motor Carrier Safety Administration” and “FMCSA,” which appear in 49 C.F.R. 395.1, 49 C.F.R. 395.2, 49 C.F.R. 395.3, 49 C.F.R. 395.5, 49 C.F.R. 395.8, 49 C.F.R. 395.13, and 49 C.F.R. 395.15, shall be deleted and replaced by “commission.”

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted.

(c) No wrecker or tow truck, as defined by K.S.A. 66-1329 and amendments thereto, with a gross vehicle weight rating or gross combination vehicle weight rating of 26,000 pounds or less shall be subject to this regulation. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-16-03, Jan. 4, 2004; effective, T-82-4-27-04, May 3, 2004; effective, T-82-8-23-04, August 31, 2004; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-3b. Procedures for transportation workplace drug and alcohol testing programs. (a) With the following exceptions, 49 C.F.R. Part 40, as in effect on October 1, 2003, is hereby adopted by reference:

(1) 49 C.F.R. 40.1 shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 40.3:

(A) The following definition of “approved test” shall be added after the definition of “Alcohol use”:

“‘Approved test’ means a drug or alcohol test conducted in compliance with this regulation and K.A.R. 82-4-3c.”

(B) The following definition of “Custody and control form” shall be added after the definition of “Cancelled test”:

“‘Custody and control form’ (CCF) means a form as described in 49 C.F.R. 40.45.”

(C) The definition of "Employee" shall be deleted and replaced by the following:

"Employee" means any person employed by a motor carrier subject to this regulation and K.A.R. 82-4-3c. 'Employee' shall include those currently performing safety-sensitive functions and applicants for employment subject to pre-employment testing."

(D) In the definition of "Employer," the phrase "subject to DOT agency regulations requiring compliance with this part" shall be deleted and replaced by "subject to this regulation and K.A.R. 82-4-3c."

(E) In the definition of "Evidential Breath Testing Device," the phrase "as in effect on May 4, 2001, and hereby adopted by reference," shall appear after the phrase "NHTSA's Conforming Products List (CPL)."

(F) The following revisions shall be made to the definition of "Laboratory":

(i) The words "by DOT" shall be deleted.

(ii) The last sentence shall be deleted.

(G) The definition of "Office of Drug and Alcohol Policy and Compliance" shall be deleted.

(H) In the definition of "Qualification Training," the term "DOT" shall be deleted and replaced by "commission."

(I) In the definition of "Refresher Training," the phrase "DOT agency drug and alcohol testing regulations" shall be deleted and replaced by "K.A.R. 82-4-3c."

(J) The definition of "Secretary" shall be deleted.

(K) The following definition of "special agent or authorized representative" shall be added after the definition of "Shipping container":

"Special agent or authorized representative" means an authorized representative of the commission, and members of the Kansas highway patrol or any other law enforcement officers in the state who have been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards."

(L) In the definition of "Substance Abuse Professional," the term "DOT" shall be deleted and replaced by "commission."

(M) The following definition of "unapproved test" shall be added after the definition for "Substituted specimen":

"Unapproved test" means a drug or alcohol test not conducted in compliance with this regulation or K.A.R. 82-4-3c."

(3) 49 C.F.R. 40.5 and 49 C.F.R. 40.7 shall be deleted.

(4) The following revisions shall be made to 49 C.F.R. 40.11:

(A) In paragraph (b), the phrase "the DOT agency regulations" shall be deleted and replaced by "this regulation and K.A.R. 82-4-3c."

(B) Paragraph (c) shall be deleted and replaced by the following:

"All agreements and arrangements, written or unwritten, between and among employers and service agents concerning the implementation of the commission's drug and alcohol testing requirements shall require compliance with all applicable provisions of this regulation and K.A.R. 82-4-3c."

(5) The following revisions shall be made to 49 C.F.R. 40.13:

(A) The following revisions shall be made to paragraphs (a) and (b):

(i) The term "DOT" shall be deleted and replaced by "These approved."

(ii) The term "non-DOT" shall be deleted and replaced by "unapproved."

(B) In paragraph (b), the phrase "a DOT" shall be deleted and replaced by "an approved."

(C) The following revisions shall be made to paragraph (c):

(i) The first instance of the term "DOT" found in the first sentence shall be deleted and replaced by "an approved."

(ii) The phrase "DOT agency regulations" appearing in the first sentence shall be deleted and replaced by "K.A.R. 82-4-3c."

(iii) The phrase "a DOT" found in the second sentence shall be deleted and replaced by "an approved."

(D) The following revisions shall be made to paragraph (d):

(i) The phrase "a DOT" shall be deleted and replaced by "an approved."

(ii) The phrase "DOT agency" shall be deleted and replaced by "commission."

(E) The following revisions shall be made to paragraph (e):

(i) The first two instances of the term "DOT" shall be deleted and replaced by "approved."

(ii) The term "non-DOT" shall be deleted and replaced by "unapproved."

(iii) The last instance of the term "DOT" shall be deleted.

(F) The following revisions shall be made to paragraph (f):

(i) The words "the CCF or the ATF" shall be deleted and replaced by "an approved form."

(ii) The term "non-DOT" shall be deleted and replaced by "unapproved."

(iii) The term "DOT" shall be deleted and replaced by "approved."

(iv) The words "and agencies" shall be deleted.

(v) In the last sentence, the phrase "CCF and ATF" shall be deleted and replaced by "approved forms."

(vi) The term "DOT-mandated" shall be deleted and replaced by "approved."

(6) The following revisions shall be made to 49 C.F.R. 40.15:

(A) In paragraph (a), the term "DOT agency" shall be deleted and replaced by "commission."

(B) The following revisions shall be made to paragraph (c):

(i) The first and second instance of the term "DOT" shall be deleted and replaced by "approved."

(ii) All instances of the phrase "a DOT agency" shall be deleted and replaced by "the commission."

(7) The last sentence of 49 C.F.R. 40.17 shall be deleted.

(8) The following revisions shall be made to 49 C.F.R. 40.21:

(A) In paragraph (a), the phrase "a DOT agency" shall be deleted and replaced by "the commission."

(B) In paragraph (b), the term "concerned DOT agency" shall be deleted and replaced by "commission."

(C) Paragraphs (b)(1), (b)(2), and (b)(3) shall be deleted.

(D) Paragraph (c)(1)(iv) shall be deleted.

(continued)

(E) The following revisions shall be made to paragraph (d):

(i) The phrase "Administrator of the concerned DOT agency" shall be deleted and replaced by "commission."

(ii) The words "he or she" shall be deleted and replaced by "the commission."

(F) In paragraph (d)(1), the phrase "Administrator, or his or her designee" shall be deleted and replaced by "commission."

(G) The following revisions shall be made to paragraph (d)(2):

(i) The phrase "Administrator, or his or her designee" shall be deleted and replaced by "commission."

(ii) The term "DOT agency" shall be deleted and replaced by "commission."

(H) In paragraph (e), the term "DOT agency" shall be deleted and replaced by "commission."

(9) The following revisions shall be made to 49 C.F.R. 40.25:

(A) In paragraph (b), the term "DOT-regulated" shall be deleted and replaced by "commission-regulated."

(B) In paragraph (b)(4), the term "DOT agency" shall be deleted and replaced by "commission."

(C) The following revisions shall be made to paragraph (b)(5):

(i) The phrase "a DOT" shall be deleted and replaced by "an approved."

(ii) The remaining term "DOT" shall be deleted and replaced by "the commission's."

(D) The following revisions shall be made to paragraph (e):

(i) The phrase "a DOT agency drug and alcohol regulation" shall be deleted and replaced by "this regulation or K.A.R. 82-4-3c or both."

(ii) The remaining term "DOT agency" shall be deleted and replaced by "commission."

(10) 49 C.F.R. 40.26 shall be deleted and replaced by the following:

"Management information system ("MIS") data shall be reported to the commission within 10 days of the commission's request for the information. MIS data shall be reported in a certified form acceptable to the commission. A certified form acceptable to the commission shall include the following information:

"(a) Information regarding the employer, including:

"(1) The name of the employer's business and, if applicable, the name it does business as;

"(2) the company's physical address and, if applicable, e-mail address;

"(3) the printed name and signature of the company's official certifying the MIS data;

"(4) the date the MIS data was certified;

"(5) the name and telephone number of the person preparing the form, if it is different from the person certifying the MIS data;

"(6) the name and telephone number of the C/TPA, if applicable; and

"(7) the employer's motor carrier identification number.

"(b) Information regarding the covered employees, including:

"(1) the total number of safety-sensitive employees in all categories;

"(2) the total number of employee categories;

"(3) the name of the employee category or categories; and

"(4) the total number of employees for each category.

"(c) Information regarding the drug testing data, including:

"(1) The type of test, which includes:

"(A) Pre-employment;

"(B) random;

"(C) post-accident;

"(D) reasonable suspicion or cause;

"(E) return-to-duty; and

"(F) follow-up.

"(2) The number of tests by result, including:

"(A) Total number of test results;

"(B) verified negative results;

"(C) verified positive results for one or more drugs;

"(D) positive for marijuana;

"(E) positive for cocaine;

"(F) positive for PCP;

"(G) positive for opiates;

"(H) positive for amphetamines;

"(I) canceled results; and

"(J) refusal results, including:

"(i) Adulterated;

"(ii) substitutes;

"(iii) shy bladder with no medical explanation; and

"(iv) other refusals to submit to testing.

"(d) Information resulting alcohol testing data, including:

"(1) The type of test, including the same types as listed in paragraph (c)(1) above;

"(2) The number of tests by results, including:

"(A) Total number of screen test results;

"(B) screening tests with results below 0.02;

"(C) Screening tests with results of 0.02 or greater;

"(D) number of confirmation test results;

"(E) confirmation tests with results of 0.02 through 0.039;

"(F) confirmation tests with results of 0.04 or greater;

"(G) canceled results; and

"(H) refusal results, including:

"(i) Shy lung with no medical explanation; and

"(ii) other refusals to submit to testing."

(11) 49 C.F.R. 40.29 shall be deleted.

(12) The following revisions shall be made to 49 C.F.R. 40.31:

(A) In paragraph (a), the term "DOT" shall be deleted and replaced by "approved."

(B) In paragraph (c), the phrase "DOT agency" shall be deleted and replaced by "commission."

(13) The following revisions shall be made to 49 C.F.R. 40.33:

(A) In the first paragraph, the term "DOT" shall be deleted and replaced by "approved."

(B) The following revisions shall be made to paragraph (a):

(i) The words "this part, the current 'DOT Urine Specimen Collection Procedures Guidelines,' and DOT agency" shall be deleted and replaced by "commission."

(ii) The last sentence of paragraph (a) shall be deleted.

(C) In paragraph (c)(2)(i), the term "DOT" shall be deleted and replaced by "approved."

(D) Paragraphs (d), (d)(1), (d)(2), and (d)(3) shall be deleted.

(E) In paragraph (g), the phrase "DOT agency" shall be deleted and replaced by "special agents and authorized."
(14) 49 C.F.R. 40.37 shall be deleted.

(15) In paragraph 49 C.F.R. 40.41(a), the term "a DOT" shall be deleted and replaced by "an approved."

(16) In 49 C.F.R. 40.43(e)(1), the term "DOT agency representatives" shall be deleted and replaced by "special agent or authorized representative."

(17) The following revisions shall be made to 49 C.F.R. 40.45:

(A) Paragraph (a) shall be deleted and replaced by the following:

"(1) A commission-approved CCF form shall be used to document every urine collection required by the approved drug testing program. A commission-approved CCF form shall be a form containing the information listed below. There shall be five copies of the CCF form. Each form shall be labeled as follows:

"(A) 'Copy 1 — Laboratory';

"(B) 'Copy 2 — Medical Review Officer Copy';

"(C) 'Copy 3 — Collector Copy';

"(D) 'Copy 4 — Employer Copy'; and

"(E) 'Copy 5 — Donor Copy.'"

"(2) All five copies of the CCF form shall contain the following information:

"(A) The following information on the form may be completed by either the collector or the employee representative:

"(i) Employer information, including the name, address, and identification number issued pursuant to K.A.R. 82-4-8h;

"(ii) the MRO name, address, telephone number, and fax number;

"(iii) the donor's social security or employee identification number;

"(iv) the reason for the testing;

"(v) the tests performed;

"(vi) the collection site address; and

"(vii) the collector's home telephone number and facsimile number;

"(B) The following information on the form shall be completed by the collector:

"(i) an indication of whether the specimen temperature within four minutes of collection was between 90 degrees and 100 degrees Fahrenheit;

"(ii) an indication regarding whether the specimen was single or split, or whether no specimen was provided; and

"(iii) a space for any other remarks the collector shall provide;

"(C) The collector shall certify the following information with his or her signature:

"(i) the collector's name, clearly printed;

"(ii) the date and time the collector released the specimen bottle for delivery to the laboratory; and

"(iii) the name of the delivery service transferring the specimen to the laboratory; and

"(D) The laboratory shall certify the following information by signature:

"(i) the name, printed clearly, of the person signing the certification as the employee of the laboratory receiving the specimen;

"(ii) an indication of whether the specimen bottle seal is intact; and

"(iii) an indication of who at the laboratory the specimen bottle was released to.

"(2) In addition to the information required in paragraph (a)(2) above, Copy 1 of the CCF shall include the following:

"(A) A specimen bottle seal, marked as 'A,' which shall contain the following information:

"(i) The specimen identification number;

"(ii) a circle in the center of the label which shall indicate which portion of the labels shall be positioned over the cap of the specimen bottle;

"(iii) the date the specimen was collected; and

"(iv) a space for the donor to initial the seal.

"(B) A specimen bottle seal, marked as 'B,' which shall contain the following information:

"(i) The specimen identification number;

"(ii) an indication that this is a split of the specimen bottle marked as 'A';

"(iii) a circle in the center of the label which shall indicate which portion of the labels shall be positioned over the cap of the specimen bottle;

"(iv) the date the specimen was collected; and

"(v) a space for the donor to initial the seal.

"(C) The following information, which shall be completed by the primary laboratory:

"(i) An indication of whether the test was negative or whether it contained evidence of the presence of a specific drug in the urine;

"(ii) a space for any additional remarks;

"(iii) the name of the testing laboratory, if it is a laboratory other than the one listed as having received the specimen according to paragraph (1)(D)(i);

"(iv) the printed name and signature of the scientist certifying the chain of custody and the test results; and

"(v) the date the certification was signed.

"(D) The following information, if split specimen results are tested by a secondary laboratory:

"(i) The secondary laboratory's name and address;

"(ii) an indication of whether the secondary laboratory was able to confirm the primary laboratory's results;

"(iii) if the secondary laboratory was unable to confirm the primary laboratory's results, an indication of why;

"(iv) the printed name and signature of the scientist certifying the chain of custody and the test results; and

"(v) the date the certification was signed.

"(3) In addition to the information required in paragraph (a)(2) above, Copy 2, Copy 3, Copy 4, and Copy 5 shall contain the following:

"(A) The following information shall be provided by the donor:

"(i) The printed name and signature of the donor certifying that the donor provided his or her own urine to the collector, that the specimen was unadulterated, that the specimen bottle was sealed with a tamper-evident seal in the donor's presence, and that the information provided on the seals and the CCF is correct;

(continued)

“(ii) the date the CCF was signed by the donor;
 “(iii) the donor’s daytime and evening telephone numbers; and
 “(iv) the donor’s date of birth.
 “(B) The medical review officer examining the primary specimen shall indicate whether:
 “(i) the test was canceled;
 “(ii) the donor refused to test because the sample was adulterated, substituted, or diluted;
 “(iii) the test results were negative; or
 “(iv) the test results were positive.
 “(C) The medical review officer examining the primary specimen shall provide the following information:
 “(i) Any remarks in addition to the test results;
 “(ii) the printed name and signature of the medical review officer examining the specimen; and
 “(iii) the date the medical review officer signed the CCF.
 “(D) The medical review officer examining the split specimen shall provide the following information:
 “(i) whether the primary medical review officer’s test results were confirmed or unconfirmed;
 “(ii) if the primary medical review officer’s test results were not confirmed, a reason why;
 “(iii) the printed name and signature of the medical review officer examining the split specimen; and
 “(iv) the date the CCF was signed by the medical review officer examining the split specimen.”
 (B) The following revisions shall be made to paragraph (b):
 (i) In the first sentence, the term “non-Federal” shall be deleted and replaced by “unapproved.”
 (ii) In the first sentence, the words “Federal” and “DOT” shall be deleted.
 (iii) In the second sentence, the words “expired Federal” shall be deleted and replaced by “unapproved.”
 (iv) The third sentence shall be deleted.
 (C) Paragraph (c)(3) shall be deleted.
 (D) Paragraph (e) shall be deleted.
 (18) The following revisions shall be made to 49 C.F.R. 40.47:
 (A) The last sentence of paragraph (a) shall be deleted.
 (B) The term “non-Federal” shall be deleted and replaced by “unapproved.”
 (C) The remaining uses of the term “DOT” shall be deleted and replaced by “approved.”
 (19) The following revisions shall be made to 49 C.F.R. 40.49:
 (A) The term “DOT” shall be deleted and replaced by “approved.”
 (B) The phrase “as in effect on October 1, 2003, and hereby adopted by reference” shall be added after the phrase “Appendix A of this part.”
 (20) The following revisions shall be made to 49 C.F.R. 40.61:
 (A) In paragraph (b)(1), the phrase “a DOT” shall be deleted and replaced by “an approved.”
 (B) The following revisions shall be made to paragraph (f)(3):
 (i) The phrase “DOT agency authorized” shall be deleted.
 (ii) The phrase “required by K.A.R. 82-4-6d, and by 49 C.F.R. 491.45, 391.45, and 391.49, as adopted by

K.A.R. 82-4-3g” shall be added after “medical examination.”
 (21) The following revisions shall be made to 49 C.F.R. 40.63:
 (A) Paragraph (a) shall be deleted and replaced by the following: “Complete the appropriate portions of the CCF as set forth in 49 C.F.R. 40.45.”
 (B) In paragraph (e), the term “(Step 2)” shall be deleted.
 (22) The following revisions shall be made to 49 C.F.R. 40.65:
 (A) Paragraph (b)(3) shall be deleted and be replaced by the following: “Indicate on the CCF whether the specimen temperature is within the acceptable range.”
 (B) Paragraph (b)(4) shall be deleted and replaced by the following: “If the specimen temperature is outside the acceptable range, indicate that finding in the space provided on the CCF.”
 (23) The following changes shall be made to 49 C.F.R. 40.67:
 (A) Paragraph (e)(1) shall be deleted and replaced by the following: “Indicate the reason for the directly observed collection the same as for the first collection.”
 (B) Paragraph (e)(2) shall be deleted and replaced by the following: “Indicate on the CCF that the collection was observed and the reasons why.”
 (C) In paragraph (f), the term “(Step 2)” shall be deleted.
 (24) In 49 C.F.R. 40.69(f), the term “(Step 2)” shall be deleted.
 (25) The following revisions shall be made to 49 C.F.R. 40.71:
 (A) In paragraph (a), the phrase “DOT agency drug testing regulations” shall be deleted and replaced by “this regulation and K.A.R. 82-4-3c.”
 (B) Paragraph (b)(1) shall be deleted and replaced by the following: “Indicate on the CCF that this was a split specimen collection.”
 (C) In paragraph (b)(7), the term “(Step 2)” shall be deleted.
 (D) In paragraph (b)(8), the term “a DOT agency regulation” shall be deleted and replaced by “K.A.R. 82-4-6d or 49 C.F.R. 391.41, 391.43, 391.45, or 391.49, as adopted by K.A.R. 82-4-3g.”
 (26) The following revisions shall be made to 49 C.F.R. 40.73:
 (A) In paragraph (a)(1), the terms “(Step 5)” and “(Step 2)” shall be deleted.
 (B) In paragraph (a)(9), the phrase “applicable DOT agency regulations” shall be deleted and replaced by “the commission.”
 (27) 49 C.F.R. 40.81(b), (b)(1), (b)(2), (c), and (d) shall be deleted.
 (28) The following revisions shall be made to 49 C.F.R. 40.83:
 (A) Paragraph (b) shall be deleted.
 (B) In paragraph (e), the phrase “in Step 4” shall be deleted.
 (C) In paragraph (g), the phrase “a non-Federal form or an expired Federal” shall be deleted and replaced by “an unapproved.”
 (D) Paragraph (g)(2) shall be deleted.

(29) In 49 C.F.R. 40.85, the first two sentences shall be deleted and replaced by "The urine specimens shall be tested for only the following five drugs:".

(30) The following revisions shall be made to 49 C.F.R. 40.91:

(A) In paragraph (c), the second sentence shall be deleted.

(B) Paragraph (e) shall be deleted and replaced by the following: "If a substance appears in a specimen which cannot be identified, complete testing of the specimen for drugs to the extent technically feasible."

(31) In 49 C.F.R. 40.99(b), the phrase "in accordance with HHS requirements" shall be deleted.

(32) In 49 C.F.R. 40.101(b), the words "the Department regards as creating" shall be deleted and replaced by "create."

(33) The following revisions shall be made to 49 C.F.R. 40.103:

(A) In paragraphs (a) and (b), the term "DOT-covered" shall be deleted and replaced by "commission-regulated motor carrier."

(B) In paragraph (c), the term "DOT" shall be deleted and replaced by "approved."

(C) In paragraphs (c) and (c)(1), the phrase "with a substance cited in HHS guidance" shall be deleted.

(34) In 49 C.F.R. 40.105(c), the last two sentences shall be deleted.

(35) The following revisions shall be made to 49 C.F.R. 40.107:

(A) The words "ODAPC, a DOT agency, or a DOT-regulated" shall be deleted and replaced by "a special agent or authorized representative or a commission-regulated."

(B) The remaining term "DOT" shall be deleted and replaced by "approved."

(36) The following revisions shall be made to 49 C.F.R. 40.111:

(A) In paragraph (a), the phrase "as in effect on October 1, 2003, and hereby adopted by reference," shall be added after the term "Appendix B to this part."

(B) In paragraph (b), the phrase "a DOT agency" shall be deleted and replaced by "the commission."

(37) 49 C.F.R. 40.113 shall be deleted.

(38) The following revisions shall be made to 49 C.F.R. 40.121:

(A) In the first paragraph, the term "DOT" shall be deleted and replaced by "approved."

(B) The following revisions shall be made to paragraph (b)(3):

(i) The first instance of the phrase "the DOT MRO Guidelines, and the DOT agency regulations" shall be deleted and replaced by "K.A.R. 82-4-3c."

(ii) The last sentence shall be deleted.

(C) Paragraph (c)(1)(vi) shall be deleted and replaced by "Provisions of this regulation and K.A.R. 82-4-3c, as well as issues that MROs confront in carrying out their duties under this regulation and K.A.R. 82-4-3c."

(D) In paragraph (c)(2), the term "DOT-mandated" shall be deleted and replaced by "approved."

(E) Paragraphs (c)(3), (c)(3)(i), (c)(3)(ii), (c)(3)(iii), and (d)(3) shall be deleted.

(F) In paragraph (e), the term "DOT agency" shall be deleted and replaced by "special agents and authorized."

(39) The following revisions shall be made to 49 C.F.R. 40.123:

(A) The following revisions shall be made to paragraph (b)(3):

(i) The words "the ODAPC or a relevant DOT agency" shall be deleted and replaced by "the commission."

(ii) The second occurrence of the term "DOT" shall be deleted.

(iii) The remaining occurrences of the term "DOT" shall be deleted and replaced by "the commission."

(B) In paragraph (e), the first parenthetical phrase shall be deleted.

(C) In paragraph (h), the term "other DOT agency regulations" shall be deleted and replaced by "this regulation and K.A.R. 82-4-3c."

(40) The following revisions shall be made to 49 C.F.R. 40.127:

(A) In paragraph (e) the words "place a check mark in the 'Negative' box (Step 6)" shall be deleted and replaced by "indicate whether the results were negative."

(B) In paragraph (g), the words "check the 'Test Cancelled' box (Step 6)" shall be deleted and replaced by "indicate that the test was cancelled."

(C) In paragraph (g)(4), the term "DOT agencies" shall be deleted and replaced by "the commission."

(41) The following revisions shall be made to 49 C.F.R. 40.129:

(A) In paragraph (c), the words "place a check mark in the 'Positive' box (Step 6)" shall be deleted and replaced by "indicate that the test was positive."

(B) In paragraph (d), the words "check the 'test cancelled' box (Step 6)" shall be deleted and replaced by "indicate that the test was cancelled."

(C) The following revisions shall be made to paragraph (f):

(i) The words "check the 'refusal to test because:' box (Step 6)" shall be deleted and replaced by "indicate that the test was refused because it was adulterated or substituted."

(ii) The words "check the 'Adulterated' or 'Substituted' box, as appropriate" shall be deleted.

(42) 49 C.F.R. 40.145 shall be revised as follows:

(A) In paragraph (g)(2)(ii)(A), the term "a DOT" shall be deleted and replaced by "an approved."

(B) In paragraph (g)(2)(ii)(B), the term "DOT agency regulation" shall be deleted and replaced by "commission statute, regulation, or order."

(C) In paragraph (g)(5), the term "ODAPC" shall be deleted and replaced by "the commission."

(43) The following revisions shall be made to 49 C.F.R. 40.151:

(A) In paragraph (a), the term "DOT" shall be deleted.

(B) In paragraph (c), the phrase "DOT agency drug or alcohol regulation" shall be deleted and replaced by "this regulation or K.A.R. 82-4-8c."

(continued)

(C) In paragraph (e), a period shall be placed after the word "drug," and the remainder of the paragraph shall be deleted.

(44) In 49 C.F.R. 40.155(b), the words "check the 'dilute' box (Step 6)" shall be deleted and replaced by "indicate that the specimen is dilute."

(45) In 49 C.F.R. 40.159(a)(4)(i) and (a)(5)(i), and 49 C.F.R. 40.161(a), the words "Place a check mark in the 'Test Cancelled' box (Step 6)" shall be deleted and replaced by "Indicate that the test was cancelled."

(46) In 49 C.F.R. 40.163(e), the term "DOT" shall be deleted and replaced by "special agent or authorized."

(47) 49 C.F.R. 40.169 shall be deleted.

(48) The following revisions shall be made to 49 C.F.R. 40.183:

(A) In paragraph (a), the words "checking the 'Reconfirmed' box or the 'Failed to Reconfirm' box (Step 5(b))" shall be deleted and replaced by "indicating whether the test was reconfirmed."

(B) The following revisions shall be made to paragraph (b):

(i) The words "check the 'Failed to Reconfirm' box" shall be deleted and replaced by "indicate that the attempt to reconfirm failed."

(ii) The term "(Step 5(b))" shall be deleted.

(49) The following revisions shall be made to 49 C.F.R. 40.187:

(A) The following revisions shall be made to paragraphs (b)(2), (c)(2), (d)(3), (e)(3), and (f)(3):

(i) The phrase "Appendix D to this part" shall be deleted and replaced by "paragraph (i)."

(ii) The term "ODAPC" shall be deleted and replaced by "commission."

(B) In paragraph (g), the words "sign and date (Step 7) of" shall be deleted and replaced by "signature and date on."

(C) The following paragraph shall be added after paragraph (h):

"(i) When there is a failure to reconfirm, the MRO shall inform the commission by telefacsimile to (785) 271-3283, or by mail to the transportation division, Kansas corporation commission, 1500 S.W. Arrowhead Road, Topeka, KS 66604. The following format shall be used to provide the information to the commission:

"(1) MRO name, address, phone number, and telefacsimile number;

"(2) collection site name, address, and phone number;

"(3) date of collection;

"(4) specimen identification number;

"(5) laboratory accession number;

"(6) primary specimen laboratory name, address, and telephone number;

"(7) date result reported or certified by primary laboratory;

"(8) split specimen laboratory name, address, and telephone number;

"(9) date split specimen result reported or certified by split specimen laboratory;

"(10) primary specimen results for the primary specimen;

"(11) reason for split specimen failure-to-reconfirm result;

"(12) actions taken by the MRO;

"(13) additional information explaining the reason for cancellation; and

"(14) name of individual submitting the report, if not the MRO."

(50) 49 C.F.R. 40.189 shall be deleted.

(51) The following revisions shall be made to 49 C.F.R. 40.191:

(A) In paragraph (d)(1), the term "(Step 2)" shall be deleted.

(B) In paragraph (d)(2), the words "checking the 'refused to test because' box (Step 6)" shall be deleted and replaced by "indicating that the test was refused."

(52) The following revisions shall be made to 49 C.F.R. 40.193:

(A) In paragraph (b)(2), (b)(3), and (b)(4), the term "(Step 2)" shall be deleted.

(B) In paragraph (d)(1)(i), the words "Check 'Test Cancelled' (Step 6)" shall be deleted and replaced by "Indicate that the test was cancelled."

(C) In paragraph (d)(2)(i), the words "Check 'Refusal to test because' (Step 6)" shall be deleted and replaced by "Indicate that the test was refused."

(53) In 49 C.F.R. 40.195(b)(1), the words "Check 'Negative' (Step 6)" shall be deleted and replaced by "Indicate that the results are negative."

(54) The following revisions shall be made to 49 C.F.R. 40.203(d)(3):

(A) The words "a non-Federal form or an expired Federal" shall be deleted and replaced by "an unapproved."

(B) The last two sentences shall be deleted.

(55) The following revisions shall be made to 49 C.F.R. 40.205(b)(2):

(A) In the first sentence, the words "a non-Federal form or an expired Federal" shall be deleted and replaced by "an unapproved."

(B) The first instance of the term "DOT" shall be deleted and replaced by "commission."

(C) In the third sentence, the words "non-Federal forms or expired Federal" shall be deleted and replaced by "unapproved."

(D) The second instance of the term "DOT" shall be deleted and replaced by "approved."

(56) The following revisions shall be made to 49 C.F.R. 40.207:

(A) In paragraphs (a)(1) and (b), the term "DOT" shall be deleted and replaced by "commission."

(B) The following revisions shall be made to paragraph (c):

(i) The term "DOT" shall be deleted and replaced by "approved."

(ii) The term "a non-DOT" shall be deleted and replaced by "an unapproved."

(57) The following revisions shall be made to 49 C.F.R. 40.208:

(A) The following revisions shall be made to paragraph (a):

(i) The term "DOT" shall be deleted and replaced by "commission."

(ii) The word "checked" shall be deleted and replaced by "noted."

(B) Paragraph (c) shall be deleted.

(58) The following revisions shall be made to 49 C.F.R. 40.213:

(A) In the first paragraph, the term "DOT" shall be deleted and replaced by "commission."

(B) In paragraph (a), the words "and the current DOT guidance" and the last sentence of the paragraph shall be deleted.

(C) Paragraph (b)(1) shall be deleted.

(D) Paragraphs (d), (d)(1), (d)(2), and (e) shall be deleted and replaced by the following:

"All BAT's and STT's shall, no less frequently than every five years from the date on which they met the requirements of paragraphs (b) and (c), complete refresher training which meets the requirements of paragraphs (b) and (c)."

(E) In paragraph (g), the phrase "DOT agency" shall be deleted and replaced by "special agent and authorized."

(F) In paragraph (h)(2), the term "DOT" shall be deleted and replaced by "commission."

(59) 49 C.F.R. 40.217 shall be deleted.

(60) In 49 C.F.R. 40.223(b), the phrase "DOT agency" shall be deleted and replaced by "special agent or authorized."

(61) The following revisions shall be made to 49 C.F.R. 40.225:

(A) Paragraph (a) shall be deleted and replaced by the following:

"(a) (1) A commission-approved alcohol testing form ('ATF') shall be used for every approved alcohol test. There shall be three copies of the ATF form. Each form shall be labeled as follows:

"(A) 'Copy 1 — Original — Forward to the Employer';

"(B) 'Copy 2 — Employee Retains'; and

"(C) 'Copy 3 — Alcohol Technician Retains.'"

"(2) All three copies of the ATF form shall contain the following information:

"(A) The top of the form shall be referred to as 'step 1' and shall consist of information completed by the alcohol technician, and shall include:

"(i) The employee's name;

"(ii) the employee's social security number or employee identification number;

"(iii) the employer's name and address;

"(iv) the DER's name and telephone number; and

"(v) whether the test is being done at random, for reasonable suspicion, post-accident, for return to duty, as a follow-up, or for pre-employment.

"(B) The second part of the form shall be referred to as 'step 2' and shall be a dated certification signed by the employee that he or she is about to submit to alcohol testing and that the identifying information on the form is true and correct.

"(C) The third part of the form shall be referred to as 'step 3' and shall consist of information completed by the alcohol technician, including:

"(i) A signed and dated certification that the alcohol technician conducted the alcohol testing on the named employee in compliance with the alcohol testing regulations, that the alcohol technician is certified to conduct such testing, and that the results were properly recorded;

"(ii) an indication of whether the technician is a BAT or STT;

"(iii) an indication of whether a saliva or breath device was used to conduct the test;

"(iv) an indication of whether there was a 15-minute wait;

"(v) the test number;

"(vi) the testing device name;

"(vii) the testing device lot number and expiration date, or serial number;

"(viii) the testing device activation time;

"(ix) the time the testing device was read;

"(x) the result indicated by the testing device;

"(xi) the results of any confirmation test;

"(xii) any additional remarks;

"(xiii) the alcohol technician's company name, address, and telephone number;

"(xiv) the alcohol technician's printed name;

"(xv) the date the alcohol technician signed the form.

"(D) The fourth part of the form shall be referred to as 'step 4' and shall be a signed and dated certification completed by the employee if the test result is 0.02 or higher. The certification shall state that the employee submitted to the alcohol test, and that the test results are accurately recorded on the form. The certification shall further state that the employee understands he or she shall not drive, perform safety-sensitive duties, or operate heavy equipment because the alcohol test result is 0.02 or higher."

(B) Paragraph (c) shall be deleted.

(62) The following revisions shall be made to 49 C.F.R. 40.227:

(A) In paragraphs (a) and (b), the term "non-DOT" shall be deleted and replaced by "unapproved."

(B) The term "DOT" as it appears in the first instance in paragraph (a) and in paragraph (b) shall be deleted and replaced by "approved."

(C) In paragraph (a), the last sentence shall be deleted.

(63) In 49 C.F.R. 40.229, the phrase "adopted in this regulation" shall be added after "conforming products lists (CPL)."

(64) In 49 C.F.R. 40.231(a), the last sentence shall be deleted.

(65) The following revisions shall be made to 49 C.F.R. 40.233:

(A) Paragraphs (a), (a)(1), and (a)(2) shall be deleted.

(B) In paragraph (c)(2), the words "as in effect on August 13, 1997, and appearing in Volume 62 of the Code of Federal Regulations, beginning at page 43425, and hereby adopted by reference" shall be added after the phrase "'Calibrating Units for Breath Alcohol Tests.'"

(66) The following revisions shall be made to 49 C.F.R. 40.261(d):

(A) The phrase "a non-DOT" shall be deleted and replaced by "an unapproved."

(B) The phrase "DOT agency" shall be deleted and replaced by "commission."

(67) The following revisions shall be made to 49 C.F.R. 40.265:

(A) In paragraph (c)(1)(i), the term "DOT" shall be deleted and replaced by "commission."

(B) In paragraph (c)(1)(ii), the phrase "of the appropriate DOT agency regulations" shall be deleted and re-

(continued)

placed by "of the applicable commission statutes, regulations, and orders."

(68) In 49 C.F.R. 40.269(c), the term "a non-DOT" shall be deleted and replaced by "an unapproved."

(69) The following revisions shall be made to 49 C.F.R. 40.271(b)(2):

(A) The term "a non-DOT" shall be deleted and replaced by "an unapproved."

(B) The phrase "valid DOT" shall be deleted and replaced by "approved."

(C) The remaining term "non-DOT" shall be deleted and replaced by "unapproved."

(D) The remaining term "DOT" shall be deleted and replaced by "approved."

(70) The following revisions shall be made to 49 C.F.R. 40.273:

(A) In paragraph (b), the term "DOT" shall be deleted and replaced by "commission."

(B) The following revisions shall be made to paragraph (d):

(i) The term "DOT" shall be deleted and replaced by "approved."

(ii) The words "a non-DOT" shall be deleted and replaced by "an unapproved."

(71) The following revisions shall be made to 49 C.F.R. 40.281:

(A) The following revisions shall be made to paragraph (b)(3):

(i) The term "DOT agency" shall be deleted and replaced by "commission."

(ii) The words "and the DOT SAP guidelines" shall be deleted.

(iii) The last sentence shall be deleted.

(B) In paragraphs (c)(1)(iii) and (c)(1)(iv), the term "DOT" shall be deleted and replaced by "commission."

(C) Paragraphs (c)(3), (c)(3)(i), (c)(3)(ii), and (c)(3)(iii) shall be deleted.

(D) In paragraph (d)(1), the term "DOT" shall be deleted and replaced by "commission drug and alcohol testing."

(E) In paragraph (e), the phrase "DOT agency" shall be deleted and replaced by "special agent and authorized."

(72) 49 C.F.R. 40.283 shall be deleted.

(73) The following revisions shall be made to 49 C.F.R. 40.285:

(A) The following revisions shall be made to paragraph (a):

(i) The term "DOT" shall be deleted and replaced by "commission."

(ii) The term "DOT agency" shall be deleted and replaced by "commission."

(B) The following revisions shall be made to paragraph (b):

(i) The first instance of the term "DOT" shall be deleted.

(ii) The words "a DOT" shall be deleted and replaced by "an approved."

(iii) The words "DOT agency" shall be deleted and replaced by "commission."

(iv) The last instance of the term "DOT" shall be deleted and replaced by "commission."

(74) In 49 C.F.R. 40.287, the term "DOT" shall be deleted and replaced by "commission."

(75) In 49 C.F.R. 40.289(a) and (b), the term "DOT" shall be deleted and replaced by "commission."

(76) In 49 C.F.R. 40.293, the term "DOT" in the first paragraph and paragraphs (b), (b)(1), (f), and (f)(2) shall be deleted and replaced by "commission."

(77) In 49 C.F.R. 40.295(a), the term "DOT" shall be deleted and replaced by "commission."

(78) In 49 C.F.R. 40.305(c), the term "DOT agency" shall be deleted and replaced by "commission."

(79) The following revisions shall be made to 49 C.F.R. 40.307:

(A) In paragraph (a), the term "DOT" shall be deleted and replaced by "commission."

(B) In paragraph (c), the term "DOT agency" shall be deleted and replaced by "commission."

(80) The following revisions shall be made to 49 C.F.R. 40.311:

(A) In paragraph (e)(3), the term "DOT" shall be deleted and replaced by "commission."

(B) In paragraph (g), the words "DOT agency representatives (e.g., inspectors conducting an audit or safety investigation) and representatives of the NTSB in an accident investigation" shall be deleted and replaced by "special agents and authorized representatives."

(81) 49 C.F.R. 40.313 shall be deleted.

(82) In the first paragraph of 49 C.F.R. 40.321, the term "DOT" shall be deleted and replaced by "commission."

(83) In 49 C.F.R. 40.323(a)(1), the term "DOT" shall be deleted and replaced by "commission."

(84) The following revisions shall be made to 49 C.F.R. 40.327:

(A) In paragraph (a)(1), the term "DOT agency" shall be deleted and replaced by "commission."

(B) The following revisions shall be made to paragraph (b):

(i) The first instance of the term "DOT agency" shall be deleted and replaced by "commission."

(ii) The words "the commission" shall be added before the phrase "a DOT agency."

(85) In 49 C.F.R. 40.329(a), the term "DOT-mandated" shall be deleted and replaced by "commission."

(86) The following revisions shall be made to 49 C.F.R. 40.331:

(A) In paragraph (b), the phrase "DOT agency" shall be deleted and replaced by "special agent or authorized."

(B) In paragraphs (b)(1), (b)(2), and (c)(1), the term "DOT agency" shall be deleted and replaced by "commission."

(C) In paragraph (c), the term "DOT agency representatives" shall be deleted and replaced by "a special agent or authorized representative."

(D) In paragraph (c)(2), the term "DOT agency" shall be deleted and replaced by "commission."

(E) In paragraph (f), the term "ODAPC" shall be deleted and replaced by "the commission."

(87) The following revisions shall be made to 49 C.F.R. 40.333:

(A) In paragraph (b), the parenthetical text shall be deleted.

(B) The following revisions shall be made to paragraph (d):

(i) The term "DOT agency" shall be deleted and replaced by "commission."

(ii) The last sentence shall be deleted.

(C) In paragraph (e), the phrase "DOT agency personnel" shall be deleted and replaced by "a special agent or authorized representative."

(88) In 49 C.F.R. 40.343, the term "DOT agency" shall be deleted and replaced by "commission."

(89) In 49 C.F.R. 40.345(b), the phrase "to this part" shall be deleted and replaced by "as in effect on October 1, 2003, and hereby incorporated by reference."

(90) The following revisions shall be made to 49 C.F.R. 40.347:

(A) In paragraph (b), the phrase "the DOT agency" shall be deleted and replaced by "commission."

(B) In paragraph (b)(1), the phrase "each DOT agency" shall be deleted and replaced by "the commission."

(C) The following revisions shall be made to paragraph (b)(2):

(i) The term "DOT agency" shall be deleted and replaced by "commission."

(ii) The term "DOT covered" shall be deleted and replaced by "commission-regulated."

(91) The following revisions shall be made to 49 C.F.R. 40.349:

(A) In paragraph (a), the term "DOT" shall be deleted and replaced by "commission."

(B) In paragraph (e), the term "DOT agency" shall be deleted and replaced by "special agent or authorized."

(92) In 49 C.F.R. 40.353(c), the term "DOT agency" shall be deleted and replaced by "commission."

(93) The following revisions shall be made to 49 C.F.R. 40.355:

(A) The following revisions shall be made to paragraph (m):

(i) The term "DOT" shall be deleted and replaced by "commission."

(ii) The last sentence shall be deleted.

(B) The following revisions shall be made to paragraph (o):

(i) The term "DOT agency" shall be deleted and replaced by "commission."

(ii) The term "DOT" shall be deleted and replaced by "commission."

(iii) The word "Department" shall be deleted and replaced by "commission."

(94) 49 C.F.R. 40.361 through 49 C.F.R. 40.413 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-3c. Testing for controlled substances and alcohol use. (a) With the following exceptions, 49 C.F.R.

Part 382, as in effect on October 1, 2003, is hereby adopted by reference:

(1) 49 C.F.R. 382.101 shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 382.103:

(A) In paragraph (a), the phrase "any State" shall be deleted and replaced by "the state of Kansas."

(B) In paragraph (a)(2), the word "or" shall be deleted.

(C) The following shall be added after paragraph (a)(3): "or (4) the Kansas uniform commercial drivers' license act, found at K.S.A. 8-2,126 et seq."

(D) In paragraph (c), the phrase "Sec. 390.3(f) of this subchapter" shall be deleted and replaced by "49 C.F.R. 390.3(f), as adopted by K.A.R. 82-4-3f."

(E) Paragraph (d)(1) shall be deleted.

(F) Paragraph (d)(2) shall be deleted and replaced by the following: "(2) operating vehicles exempted from the Kansas uniform commercial drivers' license act by K.S.A. 8-2,127."

(G) 49 C.F.R. 382.103(d)(3) shall be deleted.

(3) In 49 C.F.R. 382.105, the phrase "part 40 of this title" shall be deleted and replaced by "49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b."

(4) The following revisions shall be made to 49 C.F.R. 382.107:

(A) In the first paragraph, the phrase "Secs. 386.2 and 390.5 of this subchapter, and Sec. 40.3 of this title" shall be deleted and replaced by "49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f, and 49 C.F.R. 40.3, as adopted by K.A.R. 82-4-3b."

(B) The definition of "commerce" shall be deleted and replaced by the following: "'Commerce' means any trade, traffic or transportation within the jurisdiction of the state of Kansas, and any trade, traffic and transportation which affects any trade, traffic and transportation within the jurisdiction of the state of Kansas."

(C) The definition of "commercial motor vehicle" shall be deleted.

(D) In the definition of "consortium/third party administrator," the phrase "DOT-regulated employers" shall be deleted and replaced by the phrase "Kansas-regulated or USDOT-regulated employers." The phrase "DOT drug and alcohol testing programs" shall be deleted and replaced by "Kansas or USDOT drug and alcohol testing programs."

(E) In the definition of "controlled substances," the phrase "Sec. 40.85 of this title" shall be deleted and replaced by "49 C.F.R. 40.85, as adopted by K.A.R. 82-4-3b."

(F) The definition of "DOT agency" shall be deleted and replaced by the following: "'USDOT agency' means an agency of the United States department of transportation administering regulations requiring alcohol or drug testing or both in accordance with 49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b."

(G) The definition of "driver" shall be deleted.

(H) The following revisions shall be made to the definition of "employer":

(i) The phrase "DOT agency regulations" shall be deleted and replaced by "Kansas or USDOT agency regulations."

(ii) The phrase "DOT drug and alcohol program requirements" shall be deleted and replaced by "Kansas or USDOT drug and alcohol program requirements."

(continued)

(iii) The phrase "DOT agency regulations" shall be deleted and replaced by "Kansas or USDOT agency regulations."

(I) The definition of "licensed medical practitioner" shall be deleted.

(J) The following revisions shall be made to the definition of "refusal to submit":

(i) The phrase "DOT agency regulations" shall be deleted and replaced by "Kansas and USDOT agency regulations."

(ii) In paragraph (1), the phrase "Sec. 40.61(a) of this title" shall be deleted and replaced by "49 C.F.R. 40.61(a), as adopted by K.A.R. 82-4-3b."

(iii) In paragraphs (2) and (3), the phrase "Sec. 40.63(c) of this title" shall be deleted and replaced by "49 C.F.R. 40.63(c), as adopted by K.A.R. 82-4-3b."

(iv) In paragraph (4), the phrase "Secs. 40.67(l) and 40.69(g) of this title" shall be deleted and replaced by "49 C.F.R. 40.67(l) and 40.69(g), as adopted by K.A.R. 82-4-3b."

(v) In paragraph (5), the phrase "Sec. 40.193(d)(2) of this title" shall be deleted and replaced by "49 C.F.R. 40.193(d)(2), as adopted by K.A.R. 82-4-3b."

(vi) In paragraph (7), the phrase "Sec. 40.193(d) of this title" shall be deleted and replaced by "49 C.F.R. 40.193(d), as adopted by K.A.R. 82-4-3b."

(K) The following revisions shall be made to the definition of "safety-sensitive function":

(i) The phrase "Secs. 392.7 and 392.8 of this subchapter" shall be deleted and replaced by "49 C.F.R. 392.7 and 392.8, as adopted by K.A.R. 82-4-h."

(ii) The phrase "Sec. 393.76 of this subchapter" shall be deleted and replaced by "49 C.F.R. 393.76, as adopted by K.A.R. 82-4-3i."

(5) 49 C.F.R. 382.109 shall be deleted.

(6) In 49 C.F.R. 382.117, the phrase "49 CFR part 40, Subpart R" shall be deleted and replaced by "49 C.F.R. Part 40, Subpart R, as adopted by K.A.R. 82-4-3b."

(7) The following revisions shall be made to 49 C.F.R. 382.119:

(A) The phrase "Federal Motor Carrier Safety Administration" shall be deleted and replaced by "transportation division of the corporation commission."

(B) The phrase "as adopted by K.A.R. 82-4-3b" shall be inserted after the phrase "49 CFR 40.21."

(C) The last sentence of paragraph (b) shall be deleted and replaced by the following: "The employer shall send a written request, which shall include all of the information required by that section to the Director of the Transportation Division, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, KS 66604."

(D) In paragraphs (c) and (d), the phrase "Administrator or the Administrator's designee" shall be deleted and replaced by "director of the transportation division of the Kansas corporation commission."

(E) Paragraph (e) shall be deleted.

(8) In 49 C.F.R. 382.121(a), the phrase "part 40 of this title" shall be deleted and replaced by "49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b."

(9) The following revisions shall be made to 49 C.F.R. 382.301:

(A) In paragraph (b)(3), the phrase "DOT agency" shall be deleted and replaced by "state or USDOT agency."

(B) In paragraphs (c)(1)(iii) and (c)(2), the phrase "part 40 of this title" shall be deleted and replaced by "49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b."

(C) In paragraph (d)(4), the phrase "49 CFR Part 40 of this title" shall be deleted and replaced by "49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b."

(10) The following revisions shall be made to 49 C.F.R. 382.303(h)(3):

(A) The phrase "(as defined in Sec. 571.3 of this title)" shall be deleted.

(B) The phrase "Sec. 177.823 of this title" shall be deleted and replaced by "49 C.F.R. 177.823, as adopted by K.A.R. 82-4-20."

(11) The following revisions shall be made to 49 C.F.R. 382.305:

(A) Paragraphs (c), (d), (e), (f), (g), (h), and (n) shall be deleted.

(B) In paragraph (j), the phrase "FMCSA Administrator" shall be deleted and replaced by "director of the transportation division of the Kansas corporation commission."

(C) In paragraph (o), the phrase "DOT agency" shall be deleted and replaced by "USDOT or state agency."

(12) In 49 C.F.R. 382.309, 382.311, and 382.605, the phrase "49 CFR part 40, Subpart O" shall be deleted and replaced by "49 C.F.R. Part 40, Subpart O, as adopted by K.A.R. 82-4-3b."

(13) In 49 C.F.R. 382.403(c)(13), 382.403(d)(8), 382.503, and 382.601(b)(9), the phrase "part 40, subpart O, of this title" shall be deleted and replaced by "49 C.F.R. Part 40, Subpart O, as adopted by K.A.R. 82-4-3b."

(14) The following revisions shall be made to 49 C.F.R. 382.401:

(A) In paragraph (b)(3), the phrase "part 40 of this title" shall be deleted and replaced by "49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b."

(B) In paragraph (c)(2)(iii), the phrase "part 40, subpart G, of this title" shall be deleted and replaced by "49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b."

(C) In paragraph (c)(5)(iv), the phrase "Sec. 40.213(a)" shall be deleted and replaced by "49 C.F.R. 40.213(a), as adopted by K.A.R. 82-4-3b."

(D) In paragraph (c)(6)(iii), the phrase "Sec. 40.111(a)" shall be deleted and replaced by "49 C.F.R. 40.111(a), as adopted by K.A.R. 82-4-3b."

(E) The following revisions shall be made to paragraph (d):

(i) The phrase "Sec. 390.31 of this subchapter" shall be deleted and replaced by "49 C.F.R. 390.31, as adopted by K.A.R. 82-4-3f."

(ii) The phrase "Federal Motor Carrier Safety Administration" shall be deleted and replaced by "transportation division of the Kansas corporation commission."

(F) Paragraph (e) shall be deleted.

(15) 49 C.F.R. 382.403 shall be revised as follows:

(A) In paragraph (a), the words "Secretary of Transportation, any DOT agency, or" shall be deleted.

(B) In paragraph (b), the words "Federal Motor Carrier Safety Administration" and "FMCSA" shall be deleted

and replaced by "transportation division of the Kansas corporation commission."

(C) In paragraphs (c)(2), (d)(2), and (e), the phrase "state or" shall be inserted before "DOT agency."

(16) The following revisions shall be made to 49 C.F.R. 382.405:

(A) In paragraphs (c) and (d), the words "the Secretary of Transportation, any DOT agency, or" shall be deleted.

(B) Paragraph (e) shall be deleted.

(C) In paragraph (g), the phrase "state or" shall be added before the phrase "DOT drug."

(D) In paragraph (g), the phrase "Sec. 40.323(a)(2)" shall be deleted and replaced by "49 C.F.R. 40.323(a)(2), as adopted by K.A.R. 82-4-3b."

(E) In paragraph (h), the phrase "Sec. 40.321(b) of this title" shall be deleted and replaced by "49 C.F.R. 40.321(b), as adopted by K.A.R. 82-4-3b."

(17) In 49 C.F.R. 382.407 and 382.409, the phrase "part 40, Subpart G, of this title" shall be deleted and replaced by "49 C.F.R. 40.321(b), as adopted by K.A.R. 82-4-3b."

(18) In 49 C.F.R. 382.413, the phrase "Sec. 40.25 of this title" shall be deleted and replaced by "49 C.F.R. 40.25, as adopted by K.A.R. 82-4-3b."

(19) The following revisions shall be made to 49 C.F.R. 382.501:

(A) The phrase "state or" shall be added before the phrase "DOT agency."

(B) The phrase "part 390 of this subchapter" shall be deleted and replaced by "49 C.F.R. Part 390, as adopted by K.A.R. 82-4-3f."

(20) 49 C.F.R. 382.507 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-3d. Safety fitness procedures. (a) With the following exceptions, 49 C.F.R. Part 385, as in effect on October 1, 2003, is hereby adopted by reference:

(1) In 49 C.F.R. 385.1, paragraphs (a) and (b) shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 385.3:

(A) In paragraph (1) of the definition of "Reviews," the last sentence shall be deleted.

(B) The definition of "Safety ratings," including paragraphs (1), (2), (3), and (4), shall be deleted.

(3) The first paragraph of 49 C.F.R. 385.5 shall be deleted and replaced by the following:

"In cooperation with the FMCSA, special agents and authorized representatives shall conduct reviews in order to gather the information necessary for the FMCSA to issue a safety rating for a motor carrier. Information gathered shall include information necessary to demonstrate that the motor carrier has adequate safety management controls in place which comply with the applicable safety

requirements in order to reduce the risks associated with:"

(4) The first paragraph of 49 C.F.R. 385.7 shall be deleted and replaced by the following:

"In cooperation with the FMCSA, special agents and authorized representatives shall conduct reviews in order to gather the information necessary for the FMCSA to determine an appropriate safety rating for a motor carrier. Information gathered shall be information the FMCSA may consider in assessing a safety rating, including:"

(5) 49 C.F.R. 385.9 through 49 C.F.R. 385.19 shall be deleted.

(6) In 49 C.F.R. 385.103(d) and (e), the phrase "or the commission in cooperation with the FMCSA" shall be added after the phrase "The FMCSA" at the beginning of the sentence.

(7) 49 C.F.R. 385.105 shall be deleted.

(8) The following revisions shall be made to 49 C.F.R. 385.107:

(A) In paragraph (a), the words "as adopted by K.A.R. 82-4-3d(a)(12)" shall be added after the phrase "in Appendix A to this part."

(B) Paragraphs (b), (c), and (d) shall be deleted.

(9) The following changes shall be made to 49 C.F.R. 385.109:

(A) In paragraph (a), the words "B to this part" shall be deleted and replaced by "A to 49 C.F.R. Part 385, as adopted in K.A.R. 82-4-3d(a)(12), and Section VII of Appendix B to 49 C.F.R. Part 385, as adopted in K.A.R. 82-4-3d(a)(13)."

(B) Paragraphs (b), (c), and (d) shall be deleted.

(10) 49 C.F.R. 385.111 through 49 C.F.R. 385.119 shall be deleted.

(11) 49 C.F.R. 385.301 through 49 C.F.R. 385.337 shall be deleted.

(12) The following revisions shall be made to Appendix A to 49 C.F.R. Part 385, as in effect on October 1, 2003, and hereby adopted by reference:

(A) Section I shall be deleted.

(B) In Section II, paragraphs (a), (b), (b)(1), (b)(2), and (b)(3) shall be deleted.

(C) The following revisions shall be made to Section III:

(i) In paragraph (a), the phrase "or a special agent or authorized representative" shall be added after the phrase "the FMCSA."

(ii) In paragraph (d), the phrase "as adopted by K.A.R. 82-4-3d(a)(13)" shall be added after the phrase "List of Acute and Critical Regulations."

(iii) Paragraphs (g) and (h) shall be deleted.

(iv) Sections III.A, III.B, and III.C shall be deleted.

(D) Section IV shall be deleted.

(13) Section VII of Appendix B to 49 C.F.R. Part 385, as in effect on October 1, 2003, is hereby adopted by reference. However, the references to Sec. 395.1(h)(1)(i) through Sec. 395.1(h)(2)(iv) shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation

(continued)

unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7, and K.S.A. 2003 Supp. 66-1,142a; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-3e. Minimum levels of financial responsibility for motor carriers. (a) With the following exceptions, 49 C.F.R. Part 387, as in effect on October 1, 2003, is hereby adopted by reference:

- (1) 49 C.F.R. 387.1 shall be deleted.
- (2) The following revisions shall be made to 49 C.F.R. 387.3:
 - (A) The following revisions shall be made to paragraph (a):
 - (i) The phrase "for-hire" shall be deleted and replaced by "public."
 - (ii) The words "interstate or foreign" shall be deleted and replaced by "intrastate."
 - (B) In paragraph (b), the words "interstate, foreign, or" shall be deleted.
 - (C) In paragraph (c)(1), the phrase "in interstate or foreign commerce" shall be deleted and replaced by "as adopted by K.A.R. 82-4-20."
 - (D) Paragraph (c)(2) shall be deleted.
- (3) The following revisions shall be made to 49 C.F.R. 387.5:
 - (A) In the definition of "evidence of security," the words "a surety bond or" shall be deleted.
 - (B) In the definition of "financial responsibility," the words "or surety bonds" shall be deleted.
 - (C) In the definition of "for-hire carriage," the term "for-hire" shall be deleted and replaced by "public."
 - (D) In the definition of "insured and principal" the term "surety bond" shall be deleted.
 - (E) The definition of "motor carrier" shall be deleted.
- (4) The following revisions shall be made to 49 C.F.R. 387.7:
 - (A) In paragraph (b)(1), the phrase "surety bonds" shall be deleted.
 - (B) In paragraph (b)(2), the phrase "and surety bonds" shall be deleted.
 - (C) Paragraphs (b)(3), (b)(3)(i), (b)(3)(ii), and (b)(3)(iii) shall be deleted.
 - (D) In paragraph (c), the phrases "and surety bonds," "or surety bonds," and "or surety" shall be deleted.
 - (E) Paragraphs (d)(1) and (d)(2) shall be deleted.
 - (F) The following revisions shall be made to paragraph (d)(3):
 - (i) The phrase "Federal Motor Carrier Safety Administration" shall be deleted and replaced by "Kansas Insurance Department."
 - (ii) The words "Sec. 387.309, provided the motor carrier maintains a satisfactory safety rating as determined by the Federal Motor Carrier Safety Administration under part 385 of this chapter" shall be deleted and replaced by "K.S.A. 66-1,128."
 - (G) The following revisions shall be made to paragraph (f):
 - (i) The words "United States by motor carriers domiciled in a contiguous foreign country" shall be deleted and replaced by "state."
 - (ii) The words "or MCS-82" shall be deleted.
 - (H) In paragraph (g), the term "United States" shall be deleted and replaced by "state of Kansas."
- (5) The following revisions shall be made to the "schedule of limits—public liability" in 49 C.F.R. 387.9:
 - (A) The term "for-hire" shall be deleted and replaced by "public."
 - (B) The phrase "interstate or foreign" shall be deleted and replaced by "intrastate."
 - (C) The phrase "interstate, foreign, or" shall be deleted.
 - (D) The phrase "as adopted by K.A.R. 82-4-20" shall be added after "49 CFR 171.8," "49 CFR 173.403," and "49 CFR 172.101."
- (6) The following revisions shall be made to 49 C.F.R. 387.11:
 - (A) In the first paragraph, the words "or surety bond" shall be deleted.
 - (B) In paragraph (a), the words "or bonds in each State in which the motor carrier operates" shall be deleted and replaced by "in the state of Kansas."
 - (C) The following revisions shall be made to paragraph (b):
 - (i) The words "or bonds" shall be deleted.
 - (ii) The phrase "any State in which the motor carrier operates" shall be deleted and replaced by "the state of Kansas."
 - (D) In paragraph (c), the words "any State in which the motor carrier operates" shall be deleted and replaced by "the state of Kansas."
- (7) The following revisions shall be made to 49 C.F.R. 387.15:
 - (A) The following revisions shall be made to the first paragraph:
 - (i) The phrase "and surety bonds (Illustration II)" shall be deleted.
 - (ii) The phrase "FMCSA and approved by the OMB" shall be deleted and replaced by "commission."
 - (iii) The phrase "and surety bonds" shall be deleted.
 - (iv) The following sentence shall be deleted: "The continuous coverage requirement does not apply to Mexican motor carriers insured under Sec. 387.7(b)(3) of this subpart."
 - (v) The phrase "and surety bond" shall be deleted.
 - (vi) The following sentence shall be added to the end of the paragraph: "A form approved by the Commission for liability insurance for the motor carriers listed in 49 C.F.R. 387.3 shall be called a Form MCS-90, and shall be in a form substantially similar to the following:"
 - (B) The following revisions shall be made to Illustration I:
 - (i) The terms "(3/82)," "Form Approved," "OMB No. 2125-0074," and "Under Sections 29 and 30 of the Motor Carrier Act of 1980," appearing near the top of Illustration I, shall be deleted.
 - (ii) The term "FMCSA" shall be deleted and replaced by "commission."
 - (iii) The term "FMCSA's" shall be deleted and replaced by "commission's."

(iv) The phrase "at its office in Washington, DC" shall be deleted.

(v) The definition of "motor vehicle" shall be deleted.

(vi) The phrase "sections 29 and 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Motor Carrier Safety Administration," which is in the paragraph that begins "The insurance policy to which this endorsement is attached," shall be deleted and replaced by "K.S.A. 66-1,128 and K.A.R. 82-4-3e."

(vii) The phrase "sections 29 and 30 of the Motor Carrier Act of 1980," which is in the paragraph beginning "In consideration," shall be deleted and replaced by "K.S.A. 66-1,128 and K.A.R. 82-4-3e."

(C) Illustration II shall be deleted.

(8) 49 C.F.R. 387.17 shall be deleted.

(9) The following revisions shall be made to 49 C.F.R. 387.25:

(A) The term "for-hire" shall be deleted and replaced by "public."

(B) The words "interstate or foreign" shall be deleted and replaced by "intrastate."

(10) The following revisions shall be made to 49 C.F.R. 387.27(a):

(A) The term "for-hire" shall be deleted and replaced by "public."

(B) The words "interstate or foreign" shall be deleted and replaced by "intrastate."

(11) The following revisions shall be made to 49 C.F.R. 387.29:

(A) In the definition of "for-hire carriage," the term "for-hire" shall be deleted and replaced by "public."

(B) The definition of "motor carrier" shall be deleted.

(C) In the definition of "seating capacity," the phrase "(measured in accordance with SEA Standards J1100(a))" shall be deleted.

(12) The following revisions shall be made to 49 C.F.R. 387.31:

(A) In paragraph (b), the term "surety bonds" shall be deleted.

(B) In paragraph (b)(2), the words "and surety bonds" shall be deleted.

(C) Paragraphs (3), (3)(i), and (3)(ii) shall be deleted.

(D) In paragraph (c), the phrases "and surety bonds," "or surety bonds," and "or surety bond" shall be deleted.

(E) In paragraph (d)(1) shall be deleted and replaced by "Form MCS-90B issued by an insurer."

(F) Paragraph (d)(2) shall be deleted.

(G) The following revisions shall be made to paragraph (f):

(i) The phrase "within the United States" shall be deleted and replaced by "in intrastate commerce within the state of Kansas."

(ii) The phrase "(Forms MC-90B or MCS-82B)" shall be deleted and replaced by "(Form MCS-90B)."

(H) In paragraph (g), the phrase "entry into the United States" shall be deleted and replaced by "the ability to operate within the state of Kansas."

(13) The following revisions shall be made to 49 C.F.R. 387.33:

(A) The phrase "interstate or foreign" shall be deleted and replaced by "intrastate."

(B) In the schedule of limits, the term "for-hire" shall be deleted and replaced by "public."

(14) The following revisions shall be made to 49 C.F.R. 387.35:

(A) In the first paragraph, the phrases "or surety bond" and "or surety" shall be deleted.

(B) In paragraph (a), the words "or bonds in each State in which the motor carrier operates" shall be deleted and replaced by "in the state of Kansas pursuant to K.S.A. 66-1,128."

(C) Paragraphs (b) and (c) shall be deleted.

(15) 49 C.F.R. 387.39 and the associated graphics shall be deleted and replaced by the following:

"Endorsements for policies of insurance shall be in a form approved by the commission. Endorsements to policies of insurance shall specify that coverage will remain in effect continuously until terminated, as required by 49 C.F.R. 387.31. The endorsement shall be issued in the exact name of the motor carrier. A form approved by the commission for liability insurance for the motor carriers described in 49 C.F.R. 387.27 shall be called a form MCS-90B and shall be in a form substantially similar to the form prescribed in 49 C.F.R. 387.9."

(16) 49 C.F.R. 387.41 through 49 C.F.R. 387.419 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-3f. General motor carrier safety regulations.

(a) With the following exceptions, 49 C.F.R. Part 390, as in effect on October 1, 2003, is hereby adopted by reference:

(1) 49 C.F.R. 390.1 shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 390.3:

(A) In paragraph (a), the word "interstate" shall be deleted and replaced by "intrastate."

(B) Paragraphs (b) and (c) shall be deleted.

(C) In paragraph (e)(1), the phrase "all regulations contained in this subchapter" shall be deleted and replaced by "K.A.R. 82-4-3a through K.A.R. 82-4-3m, and K.A.R. 82-4-20."

(D) In paragraph (e)(2), the phrase "all applicable regulations contained in this subchapter" shall be deleted and replaced by "K.A.R. 82-4-3a through K.A.R. 82-4-3m, and K.A.R. 82-4-20."

(E) Paragraphs (f), (f)(1), (f)(2), (f)(3), (f)(4), (f)(5), (f)(6)(i), and (f)(6)(ii) shall be deleted.

(3) The following revisions shall be made to 49 C.F.R. 390.5:

(A) The following definitions shall be deleted:

(i) Commercial motor vehicle;

(ii) conviction;

(continued)

- (iii) driveaway-towaway operation;
- (iv) exempt motor carrier;
- (v) farm vehicle;
- (vi) for-hire motor carrier;
- (vii) gross combination weight rating;
- (viii) gross vehicle weight rating;
- (ix) hazardous material;
- (x) hazardous substance;
- (xi) hazardous waste;
- (xii) highway;
- (xiii) interstate commerce;
- (xiv) intrastate commerce;
- (xv) medical examiner;
- (xvi) motor carrier;
- (xvii) motor vehicle;
- (xviii) operator;
- (xix) other terms;
- (xx) person;
- (xxi) private motor carrier;
- (xxii) private motor carrier of passengers (business);
- (xxiii) private motor carrier of passengers (nonbusiness);
- (xxiv) school bus;
- (xxv) school bus operation;
- (xxvi) secretary;
- (xxvii) state; and
- (xxviii) United States.

(B) In the definition of "Exempt intracity zone," the following text shall be deleted: "of a municipality or the commercial zone of that municipality described in appendix F to subchapter B of this chapter. The term 'exempt intracity zone' does not include any municipality or commercial zone in the State of Hawaii." The deleted text shall be replaced by the following: "described in section 8 of appendix F to Title 49, Chapter III, Subchapter B, as in effect on October 1, 2003, and hereby adopted by reference."

(C) The definition of "Out of service order" shall be deleted and replaced by the following:

"Out-of-service order means a declaration by a special agent or authorized representative that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. 392.5, as adopted by K.A.R. 82-4-3h, 49 C.F.R. 395.13, as adopted by K.A.R. 82-4-3a, or 49 C.F.R. 396.9, as adopted by K.A.R. 82-4-3j."

(D) The following revisions shall be made to the definition of "Principal place of business":

(i) The phrase "parts 382, 387, 390, 391, 395, 396, and 397 of this subchapter" shall be deleted and replaced by "K.A.R. 82-4-3a, K.A.R. 82-4-3c, K.A.R. 82-4-3e, K.A.R. 82-4-3f, K.A.R. 82-4-3g, K.A.R. 82-4-3j, and K.A.R. 82-4-3k."

(ii) The first instance of the term "Federal" shall be deleted.

(iii) The phrase "of the Federal Motor Carrier Safety Administration" shall be deleted.

(E) The definition of "Special agent" shall be deleted and replaced by the following:

"Special agent or authorized representative means an authorized representative of the commission, and members of the highway patrol or any other law enforcement officers in the state who have been certified in the in-

spection of motor carriers based on the motor carrier safety assistance program standards."

(4) 49 C.F.R. 390.7 and 49 C.F.R. 390.9 shall be deleted.

(5) In 49 C.F.R. 390.11, the phrase "part 325 of subchapter A or in this subchapter" shall be deleted and replaced by "K.A.R. 82-4-3a through K.A.R. 82-4-3m, and K.A.R. 82-4-20."

(6) The following revisions shall be made to 49 C.F.R. 390.15:

(A) The first instance of the phrase "of the Federal Motor Carrier Safety Administration" shall be deleted.

(B) The second instance of the phrase "of the Federal Motor Carrier Safety Administration" shall be deleted and replaced by "or special agent."

(7) The following revisions shall be made to 49 C.F.R. 390.19:

(A) Paragraph (a) shall be deleted and replaced by the following:

"Each motor carrier that conducts intrastate operations in the state of Kansas shall file a motor carrier identification report, which shall be known as a Form MCS-150, at the following times:"

(B) Paragraph (b) shall be deleted and replaced by the following:

"The Form MCS-150 shall contain the following information:

"(1) The Kansas-specific USDOT number assigned to the carrier pursuant to K.A.R. 82-4-8h;

"(2) the legal name of the motor carrier;

"(3) the trade or 'doing business as' name of the motor carrier, if applicable;

"(4) the street address of the motor carrier, including city, state, and zip code;

"(5) the mailing address of the motor carrier, including city, state, and zip code;

"(6) the motor carrier's principal telephone number and telefacsimile number;

"(7) whether the motor carrier conducts intrastate only carriage of hazardous materials or intrastate carriage of non-hazardous materials;

"(8) the motor carrier's mileage, rounded to the nearest 10,000, for the last calendar year;

"(9) the type of operations the motor carrier conducts in the state;

"(10) the classification of cargo that the motor carrier transports;

"(11) the hazardous materials transported by the motor carrier;

"(12) the type of equipment owned or leased or both for transporting property or passengers;

"(13) the number of drivers that operate within a 100-mile radius;

"(14) the number of drivers that operate outside a 100-mile radius;

"(15) the number of drivers with commercial drivers' licenses;

"(16) the total number of drivers; and

"(17) a signed and dated statement with the signatory's printed name and title, certifying that the signatory is familiar with the commission's safety regulations and that the information contained in the report is accurate."

(C) In paragraph (c), the words "FMCSA's Office of Data Analysis and Information Systems" shall be deleted and replaced by "commission's transportation division."

(D) Paragraph (c)(1) shall be deleted and replaced by the following:

"The completed Form MCS-150 shall be filed with the Kansas corporation commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604."

(E) Paragraph (c)(2) shall be deleted.

(F) Paragraphs (e), (f), and (g) shall be deleted.

(8) The following revisions shall be made to 49 C.F.R. 390.21:

(A) In paragraph (a), the words "as defined in Sec. 390.5, subject to subchapter B of this chapter must" shall be deleted and replaced by "required to be marked pursuant to K.A.R. 82-4-8h shall."

(B) In paragraph (b)(2), the words "Kansas-specific" shall be added before the phrase "motor carrier."

(C) Paragraphs (b)(5), (b)(5)(i), (b)(5)(ii), and (b)(5)(iii) shall be deleted.

(D) In paragraph (e)(2)(iii)(B)(1), the words "'interstate' or 'intrastate'" shall be deleted and replaced by "intra-state."

(E) Paragraph (e)(2)(iii)(C) shall be deleted and replaced by the following:

"A statement that the lessor cooperates with all relevant special agents and authorized representatives to provide the identity of customers who operate the rental commercial motor vehicles; and."

(F) The last sentence of paragraph (e)(2)(iv) shall be deleted.

(9) The following changes shall be made to 49 C.F.R. 390.23:

(A) In paragraph (a), the phrase "Parts 390 through 399 of this chapter" shall be deleted and replaced by "K.A.R. 82-4-3e, and K.A.R. 82-4-3f through K.A.R. 82-4-3m."

(B) In paragraph (b), both instances of the phrase "parts 390 through 399 of this chapter" shall be deleted and replaced by "K.A.R. 82-4-3e, and K.A.R. 82-4-3f through K.A.R. 82-4-3m."

(C) In paragraph (c)(1), the phrase "Secs. 395.3(a) and 395.5(a) of this chapter" shall be deleted and replaced by "49 C.F.R. 395.3(a) and 49 C.F.R. 395.5(a), as adopted by K.A.R. 82-4-3c."

(10) The following revisions shall be made to 49 C.F.R. 390.25:

(A) The word "regional" shall be inserted before the term "FMCSA Field Administrator."

(B) The words "in the region in which the motor carrier's principal place of business is located" shall be deleted.

(11) 49 C.F.R. 390.27 shall be deleted.

(12) The following revisions shall be made to 49 C.F.R. 390.29:

(A) In paragraph (a), the phrase "this subchapter" shall be deleted and replaced by "K.A.R. 82-4-3a through K.A.R. 82-4-3m, and K.A.R. 82-4-20."

(B) The following revisions shall be made to paragraph (b):

(i) The phrase "of the Federal Motor Carrier Safety Administration" shall be deleted.

(ii) The word "Federal" appearing in the last sentence shall be deleted.

(13) In 49 C.F.R. 390.33, the phrase "this subchapter and part 325 of subchapter A" shall be deleted and replaced by "K.A.R. 82-4-3a through K.A.R. 82-4-3m, and K.A.R. 82-4-20."

(14) The following revisions shall be made to 49 C.F.R. 390.35:

(A) In paragraph (a), the phrase "by part 325 of subchapter A or this subchapter" shall be deleted and replaced by "K.A.R. 82-4-3a through K.A.R. 82-4-3m, and K.A.R. 82-4-20."

(B) In paragraphs (b) and (c), the phrase "this subchapter or part 325 of subchapter A" shall be deleted and replaced by "K.A.R. 82-4-3a through K.A.R. 82-4-3m, and K.A.R. 82-4-20."

(14) 49 C.F.R. 390.37 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-3g. Qualifications of drivers. (a) With the following exceptions, 49 C.F.R. Part 391, as in effect on October 1, 2003, is hereby adopted by reference:

(1) In 49 C.F.R. 392.2(c), the phrase "Sec. 390.5" shall be deleted and replaced by "K.A.R. 82-4-1(c)."

(2) 49 C.F.R. 391.11(b)(1) shall be deleted.

(3) The following revisions shall be made to 49 C.F.R. 391.15:

(A) In paragraphs (c)(1)(i) and (c)(2)(iii), the phrase "of this subchapter" shall be deleted and replaced by "as adopted by K.A.R. 82-4-3a."

(B) The phrase "as adopted by K.A.R. 82-4-3h" shall be added to the end of paragraph (c)(2)(i)(C).

(C) In paragraphs (c)(2)(ii) and (iii), the phrase "as adopted by K.A.R. 82-4-3h(b)" shall be added after the phrase "21 C.F.R. 1308.11 Schedule I."

(4) In 49 C.F.R. 391.21(b)(11), the phrase "as defined by Part 383 of this subchapter" shall be deleted.

(5) In 49 C.F.R. 391.25(b)(1), the phrase "Federal Motor Carrier Safety Regulations in this subchapter or hazardous materials regulations (49 CFR chapter I, subchapter C)" shall be deleted and replaced by "commission motor carrier safety regulations."

(6) The following revisions shall be made to 49 C.F.R. 391.27:

(A) In paragraph (c), the words "be prescribed by the motor carrier. The following form may be used to comply with this section" shall be deleted and replaced by "read substantially as follows."

(B) Paragraph (e) shall be deleted.

(7) In 49 C.F.R. 391.33(a)(1), the phrase "as defined in Sec. 383.5 of this subchapter" shall be deleted.

(8) The following revisions shall be made to 49 C.F.R. 391.41:

(continued)

(A) The paragraph that appears between paragraphs (a) and (b) shall be deleted.

(B) In paragraph (b)(11), the clause "when the audio-metric device is calibrated to American National Standard (formerly ASA Standard) Z24.5 1951" shall be deleted.

(C) In paragraph (b)(12)(i), the phrase "as adopted by K.A.R. 82-4-3h" shall be added after the phrase "21 C.F.R. 1308.11 Schedule I."

(9) The following changes shall be made to 49 C.F.R. 391.43:

(A) In paragraph (a), the phrase "examiner as defined in Sec. 390.5 of this subchapter" shall be deleted and replaced by "licensed medical practitioner, as defined by K.A.R. 82-4-1."

(B) In paragraph (b), the phrase "medical examiner" shall be deleted and replaced by "licensed medical practitioner, as defined by K.A.R. 82-4-1."

(C) In paragraph (c)(1), the phrase "including the medical advisory criteria prepared by the FMCSA as guidelines to aid the medical examiner in making the qualification determination" shall be deleted.

(D) In paragraph (f), the words "and examination form. Existing forms may be used until current printed supplies are depleted or until September 30, 2004, whichever occurs first" shall be deleted.

(E) In the portion titled "Extremities" in paragraph (f), the words "Field Service Center of the FMCSA, for the State in which the driver has legal residence" shall be deleted and replaced by "commission."

(F) The last sentence of paragraph (h) shall be deleted.

(G) The editorial note found after paragraph (h) shall be deleted.

(10) The following revisions shall be made to 49 C.F.R. 391.47:

(A) Paragraph (b)(8) shall be deleted.

(B) In paragraph (b)(9), the word "interstate" shall be deleted and replaced by the word "intrastate."

(C) In paragraphs (c) and (d), the phrase "Director, Office of the Bus and Truck Standards and Operations (MC-PSD)" shall be deleted and replaced by the phrase "director of the commission's transportation division."

(D) The last two sentences of paragraph (e) shall be deleted and replaced by the following sentence: "Petitions shall be filed in accordance with K.A.R. 82-1-225 and K.S.A. 77-601 et seq."

(E) In paragraph (f), the first two occurrences of the phrase "Director, Office of the Bus and Truck Standards and Operations (MC-PSD)" shall be deleted and replaced by the phrase "director of the commission's transportation division." The clause "or until the Director, Office of Bus and Truck Standards and Operations (MC-PSD) orders otherwise" shall be deleted.

(11) The following revisions shall be made to 49 C.F.R. 391.49:

(A) The phrase "Division Administrator, FMCSA" in paragraph (a) and the phrase "State Director, FMCSA" in paragraphs (g), (h), (j)(1), and (k) shall be deleted and replaced by "the director of the commission's transportation division."

(B) The remainder of paragraph (b)(2) after "The application must be addressed to" shall be deleted and re-

placed by "Director of the Transportation Division, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, KS 66604."

(C) In paragraph (b)(3), the words "field service center, FMCSA, for the state in which the driver has legal residence" shall be deleted and replaced by "director of the commission's transportation division at the address provided in paragraph (b)(2)."

(D) In paragraph (c)(1)(iii), the phrase "U.S. DOT" shall be deleted.

(E) Paragraph (c)(2)(i) shall be deleted.

(F) The phrase "Medical Program Specialist, FMCSA service center" in paragraph (e)(1), the words "Medical Program Specialist, FMCSA for the State in which the carrier's principal place of business is located" in paragraph (e)(1)(i), and the words "Medical Program Specialist, FMCSA service center, for the State in which the driver has legal residence" in paragraph (e)(1)(ii) shall be deleted and replaced by "the director of the transportation division of the commission."

(G) In paragraph (i), the words between "submitted to the" and "The SPE certificate renewal application" shall be deleted and replaced by "director of the transportation division of the commission."

(H) The following revisions shall be made to paragraph (j)(2):

(i) The words "State Director, FMCSA, for the State where the driver applicant has legal residence" shall be deleted and replaced by "director of the transportation division of the commission."

(ii) The phrase "the following form" shall be deleted and replaced by "a form substantially similar to the following."

(iii) The phrase "subchapter B of the Federal Motor Carrier Safety Regulations" shall be deleted and replaced by the phrase "as adopted by K.A.R. 82-4-3g."

(iv) The term "FMCSRs" shall be deleted and replaced by "commission's regulations regarding motor carrier safety."

(12) The following revisions shall be made to 49 C.F.R. 391.51(b)(8):

(A) The phrase "Field Administrator, Division Administrator, or State Director" shall be deleted and replaced by "the director of the transportation division of the commission."

(B) The phrase "or under K.A.R. 82-4-6d" shall be added at the end of the paragraph.

(13) The following revisions shall be made to 49 C.F.R. 391.62:

(A) In paragraph (c), the phrase "as adopted by K.A.R. 82-4-3f" shall be added after the phrase "49 C.F.R. 390.5."

(B) In paragraph (d), the phrase "under regulations issued by the Secretary under 49 U.S.C. chapter 51" shall be deleted and replaced by "under the regulations adopted by K.A.R. 82-4-20."

(C) In paragraph (e)(1), the phrase "Federal Motor Carrier Safety Regulations" shall be deleted and replaced by "commission's motor carrier regulations found in Article 4."

(14) 49 C.F.R. 391.64 shall be revised as follows:

(A) In paragraph (a)(2)(iii), the phrase "an authorized agent of the FMCSA" shall be deleted and replaced by

“the director of the transportation division of the commission.”

(B) In paragraphs (a)(2)(v) and (b)(3), the phrase “duly authorized federal, state or local enforcement official” shall be deleted and replaced by the phrase “any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(15) The form set out in 49 C.F.R. 391.65 shall be revised as follows:

(A) The phrase “as adopted by K.A.R. 82-4-3f” shall be added after the phrase “Sec. 390.5.”

(B) The phrase “Federal Motor Carrier Safety Regulations” shall be deleted and replaced by the phrase “as adopted by K.A.R. 82-4-3g.”

(16) 49 C.F.R. 391.67 shall be deleted.

(17) In 49 C.F.R. 391.68(a), “(b)(1)” shall be deleted.

(18) 49 C.F.R. 391.69 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-3h. Driving of commercial motor vehicles. (a)

With the following exceptions, 49 C.F.R. Part 392, as in effect on October 1, 2003, is hereby adopted by reference:

(1) In 49 C.F.R. 392.2, the words after the word “jurisdiction,” including the last sentence of this section, shall be deleted and replaced by “of the state of Kansas.”

(2) 49 C.F.R. 392.4 shall be revised as follows:

(A) Paragraph (a)(1) shall be deleted and replaced by the following:

“(1) Any substance listed in schedule I of 21 C.F.R. 1308.11, which is hereby adopted by reference as in effect on April 1, 2003.”

(B) In paragraph (c), the phrase “Sec. 382.107” shall be deleted and replaced by “49 C.F.R. 382.107, as adopted by K.A.R. 82-4-3c.”

(3) 49 C.F.R. 392.5 shall be revised as follows:

(A) In paragraph (a)(1), the phrase “Sec. 382.107” shall be deleted and replaced by “49 C.F.R. 382.107, as adopted by K.A.R. 82-4-3c.”

(B) In paragraph (a)(3), the phrase “hereby adopted by reference as in effect on January 7, 2003” shall be added after the phrase “26 U.S.C. 5052(a).”

(C) In paragraph (a)(3), the phrase “section 5002(a)(8), of such Code” shall be deleted and replaced by “26 U.S.C. 5002(a)(8), hereby adopted by reference as in effect on January 7, 2003.”

(D) In paragraph (d)(2), a period shall be placed after the phrase “affirmation of the order”; the remainder of the paragraph shall be deleted.

(E) Paragraph (e) shall be deleted and replaced by the following:

“(e) Any driver who is subject to an out of service order may petition for reconsideration of that order in accordance with K.A.R. 82-1-235 and the provisions of the act for judicial review and civil enforcement of agency actions, found at K.S.A. 77-601 et seq.”

(4) In 49 C.F.R. 392.8, the phrase “Sec. 393.95 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.95, as adopted by K.A.R. 82-4-3i.”

(5) In 49 C.F.R. 392.9, the phrase “Secs. 393.100 through 393.142 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.100 through 393.142, as adopted by K.A.R. 82-4-3i.”

(6) 49 C.F.R. 392.9a shall be deleted.

(7) 49 C.F.R. 392.10 shall be revised as follows:

(A) In paragraph (a)(4), the phrase “Parts 107 through 180 of this title” shall be deleted and replaced by “49 C.F.R. 107.105, 107.502, and Parts 171, 172, 173, 177, 178, and 180, as adopted by K.A.R. 82-4-20.”

(B) In paragraph (a)(5), the phrase “Sec. 173.120 of this title” shall be deleted and replaced by “49 C.F.R. 173.120, as adopted by K.A.R. 82-4-20.”

(C) In paragraph (a)(6), the phrase “subpart B of part 107 of this title” shall be deleted and replaced by “49 C.F.R. 107.105, as adopted by K.A.R. 82-4-20.”

(D) In paragraph (b)(1), the phrase “Sec. 390.5 of this chapter” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f.”

(8) The phrase “Sec 393.95 of this subchapter” in 49 C.F.R. 392.22(b) shall be deleted and replaced by “49 C.F.R. 393.95, as adopted by K.A.R. 82-4-3i.”

(9) The following revisions shall be made to 49 C.F.R. 392.51:

(A) In paragraph (b), the phrase “as adopted by K.A.R. 82-4-20” shall be inserted after the phrase “Parts 171, 172, 173, and 178.”

(B) In paragraph (b), the phrase “hereby incorporated by reference as in effect on July 1, 2003” shall be inserted after the phrase “29 CFR 1910.106.”

(10) 49 C.F.R. 392.62 shall be revised as follows:

(A) In paragraph (a), the phrase “Sec. 393.90 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.90, as adopted by K.A.R. 82-4-3i.”

(B) In paragraph (b), the phrase “Sec. 393.91 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.91, as adopted by K.A.R. 82-4-3i.”

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-3i. Parts and accessories necessary for safe operation. (a) With the following exceptions, 49 C.F.R. Part 393, as in effect on October 1, 2003, is hereby adopted by reference:

(1) The following revisions shall be made to 49 C.F.R. 393.5:

(continued)

(A) The following definition shall be added after the definition of "curb weight":

"DOT C-2, DOT C-3, and DOT C-4. These terms shall be defined by figure 29, found in 49 C.F.R. 571.108 as in effect on October 1, 2003, and figure 29 is hereby adopted by reference."

(B) In the definition of "low chassis vehicle," the phrase "of Sec. 571.224 in effect on the date of manufacture, or a subsequent edition" shall be deleted and replaced by "found in S5.1.1, S5.1.2, and S5.1.3 of 49 C.F.R. 571.224, as in effect on October 1, 2003, and hereby adopted by reference."

(C) The definition of "manufactured home" shall be deleted and replaced by the following:

"Manufactured home means a structure as defined by K.S.A. 58-4202(a), as in effect January 21, 2003, and hereby adopted by reference. The term shall also include structures that meet the requirements of K.S.A. 58-5202(a) except the size requirements. These structures shall be considered manufactured homes when the manufacturer files with the transportation division a certification that it intends that these structures shall be considered manufactured homes. The manufacturer shall also certify that, if at any time it manufactures structures it does not intend to be manufactured homes, it shall identify those structures by a permanent serial number placed on the structure during the first stage of production and that the series of serial numbers for such structures shall be distinguishable on the structures and in its records from the series of serial numbers used for manufactured homes."

(D) The following definition shall be added after the definition of "manufactured home":

"Optically combined. This term refers to two or more lights that share the same body and have one lens totally or partially in common."

(E) The definition for "reflective material" shall be deleted.

(F) In the definition of "special purpose vehicle," the phrase "of Sec. 571.224 (paragraphs S5.1.1 through S5.1.3), in effect on the date of manufacture or a subsequent edition" shall be deleted and replaced by "found in S5.1.1, S5.1.2, and S5.1.3 of 49 C.F.R. 571.224, as adopted by reference above."

(2) 49 C.F.R. 393.7 shall be deleted.

(3) The following revisions shall be made to 49 C.F.R. 393.11:

(A) In the first paragraph, the third and fourth sentences shall be deleted.

(B) The phrase "Paragraphs 393.22 and S4.4 of 49 CFR 571.108, Equipment combinations" in the sentence between Table 1 and the footnotes shall be deleted and replaced by the following:

"49 C.F.R. 393.22. Lamp and reflector combinations which comply with the following shall also be permitted:

"Two or more lamps, reflective devices, or items of associated equipment may be combined if the requirements for each lamp, reflective device, and item of associated equipment are met, with the following exceptions:

"(a) No high-mounted stop lamp shall be combined with any other lamp or reflective device, other than with a cargo lamp.

"(b) No high-mounted stop lamp shall be combined optically with any cargo lamp.

"(c) No clearance lamp shall be combined optically with any tail lamp."

(4) The following revisions shall be made to 49 C.F.R. 393.13:

(A) In paragraph (a), the phrase "Sec. 390.5 of this subchapter" shall be deleted and replaced by "49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f." The last two sentences of paragraph (a) shall be deleted.

(B) Paragraph (b) shall be deleted and replaced by the following:

"(b) Retroflective sheeting and reflex reflectors. Unless otherwise preempted by federal law, motor carriers shall retrofit their trailers with a conspicuity system that meets the following requirements:

"(1) Conspicuity systems. Each trailer not exempted from the commission's safety regulations found in Article 4 of these regulations shall be equipped with either retroflective sheeting that meets the requirements of paragraph (B), reflex reflectors that meet the requirements of paragraph (C), or a combination of retroflective sheeting and reflex reflectors that meets the requirements of paragraph (D).

"(2) Retroflective sheeting.

"(A) Construction. Retroflective sheeting shall consist of a smooth, flat, transparent exterior film with retroflective elements embedded or suspended beneath the film so as to form a non-exposed retroflective optical system.

"(B) Performance requirements. Retroflective sheeting shall meet the minimum photometric performance requirements specified in Figure 29 as found in 49 C.F.R. 571.108, and adopted by reference above.

"(C) Sheeting pattern. Retroflective sheeting shall be applied in a pattern of alternating white and red color segments to the sides and rear of each trailer, and to the rear of each truck tractor, and in white to the upper rear corners of each trailer and truck tractor as specified in this paragraph, and, as appropriate, as shown in figures 30-1 through 30-4, or figure 31 found in 49 C.F.R. 571.108. Figures 30-1 through 30-4 and figure 31, as found in 49 C.F.R. 571.108 and as in effect on October 1, 2003, are hereby adopted by reference.

"(D) Sheeting length. Except for a segment that is trimmed to clear obstructions or lengthened to provide red sheeting near red lamps, each white or red segment shall have a length of 300 mm plus or minus 150 mm. Neither white nor red sheeting shall represent more than two-thirds of the aggregate of any continuous strip marking the width of a trailer, or any continuous or broken strip marking its length.

"(E) Sheeting width. Retroflective sheeting shall have a width of not less than 50 mm for grade DOT-C2 sheeting, 75 mm for grade DOT-C3 sheeting, or 100 mm for grade DOT-C4 sheeting.

"(F) Sheeting retroreflection. The coefficients for retroreflection of each segment of red or white sheeting shall not be less than the minimum values specified in Figure 29 as adopted above for grades DOT-C2, DOT-C3, and DOT-C4.

"(G) Location. Retroflective sheeting shall be applied to each trailer and truck tractor as specified in paragraphs

(c) and (d) below, but need not be applied to discontinuous surfaces such as outside ribs, stake post pickets on platform trailers, and external protruding beams, or to items of equipment such as door hinge and lamp bodies on trailers and body joints, stiffening beads, drip rails and rolled surfaces on truck tractors. The edge of white sheeting shall not be located closer than 75 mm to the edge of the luminous lens area of any red or amber lamp that is required by K.A.R. 82-4-3i. The edge of red sheeting shall not be located closer than 75 mm to the edge of the luminous lens area of any amber lamp that is required by K.A.R. 82-4-3i.

“(H) Certification. In order to demonstrate that the retroflective sheeting meets the standards of paragraphs (B)(i) and (ii), the letters DOT-C2, DOT-C3, or DOT-C4, as appropriate, shall appear at least once on the exposed surface of each white or red segment of reflective sheeting, and at least once every 300 mm on the retroflective sheeting that is white only. The characters shall not be less than 3 mm high, and shall be permanently stamped, etched, molded, or printed in indelible ink.

“(3) Reflex Reflectors. Each trailer or truck tractor to which paragraph (b)(1) applies that does not conform with either paragraph (B) or paragraph (D) shall be equipped with reflex reflectors as set forth in this paragraph.

“(A) Visibility of reflector by color.

“(i) Red reflex reflector. Each red reflex reflector shall provide, at an observation angle of 0.2 degree, not less than 33 millicandelas per lux at any light entrance angle between 30 degrees left and 30 degrees right, including an entrance angle of 0 degree, and not less than 75 millicandelas per lux at any light entrance angle between 45 degrees left and 45 degrees right.

“(ii) White reflex reflector. Each white reflex reflector shall also provide at an observation angle of 0.2 degree, not less than 1,250 millicandelas per lux at any light angle of 0.2 degree, not less than 1,250 millicandelas per lux at any light entrance angle between 30 degrees left and 30 degrees right, including an entrance angle of 0 degree, and not less than 33 millicandelas per lux at any light entrance angle between 45 degrees left and 45 degrees right. A white reflex reflector complying with this paragraph when tested in a horizontal orientation may be installed in all orientations specified for rear upper locations in paragraphs (viii) element 2, and (x), element 2 above if, when tested in a vertical orientation, it provides an observation angle of 0.2 degree not less than 1,680 millicandelas per lux at a light entrance angle of 0 degree, not less than 1,120 millicandelas per lux at any light entrance angle from 10 degrees down to 10 degrees up, and not less than 560 millicandelas per lux at any light entrance angle from 20 degrees right to 20 degrees left.

“(B) Certification. In order to demonstrate that the retroflective sheeting meets the standards of K.A.R. 82-4-3i, the letters DOT-C shall appear on the exposed surface of each reflex reflector. The letters shall not be less than 3 mm high, and shall be permanently stamped, etched, molded, or printed in indelible ink.

“(4) Combination of sheeting and reflectors. Each trailer or truck tractor to which paragraph (b)(1) applies may use a combination of retroflective materials as long

as they are located as specified by paragraphs (c) and (d) below.”

(5) In 49 C.F.R. 393.17(c)(1), the phrase “Sec. 392.30” shall be deleted and replaced by “49 C.F.R. 392.30, as adopted by K.A.R. 82-4-3h.”

(6) The following revisions shall be made to 49 C.F.R. 393.24:

(A) In paragraph (c), the clause “if there be at least one such lamp conforming to the appropriate SAE Standard \1\ for such lamps on each side of the vehicle” and the related footnote shall be deleted.

(B) In paragraph (d), the words “and shall conform to the appropriate specification set forth in the SAE Standards \1\ for ‘Electric Head Lamps for Motor Vehicles’ or ‘Sealed-Beam Head Lamp Units for Motor Vehicles’” and the related footnote shall be deleted.

(7) In 49 C.F.R. 393.25, paragraphs (c), (c)(1), (c)(2), (c)(3), (d), (d)(1), (d)(2), (d)(3), (d)(4), and (d)(5), and the related footnote, shall be deleted.

(8) The following revisions shall be made to 49 C.F.R. 393.26:

(A) Paragraphs (b) and (c) shall be deleted.

(B) In paragraph (d)(4), the phrase “Sec. 177.823 of this title” shall be deleted and replaced by “49 C.F.R. 177.823, as adopted by K.A.R. 82-4-20.”

(9) The following changes shall be made to 49 C.F.R. 393.27:

(A) In paragraph (a), the second sentence and paragraphs (a)(1), (a)(2), and (a)(3) shall be deleted.

(B) In paragraph (b), the phrase “to comply with FMVSS 571.108” shall be deleted.

(10) In 49 C.F.R. 393.33, the clause “which conform to the SAE Standard \1\ for ‘Cable Terminals’ or by cable terminals” and the related footnote shall be deleted.

(11) The following revisions shall be made to 49 C.F.R. 393.40(c)(2):

(A) The words “to which the emergency brake system requirements of Federal Motor Vehicle Safety Standard No. 105 (Sec. 571.105 of this title) applied at the time of its manufacture” shall be deleted and replaced by “using hydraulic or electrical brake systems.”

(B) Paragraph (c)(2)(i) shall be deleted.

(12) In 49 C.F.R. 393.41(a), the phrase “as required by FMVSS 571.121” shall be deleted.

(13) 49 C.F.R. 393.42(b)(1)(ii) shall be deleted and replaced by “Manufactured between July 24, 1980, and October 27, 1986, must have been retrofitted to meet the requirements of this section if the brake components have been removed.”

(14) In 49 C.F.R. 393.45, paragraphs (a)(6), (b), (b)(1), (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(1)(iv), (b)(1)(v), and (b)(2) shall be deleted.

(15) In 49 C.F.R. 393.46, paragraphs (e) and (f) shall be deleted.

(16) The following revisions shall be made to 49 C.F.R. 393.51:

(A) In paragraph (b), the phrase “performs as follows” shall be deleted and replaced by “must be readily audible or visible to the driver.” Paragraphs (b)(1) and (b)(2) shall be deleted.

(continued)

(B) In paragraph (c), the phrase "must be equipped and perform, as follows" shall be deleted, and a period shall be added to the end of the sentence. Paragraphs (c)(1), (c)(1)(i), and (c)(1)(ii) shall be deleted and replaced by the following sentence: "The vehicle must have a low air pressure warning device that provides a readily audible or visible continuous warning to the driver whenever the pressure of the compressed air in the braking system is below a specified pressure, which must be at least one-half of the compressor governor cutout pressure."

(17) 49 C.F.R. 393.53 shall be deleted.

(18) The following revisions shall be made to 49 C.F.R. 393.55:

(A) In paragraph (a), the clause "that meets the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 105 (49 CFR 571.105, S5.5)" shall be deleted.

(B) In paragraph (b), the clause "that meets the requirements of FMVSS No. 105 (49 CFR 571.105, S5.3)" shall be deleted.

(C) In paragraph (c)(1), the clause "that meets the requirements of FMVSS No. 121 (49 CFR 471.121, S5.1.6.1(b))" shall be deleted.

(D) In paragraph (c)(2), the clause "that meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.1(a) for trucks and buses, S5.2.3 for semitrailers, and converter dollies and full trailers" shall be deleted.

(E) In paragraph (d)(1), the phrase "(49 CFR 571.121, S5.1.6.2(a))" shall be deleted.

(F) In paragraph (d)(2), the last sentence shall be deleted.

(G) In paragraph (d)(3), the last sentence shall be deleted.

(H) In paragraph (e), the clause "which meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.2.3.3)" shall be deleted.

(19) 49 C.F.R. 393.60(a) shall be deleted.

(20) The following revisions shall be made to 49 C.F.R. 393.61:

(A) In paragraph (b)(2), the phrase "Federal Motor Vehicle Safety Standard No. 217, part 571 of this title" shall be deleted and replaced by "49 C.F.R. 571.217, as in effect on October 1, 2003, and hereby adopted by reference."

(B) In paragraph (b)(3), the phrase "Federal Motor Vehicle Safety Standard No. 217, part 571 of this title" shall be deleted and replaced by "49 C.F.R. 571.217, as adopted by this regulation."

(C) In paragraph (c)(1), the phrase "the required free opening when subjected to the drop test specified in Test 25 of the American Standard Safety Code referred to in Sec. 393.60" shall be deleted and replaced by "a free opening when subjected to a drop test." The following words shall be deleted: "with the type of laminated glass specified in Test 25 of the Code. The sash for such windows shall be constructed of such material and be of such design and construction as to be continuously capable of complying with the above requirement."

(D) In paragraphs (c)(2) and (c)(3), the phrase "Federal Motor Vehicle Safety Standard No. 217 (Sec. 571.217) of this title" shall be deleted and replaced by "49 C.F.R. 571.217, as adopted by this regulation."

(21) In 49 C.F.R. 393.63(b) and (c), the phrase "Federal Motor Vehicle Safety Standard No. 217 (Sec. 571.217) of

this title" shall be deleted and replaced by "49 C.F.R. 571.217, as adopted by this regulation."

(22) The following revisions shall be made to 49 C.F.R. 393.67:

(A) Paragraph (a)(6) shall be deleted.

(B) Paragraph (c)(3) shall be deleted and replaced by "Threads. At least four full threads must be in engagement in each fitting."

(C) In paragraph (f)(3), the clause "The certificate must be in the form set forth in either of the following:" and paragraphs (c)(3)(i), (c)(3)(ii), and (c)(3)(iii) shall be deleted.

(23) 49 C.F.R. 393.69 shall be deleted.

(24) The following revisions shall be made to 49 C.F.R. 393.71:

(A) Paragraph (h)(8) and the related footnote shall be deleted.

(B) The following revisions shall be made to paragraph (h)(9):

(i) The phrase "requirements of the Federal Motor Carrier Safety Administration" shall be deleted and replaced by "appropriate requirements."

(ii) The following sentence shall be deleted: "Tow-bar certification manufactured before the effective date of this regulation must meet requirements in effect at the time of manufacture."

(C) In paragraph (m)(8), the phrase "requirements of the Federal Motor Carrier Safety Administration" shall be deleted and replaced by "appropriate requirements."

(25) The following revisions shall be made to 49 C.F.R. 393.75:

(A) In paragraphs (g)(1) and (g)(2), the clause "that are labeled pursuant to 24 C.F.R. 3282.362(c)(2)(i)" shall be deleted and replaced by "built."

(B) In paragraph (g)(1), the phrase "Or, in the absence of such a marking, more than 18 percent over the load rating specified in any of the publications of any of the organizations listed in FMVSS No. 119 (49 CFR 571.119, S5.1(b))" shall be deleted.

(C) In paragraph (g)(2), the phrase "or, in the absence of such a marking, the load rating specified in any of the publications of any of the organizations listed in FMVSS No. 119 (49 CFR 571.119, S5.1(b))" shall be deleted.

(26) The following revisions shall be made to 49 C.F.R. 393.77(b):

(A) The note appearing between paragraphs (7) and (8) shall be deleted.

(B) In paragraph (15), the last sentence shall be deleted.

(C) In paragraph (15)(i), the phrase "Sec. 177.834(1) of this title" shall be deleted and replaced by "49 C.F.R. 177.834(a) as adopted by K.A.R. 82-4-20."

(27) The following revisions shall be made to 49 C.F.R. 393.80:

(A) In paragraph (a), the last sentence shall be deleted.

(B) In paragraph (b), the following clause shall be deleted: "provided that if the mirrors are replaced they shall be replaced with mirrors meeting, as a minimum, the requirements of FMVSS No. 111 (49 CFR 571.111) in force at the time the vehicle was manufactured."

(28) The following revisions shall be made to 49 C.F.R. 393.86:

(A) Paragraph (a)(1) shall be deleted and replaced by the following:

“General requirements for trailers and semitrailers manufactured on or after January 26, 1988. Each trailer and semitrailer with a gross vehicle weight rating of 10,000 pounds or more, and manufactured on or after January 26, 1998, must be equipped with a rear impact guard. The requirements of paragraph (a) of this section do not apply to pole trailers as defined by 49 C.F.R. 390.5 and adopted by K.A.R. 82-4-3f, pulpwood trailers, low chassis vehicles, special purpose vehicles, wheels back vehicles as defined in 49 C.F.R. 393.5, and trailers towed in driveaway-towaway operations as defined in 49 C.F.R. 390.5 and adopted by K.A.R. 82-4-3f.”

(B) In paragraph (a)(6), the phrase “as required by FMVSS No. 223 (49 CFR 571.223, S5.3)” shall be deleted.

(C) Paragraph (a)(6)(iii) shall be deleted.

(29) In 49 C.F.R. 393.90, the phrase “of the Federal Motor Carrier Safety Administration’s regulations” shall be deleted.

(30) 49 C.F.R. 393.93 shall be deleted and replaced by the following:

“All motor vehicles shall be equipped with safety belts and shoulder harnesses in compliance with K.S.A. 8-1749.”

(31) The following revisions shall be made to 49 C.F.R. 393.94:

(A) The footnote in paragraph (c) shall be deleted.

(B) Paragraph (c)(4) shall be deleted and replaced by the following: “Set the sound level meter to the A-weighting network, ‘fast’ meter response.”

(C) Paragraph (d) shall be deleted.

(32) The following revisions shall be made to 49 C.F.R. 393.95:

(A) Paragraphs (a), (a)(1) and the related footnote, (a)(2)(i) and the related footnote, (a)(2)(ii), (a)(2)(ii)(A), (a)(2)(ii)(B), (a)(2)(iii), (a)(3), and (a)(4) shall be deleted and replaced by “Fire Extinguisher. Each motor vehicle shall be equipped with a fire extinguisher as set forth in K.A.R. 82-4-8a.”

(B) In paragraph (f)(1)(i), the clause “which satisfy the requirements of SAE Standard J597, ‘Liquid Burning Emergency Flares,’” shall be deleted.

(C) In paragraph (f)(1)(ii), the clause “which satisfy the requirements of SAE Standard J596, ‘Electric Emergency Lanterns,’” shall be deleted.

(D) In paragraph (f)(1)(v), the clause “that conform to the requirements of Federal Motor Vehicle Safety Standard No. 125, Sec. 571.125 of this title” shall be deleted.

(E) In paragraph (f)(2)(i), the clause “that conform to the requirements of Federal Motor Vehicle Safety Standard No. 125, Sec. 571.125 of this title” shall be deleted.

(F) In paragraph (f)(2)(ii), the clause “Sec. 392.22” shall be deleted and replaced by “49 C.F.R. 392.22, as adopted by K.A.R. 82-4-3h.”

(G) In paragraph (g), the phrase “as defined by 49 C.F.R. 171.101 and adopted by K.A.R. 82-4-20” shall be added after the words “Division 1.1, 1.2, 1.3 (explosives) hazardous materials; any cargo tank motor vehicle used for the transportation of Division 2.1 (flammable gas) or class 3 (flammable liquid) hazardous materials.”

(H) Paragraphs (h)(2), (h)(2)(i), and (h)(2)(ii) shall be deleted.

(I) In paragraph (i)(2), the words “Reflecting elements to be Class A. Each reflecting element or surface shall meet the requirement for a red Class A reflector contained in the SAE Recommended Practice \1\ ‘Reflex Reflectors’” and the related footnote shall be deleted.

(J) In paragraph (j), the last three sentences, the second of which is in parentheses, shall be deleted.

(33) The following revisions shall be made to 49 C.F.R. 393.104:

(A) Paragraph (e), the related table, and the related footnotes shall be deleted.

(B) Paragraph (f)(2) shall be deleted and replaced by the following:

“If a tiedown is repaired, it must be repaired sufficiently either to support the working load limits set forth in 49 C.F.R. 393.108 or according to the manufacturer’s instructions.”

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-3j. Inspection, repair, and maintenance. (a) With the following exceptions, 49 C.F.R. Part 396, as in effect on October 1, 2003, is hereby adopted by reference:

(1) In 49 C.F.R. 396.3(a)(1), the phrase “part 393 of this subchapter” shall be deleted and replaced by “49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i.”

(2) The following revisions shall be made to 49 C.F.R. 396.9:

(A) In paragraph (a), the phrase “Every special agent of the FMCSA (as defined in appendix B to this subchapter)” shall be deleted and replaced by “Any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(B) In paragraph (b), the sentence after “Prescribed inspection report” shall be deleted and replaced by the following sentence: “Motor vehicle inspections conducted by authorized personnel as described in paragraph (a) shall be made on forms approved by the commission, as described in K.A.R. 82-4-3l(a)(2)(B).”

(C) In paragraph (c)(1), the term “‘Out of Service Vehicle’ sticker” shall mean “a form approved by the commission, as described in K.A.R. 82-4-3l(a)(6)(C).”

(D) In paragraph (c)(2), the term “Vehicle Examination Report” shall mean the form described in K.A.R. 82-4-3l(a)(6)(B).

(E) In paragraph (d)(3)(ii), the phrase “issuing agency” shall be deleted and replaced by “transportation division of the commission.”

(continued)

(3) The following revisions shall be made to 49 C.F.R. 396.17:

(A) In paragraph (a), the phrase "of this subchapter" shall be deleted and replaced by "as in effect on October 1, 2001, which is hereby adopted by reference."

(B) The "Note" appearing between paragraphs (a) and (b) shall be deleted.

(C) In paragraph (h), the words "penalty provisions provided by 49 U.S.C. 521(b)" shall be deleted and replaced by "civil penalties provided by K.S.A. 66-1,142b, K.S.A. 66-1,142c, and other applicable penalties."

(4) The following revisions shall be made to 49 C.F.R. 396.19(a)(1):

(A) The phrase "as adopted by K.A.R. 82-4-3j" shall be added after "49 C.F.R. Part 393."

(B) The phrase "as adopted by K.A.R. 82-4-3j" shall be added after the phrase "and appendix G." The phrase "of this subchapter" shall be deleted.

(5) In 49 C.F.R. 396.21(b)(2) and (3), the word "Federal" shall be deleted.

(6) The following revisions shall be made to 49 C.F.R. 396.23:

(A) In paragraph (b)(1), the phrase "by the Administrator" shall be deleted.

(B) In paragraph (b)(2), the term "FMCSA" shall be deleted and replaced by "transportation division of the Kansas corporation commission."

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-3k. Transportation of hazardous materials; driving and parking rules. (a) With the following exceptions, 49 C.F.R. Part 397, as in effect on October 1, 2003, is hereby adopted by reference:

(1) In 49 C.F.R. 397.1(a), the phrase "of this title" shall be deleted and replaced by "as adopted by K.A.R. 82-4-20."

(2) In 49 C.F.R. 397.2, the phrase "the rules in parts 390 through 397, inclusive, of this subchapter" shall be deleted and replaced by "K.A.R. 82-4-3f through K.A.R. 82-4-3k." The phrase "of this title" shall be deleted and replaced by "as adopted by K.A.R. 82-4-20."

(3) In 49 C.F.R. 397.3, the term "Department of Transportation" shall be deleted and replaced by "commission."

(4) In 49 C.F.R. 397.5 (a), the phrase "as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20" shall be added after "(explosive) material."

(5) In 49 C.F.R. 397.7(a), the phrase "as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20" shall be added after the words "Division 1.1, 1.2, or 1.3 materials."

(6) The following revisions shall be made to 49 C.F.R. 397.13:

(A) In paragraph (a), the phrase "as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20" shall be

added after the words "Division 2.1, Class 3, Divisions 4.1 and 4.2."

(B) In paragraph (b), the phrase "of this title" shall be deleted and replaced by "as adopted by K.A.R. 82-4-20."

(7) The following revisions shall be made to 49 C.F.R. 397.19:

(A) In paragraph (a), the phrase "as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20" shall be added after the words "(explosive) materials."

(B) In paragraph (c)(2), the phrase "of this title" shall be deleted and replaced by "as adopted by K.A.R. 82-4-20."

(8) The following revisions shall be made to 49 C.F.R. 397.65:

(A) The definitions of "Administrator," "FMCSA," "Motor carrier," and "Motor vehicle" shall be deleted.

(B) In the definition of "Indian tribe," the phrase "as in effect on January 7, 2003, which is hereby adopted by reference" shall be added after "25 U.S.C. 450b."

(C) In the definition of "NRHM," the phrase "as adopted by K.A.R. 82-4-20" shall be added after "49 CFR 172.504."

(D) In the definition of "Radioactive material," the phrase "as adopted by K.A.R. 82-4-20" shall be added after "49 CFR 173.403."

(9) The following changes shall be made to 49 C.F.R. 397.67:

(A) In paragraph (b), the phrase "as adopted by K.A.R. 82-4-20" shall be added after "49 CFR 177.823."

(B) In paragraph (d), the phrase "as adopted by K.A.R. 82-4-20" shall be added after "49 CFR 173.50 and 173.53 respectively."

(10) In 49 C.F.R. 397.69, paragraph (b) shall be deleted.

(11) The following revisions shall be made to 49 C.F.R. 397.71:

(A) In paragraph (b), the word "Federal" shall be deleted.

(B) Paragraph (b)(1)(ii) and the related footnote shall be deleted.

(C) Paragraph (b)(5) shall be deleted.

(12) The following revisions shall be made to 49 C.F.R. 397.73:

(A) Paragraph (a) and its related footnote shall be deleted and replaced by the following: "Information on NRHM routing designations shall be made available to the public by the States and Indian tribes in the form of maps, lists, road signs, or a combination thereof. If road signs are used, those signs and their placements must comply with all applicable laws."

(B) Paragraph (b) shall be deleted and replaced by the following: "Each state or Indian tribe, through its routing agency, shall provide information identifying all NRHM routing designations which exist within their jurisdiction to the director of the transportation division, Kansas corporation commission, 1500 S.W. Arrowhead Road, Topeka, KS 66604. Information on any changes or new NRHM routing designations shall be furnished within 60 days after establishment to the director."

(13) The following revisions shall be made to 49 C.F.R. 397.75:

(A) Unless otherwise noted in this subsection, the word "Administrator" shall be deleted and replaced by "commission."

(B) Paragraph (b)(1) shall be deleted and replaced by the following: "Be submitted to the director of the transportation division, Kansas corporation commission, 1500 S.W. Arrowhead Road, Topeka, KS 66604."

(C) In paragraph (b)(7), the word "Federal" shall be deleted.

(D) In paragraph (c)(2), the word "Federal" shall be deleted and replaced by "Kansas."

(E) In paragraph (g), the last sentence shall be deleted.

(14) 49 C.F.R. 397.77 shall be deleted.

(15) The following revisions shall be made to 49 C.F.R. 397.101:

(A) In paragraph (a), the phrase "as adopted by K.A.R. 82-4-20" shall be added after "49 CFR 172.403" and after "49 CFR part 172."

(B) In paragraph (b), the phrase "as adopted by K.A.R. 82-4-20" shall be added after "49 CFR 173.403(1)."

(C) In paragraph (b)(2), the phrase "as adopted by K.A.R. 82-4-20" shall be added after "49 CFR 173.403(i) and (y)."

(D) Paragraph (g) shall be deleted and replaced by the following: "Unless otherwise preempted, each motor carrier who accepts for transportation on a highway route a controlled quantity of Class 7 (radioactive) material, as defined by 49 C.F.R. 173.401(l), as adopted by K.A.R. 82-4-20, shall provide the following information with the director within 90 days following acceptance of the package:"

(E) In paragraph (g)(3), the phrase "as adopted by K.A.R. 82-4-20" shall be added after "49 CFR 172.202 and 172.203."

(16) The following revisions shall be made to 49 C.F.R. 397.103:

(A) In paragraph (a), the words "Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials, or an equivalent" shall be deleted and replaced by "a."

(B) Paragraph (c)(1) shall be deleted and replaced by the following: "The state gives written notice to the director."

(C) In paragraph (c)(2), the term "FMCSA" shall be deleted and replaced by "director."

(D) Paragraph (d) shall be deleted and replaced by the following: "A list of state-designated preferred routes shall be available from the director upon request."

(17) Subpart E of 49 C.F.R. Part 397 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-31. Transportation of migrant workers. (a) With the following exceptions, 49 C.F.R. Part 398, as in effect on October 1, 2003, is hereby adopted by reference:

(1) The following revisions shall be made to 49 C.F.R. 398.1:

(A) The following revisions shall be made to 49 C.F.R. 398.1(a):

(i) A period shall be placed after the word "agriculture."

(ii) The remainder of the paragraph shall be deleted and replaced by the following: "For the purposes of 49 C.F.R. Part 398 only, the definition of 'agriculture' found in 29 U.S.C. 203(b), as in effect on January 7, 2003, is hereby adopted by reference. For the purposes of 49 C.F.R. Part 398 only, the definition of 'employment in agriculture' shall be the same as the definition of 'agricultural labor' found in 26 U.S.C. 3121(g), as in effect on January 7, 2003, which is hereby adopted by reference."

(B) In paragraph (b), the words "person, including any 'contract carrier by motor vehicle', but not including any 'common carrier by motor vehicle', who or which transports in interstate or foreign commerce" shall be deleted and replaced by "motor carrier transporting."

(C) In paragraph (d), the definition of "motor vehicle" shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 398.2:

(A) In paragraph (a), the phrase "in interstate commerce, as defined in 49 C.F.R. 390.5" shall be deleted and replaced by "within the state of Kansas."

(B) In paragraph (b)(2), the phrase "in interstate commerce, must comply with the applicable requirements of 49 CFR parts 385, 390, 391, 392, 393, 395, and 396" shall be deleted and replaced by "must comply with the applicable requirements of 49 C.F.R. Part 385, as adopted by K.A.R. 82-4-3d, 49 C.F.R. Part 390, as adopted by K.A.R. 82-4-3f, 49 C.F.R. Part 391, as adopted by K.A.R. 82-4-3g, 49 C.F.R. Part 392, as adopted by K.A.R. 82-4-3h, 49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i, 49 C.F.R. Part 395, as adopted by K.A.R. 82-4-3a, and 49 C.F.R. Part 396, as adopted by K.A.R. 82-4-3j."

(3) In 49 C.F.R. 398.3(b)(9), the phrase "of the Federal Motor Carrier Safety Regulations of the Federal Motor Carrier Safety Administration" shall be deleted.

(4) The following revisions shall be made to 49 C.F.R. 398.4:

(A) In paragraph (b), the words "jurisdiction in which it is being operated, unless such laws, ordinances and regulations are at variance with specific regulations of this Administration which impose a greater affirmative obligation or restraint" shall be deleted and replaced by "state of Kansas."

(B) In paragraph (k), the phrase "part 393 of this subchapter" shall be deleted and replaced by "49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i."

(5) The following revisions shall be made to 49 C.F.R. 398.5:

(A) In paragraph (b), the phrase "part 393 of this subchapter" shall be deleted and replaced by "49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i."

(B) In paragraph (c), the phrase "part 393 of this subchapter, except Sec. 393.44 of this subchapter" shall be deleted and replaced by "49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i."

(6) The following revisions shall be made to 49 C.F.R. 398.8:

(continued)

(A) In paragraph (a), the phrase "Special Agents of the Federal Motor Carrier Safety Administration, as detailed in appendix B of chapter III of this title" shall be deleted and replaced by "any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards."

(B) Paragraph (b) shall be deleted and replaced by the following: "(b) Prescribed inspection report. A compliance report form approved by the commission shall be used to record findings from motor vehicles selected for final inspection by any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards. A compliance report form approved by the commission shall contain the following information:

"(1) The name, MCID number, and address of the motor carrier;

"(2) information regarding the inspection location;

"(3) the date of the inspection;

"(4) the name, birth date, license number, and employment status of the driver;

"(5) whether hazardous material were being transported, and if so, what type;

"(6) shipping information regarding the commodity transported;

"(7) identification of the vehicle used;

"(8) brake adjustment information;

"(9) identification of the alleged violations;

"(10) information regarding the authority under which the vehicle could be put out of service for alleged violations discovered during the inspection;

"(11) information regarding the individual who prepares the inspection report; and

"(12) a statement to be signed by the motor carrier that the violations have been corrected."

(C) In paragraph (c)(1), the last sentence shall be deleted and replaced by the following: "A form approved by the commission shall be used to mark vehicles as 'out of service.' An out of service form approved by the commission shall contain the following information:

"(1) A statement that the motor vehicle has been declared out of service;

"(2) a statement that the out of service marking may be removed only under the conditions outlined in the out of service order or the accompanying vehicle inspection report;

"(3) a statement that operation of the vehicle prior to making the required repairs will subject the motor carrier to civil penalties;

"(4) the number and dates of the inspection; and

"(5) a place for the signature of the authorized individual making the inspection."

(D) The following revisions shall be made to paragraph (c)(2):

(i) The phrase "on Form MCS 63" shall be deleted and replaced by "on a form approved by the commission for driver-equipment compliance reporting."

(ii) The phrase "Sec. 393.52" shall be deleted and replaced by "49 C.F.R. 393.52, as adopted by K.A.R. 82-4-3i."

(E) In paragraph (c)(3), the phrase "on Form MCS 63" shall be deleted and replaced by "on a form approved by the commission for driver-equipment compliance reporting."

(F) Paragraph (c)(4) shall be deleted and replaced by the following: "The person or persons completing the repairs required by the out of service notice shall complete a form to certify repairs approved by the commission, which shall include the person's name and the name of the person's shop or garage as well as the date and time the repairs were completed. If the driver completes the required repairs, then the driver shall complete the same form."

(G) In paragraph (d)(1), the phrase "MCS Form 63" shall be deleted and replaced by "on a form approved by the commission for driver-equipment compliance reporting."

(H) In paragraph (d)(1), the phrase "Federal Motor Carrier Safety Regulations" shall be deleted and replaced by the phrase "commission's regulations."

(I) In paragraph (d)(2), the phrase "'Motor Carrier Certification of Action Taken' on Form MCS 63" and the phrase "Form MCS 63" shall be deleted and replaced by "form approved by the commission for driver-equipment reporting."

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

82-4-3m. Employee safety and health standards.

(a) With the following exceptions, 49 C.F.R. Part 399, as in effect on October 1, 2003, is hereby adopted by reference:

(1) 49 C.F.R. 399.201 shall be deleted.

(2) In 49 C.F.R. 399.205, the definition of "person" shall be deleted.

(3) In 49 C.F.R. 399.209, paragraph (b) shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005.)

Susan K. Duffy
Executive Director

Doc. No. 031777

State of Kansas

Social and Rehabilitation Services

Permanent Administrative
Regulations

Article 10.—ADULT CARE HOME PROGRAM

30-10-1a. Nursing facility program definitions. (a)

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Accrual basis of accounting" means that revenue of the provider is reported in the period when it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(2) "Active treatment for individuals with mental retardation or a related condition" means a continuous program for each client, which shall include aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services that is directed toward the following:

(A) The acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and

(B) the prevention or deceleration of regression or loss of current optimal functional status.

(3) "Agency" means the department of social and rehabilitation services.

(4) "Ancillary services and other medically necessary services" means those special services or supplies, in addition to routine services, for which charges are made.

(5) "Case mix" means a measure of the intensity of care and services used by a group of residents in a facility.

(6) "Case mix index" means a numeric score with a specific range that identifies the relative resources used by a particular group of residents and represents the average resource consumption across a population or sample. Two average case mix index scores are considered in setting rates for nursing facility program participants. These indexes are the following:

(A) "Medicaid average case mix index," which means the average case mix index calculated using case mix scores for only the medicaid residents in a population; and

(B) "facility average case mix index," which means the average case mix index calculated using case mix scores for all the residents in a nursing facility.

(7) "Change of ownership" means a transfer of rights and interests in real and personal property used for nursing facility services through an arm's-length transaction between unrelated persons or legal entities.

(8) "Change of provider" means a change of ownership or lessee specified in the provider agreement.

(9) "Common ownership" means that an entity holds a minimum of five percent ownership or equity in the provider facility or in a company engaged in business with the provider facility.

(10) "Control" means that an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or facility.

(11) "Cost and other accounting information" means adequate financial data about the nursing facility operation, including source documentation, that is accurate, current, and sufficiently detailed to accomplish the purposes for which it is intended. Source documentation, including petty cash payout memoranda and original invoices, shall be valid only if the documentation originated at the time and near the place of the transaction. In order to provide the required cost data, the provider shall maintain financial and statistical records in a manner that is consistent from one period to another. This requirement shall not preclude a beneficial change in accounting procedures when there is a compelling reason to effect a change of procedures.

(12) "Cost finding" means recasting the data derived from the accounts ordinarily kept by a provider to ascertain costs of the various types of services rendered.

(13) "Costs not related to resident care" means costs that are not appropriate, necessary, or proper in developing and maintaining the nursing facility operation and activities. These costs shall not be allowed in computing reimbursable costs.

(14) "Costs related to resident care" means all necessary and proper costs, arising from arm's-length transactions in accordance with general accounting rules, that are appropriate and helpful in developing and maintaining the operation of resident care facilities and activities. Specific items of expense shall be limited pursuant to K.A.R. 30-10-23a, K.A.R. 30-10-23b, K.A.R. 30-10-23c, K.A.R. 30-10-24, K.A.R. 30-10-25, K.A.R. 30-10-26, K.A.R. 30-10-27, and K.A.R. 30-10-28.

(15) "Cost report" means the nursing facility financial and statistical report (MS-2004).

(16) "Educational activities" means an approved, formally organized, or planned program of study usually engaged in by providers in order to enhance the quality of resident care in an institution. These activities shall be licensed when required by state law.

(17) "Educational activities—net cost" means the cost of approved educational activities less any grants, specific donations, or reimbursements of tuition.

(18) "Hospital-based nursing facility" means a nursing facility, as defined in this regulation, that is attached to or associated with a hospital.

(19) "Inadequate care" means any act or failure to act that may be physically or emotionally harmful to a recipient.

(20) "Level of care" means the type and intensity of services prescribed in the resident's plan of care as based on the assessment and reassessment process.

(21) "Mental illness" means a clinically significant behavioral or psychological syndrome or pattern that is typically associated with either a distressing symptom or impairment of function. Relevant diagnoses shall be limited to schizophrenia, recurrent and severe major affective disorders, atypical psychosis, bipolar disorder, paranoid disorders, schizoaffective disorder, psychotic disorder, obsessive-compulsive disorder, or borderline personality disorder.

(22) "Mental retardation" means subaverage general intellectual functioning that originates in the develop-

(continued)

mental period and is associated with an impairment in adaptive behavior.

(23) "Nonworking owners" means any individual or organization having five percent or more interest in the provider who does not perform a resident-related function for the nursing facility.

(24) "Nonworking related party or director" means any related party, as defined in this regulation, who does not perform a resident-related function for the nursing facility.

(25) "Nursing facility (NF)" means a facility that conforms to these criteria:

(A) Meets state licensure standards;

(B) provides health-related care and services, as prescribed by a physician; and

(C) provides 24-hour-a-day, seven-day-a-week licensed nursing supervision to residents for ongoing observation, treatment, or care for long-term illness, disease, or injury.

(26) "Nursing facility for mental health" means a nursing facility that meets these criteria:

(A) Meets state licensure standards;

(B) provides structured mental health rehabilitation services, in addition to health-related care, for individuals with a severe and persistent mental illness; and

(C) provides 24-hour-a-day, seven-day-a-week licensed nursing supervision. The nursing facility shall have been operating in accordance with a provider agreement with the agency on June 30, 1994.

(27) "Ongoing entity" means that a change in the provider has not been recognized for Kansas medical assistance program payment purposes.

(28) "Organization costs" means those costs directly incidental to the creation of the corporation or other form of legal business entity. These costs shall be considered to be intangible assets representing expenditures for rights and privileges that have value to the business.

(29) "Owner and related party compensation" means salaries, drawings, consulting fees, or other payments paid to or on behalf of any owner with a five percent or greater interest in the provider or any related party, as defined in this regulation, whether the payment is from a sole proprietorship, partnership, corporation, or non-profit organization.

(30) "Owner" means the person or legal entity that has the rights and interests of the real and personal property used to provide the nursing facility services.

(31) "Plan of care for nursing facilities" means a document completed by the nursing facility staff that states the need for care, the estimated length of the program, the methodology to be used, and the expected results for each resident.

(32) "Prescription drug" means a simple or compound substance or mixture of substances prescribed for the cure, mitigation, or prevention of disease or for health maintenance that is prescribed by a licensed physician or practitioner and dispensed by a licensed pharmacist.

(33) "Projected cost report" means a cost report submitted to the agency by a provider prospectively for a 12-month period of time. The projected cost report shall be based on an estimate of the costs, revenues, resident days, and other financial data for that 12-month period of time.

(34) "Provider" means the operator of the nursing facility specified in the provider agreement.

(35) "Recipient" means a person determined to be eligible for the Kansas medical assistance program in a nursing facility.

(36) "Related parties" means two or more parties with a relationship in which one party has the ability to influence another party to the transaction in the following manner:

(A) When one or more of the transacting parties might fail to pursue the party's or parties' own separate interests fully;

(B) when the transaction is designed to inflate the Kansas medical assistance program costs; or

(C) when any party considered a related party to a previous owner or operator becomes the employee, or otherwise functions in any capacity on behalf of a subsequent owner or operator. Related parties shall include parties related by family, business, or financial association, or by common ownership or control. Transactions between related parties shall not be considered to have arisen through arm's-length negotiations.

(37) "Related to the nursing facility" means that the facility is significantly associated or affiliated with, has control of, or is controlled by the organization furnishing the services, facilities, or supplies.

(38) "Representative" means either of the following:

(A) A legal guardian, conservator, or representative payee as designated by the social security administration; or

(B) any person who is designated in writing by the resident to manage the resident's personal funds and who is willing to accept the designation.

(39) "Resident assessment form" means the document that meets these requirements:

(A) Is jointly specified by the Kansas department of health and environment and the agency;

(B) is approved by the health care finance administration; and

(C) includes the minimum data set.

(40) "Resident assessment instrument" means the resident assessment form, resident assessment protocols, and the plan of care, including reassessments.

(41) "Resident day" means that period of service rendered to a resident between census-taking hours on two successive days and all other days for which the provider receives payment, either full or partial, for any Kansas medical assistance program or non-Kansas medical assistance program resident who was not in the nursing facility. Census-taking hours shall consist of 24 hours beginning at midnight.

(42) "Resident status review" means a reassessment to identify any nursing facility resident who may no longer meet the level of care criteria.

(43) "Routine services and supplies" means services and supplies that are commonly stocked for use by or provided to any resident. The services and supplies shall be included in the provider's cost report.

(44) "Sale-leaseback" means a transaction in which an owner sells a facility to a related or nonrelated purchaser and then leases the facility from the new owner to operate as the provider.

(45) "Severe and persistent mental illness" means mental illness as defined in this regulation, but shall include both of the following additional requirements:

(A) The individual meets one of the following criteria:

(i) Has undergone psychiatric treatment more intensive than what could have been provided through outpatient care more than once in a lifetime; or

(ii) has experienced a single episode of continuous, structured, supportive residential care other than hospitalization for a duration of at least two months.

(B) The individual meets at least two of the following criteria, on a continuing or intermittent basis, for at least two years:

(i) Is unemployed, is employed in a sheltered setting, or has markedly limited skills and a poor work history;

(ii) requires public financial assistance for out-of-hospital maintenance and may be unable to procure this assistance without help;

(iii) shows a severe inability to establish or maintain a personal social support system;

(iv) requires help in basic living skills; or

(v) exhibits inappropriate social behavior that results in a need for intervention by the mental health or judicial system.

(46) "Specialized mental health rehabilitation services" means one of the specialized rehabilitative services that provide ongoing treatment for mental health problems and that are aimed at attaining or maintaining the highest level of mental and psychosocial well-being. The specialized rehabilitative services shall include the following:

(A) Crisis intervention services;

(B) drug therapy or monitoring of drug therapy;

(C) training in medication management;

(D) structured socialization activities to diminish tendencies toward isolation and withdrawal;

(E) development and maintenance of necessary daily living skills, including grooming, personal hygiene, nutrition, health and mental health education, and money management; and

(F) maintenance and development of appropriate personal support networks.

(47) "Specialized services" means inpatient psychiatric care for the treatment of an acute episode of mental illness.

(48) "State licensing agency" means the department of health and environment for hospital-based nursing facilities and the department on aging for all other nursing facilities.

(49) "Swing bed" means a hospital bed that can be used interchangeably as either a hospital bed or nursing facility bed.

(50) "Twenty-four-hour nursing care" means the provision of 24-hour licensed nursing services with the services of a registered nurse for at least eight consecutive hours a day, seven days a week.

(51) "Working trial balance" means a list of the account balances in general ledger order that was used in completing the cost report.

(b) This regulation shall be effective on and after May 1, 2005. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1982; amended May 1, 1983; amended

May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended April 1, 1992; amended Nov. 2, 1992; amended Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994; amended Dec. 29, 1995; amended Jan. 1, 1997; amended Jan. 1, 1999; amended May 1, 2002; amended May 1, 2005.)

30-10-1b. Nursing facility program providers. (a)

The nursing facility program providers shall include the following types of care facilities:

(1) Nursing facilities; and

(2) nursing facilities for mental health, which shall have been operating in accordance with a provider agreement with the agency on June 30, 1994.

(b) Each provider shall meet the following requirements with regard to any change in the structure of the business entities involved in the ownership, operation, or management of the nursing facility:

(1) The current provider or prospective provider shall notify the agency in writing by certified mail of a proposed change of providers at least 60 days in advance of the closing transaction date. If the current or prospective provider fails to submit a timely notification, the new provider shall assume responsibility for any overpayment made to the previous provider before the transfer. Failure to submit timely notification shall not release the previous provider from responsibility for the overpayment.

(2) Before the dissolution of the provider business entity or a transaction involving a change of ownership of the nursing facility or the change of lessee of the nursing facility, the provider shall notify the agency in writing at least 60 days before the change. If the provider fails to submit a timely notification, the new provider shall assume responsibility for any overpayment made to the previous provider before the transfer. Failure to submit timely notification shall not release the previous provider from responsibility for the overpayment. Other overpayment recovery terms may be expressly agreed to in writing by the secretary.

(3) The provider shall submit an application to be a provider of services to the agency for any addition or substitution to a partnership or any change of provider resulting in a completely new partnership. An application shall not be required when a partnership is dissolved and at least one member of the partnership remains as the provider of services.

(4) If a sole proprietor that is not incorporated under applicable state law transfers title and property to another party, a change of ownership shall have occurred. The new owner shall submit an application to be a provider of services to the agency.

(5) Each consolidation of two or more unrelated corporations that creates a new corporate entity through an arm's-length transaction shall constitute a change of provider. The new corporate entity resulting from the consolidation shall submit an application to be a provider of services to the agency.

(6) Each change or creation of a new lessee acting as a provider of services shall constitute a change of provider.

(continued)

The new lessee shall submit an application to be a provider of services to the agency.

(7) Each provider shall submit documentation of any other change in the ownership or corporate structure of the business entities involved in the ownership, operation, or management of the nursing facility.

(c) Only a change in or creation of a provider of service through a bona fide transaction shall be recognized as resulting in a new provider. The following situations shall not be recognized as resulting in a change of provider, and the facility shall be treated as an ongoing entity:

- (1) A transfer of participating provider corporate stock;
- (2) a merger of one or more corporations with the participating provider corporation surviving;
- (3) the purchase of the facility by the lessee;
- (4) the change or creation of a sublessee acting as the provider of services;
- (5) the creation of a new lessee that is related to the old owner of the facility;
- (6) the creation of a new lessee acting as the provider of services that is related to the old lessee;
- (7) the change or creation of a management firm acting as the provider of services; and
- (8) the takeover of the lessee's operations by an owner of the facility.

(d) Each new provider shall be subject to a certification survey by the state licensing agency. If certified, the period of certification shall be established by the state licensing agency.

(e) This regulation shall be effective on and after May 1, 2005. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1982; amended May 1, 1984; amended May 1, 1986; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended May 1, 1992; amended Nov. 2, 1992; amended Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994; amended Dec. 29, 1995; amended May 1, 2005.)

30-10-1d. Inadequate care. (a) If the agency determines that inadequate care is being provided to a recipient or that a recipient's rights are being violated, payment to the nursing facility may be terminated or suspended.

(b) If the agency determines that a nursing facility has not corrected deficiencies that significantly and adversely affect the health, safety, nutrition, or sanitation of the nursing facility residents, payments for new admissions shall be denied and future payments for all recipients shall be withheld until the agency determines that the deficiencies have been corrected.

(c) This regulation shall be effective on and after May 1, 2005. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1982; amended, T-87-43, Dec. 19, 1986; amended May 1, 1987; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Jan. 3, 1994; amended May 1, 2005.)

30-10-11. Personal needs fund. (a) At the time of admission, each nursing facility provider shall furnish each resident and the resident's representative, if any,

with a written statement that meets the following requirements:

(1) Lists all services provided by the provider, distinguishing between those services included in the provider's per diem rate and those services not included in the provider's per diem rate that can be charged to the resident's personal needs fund;

(2) states that there is no obligation for the resident to deposit funds with the provider;

(3) describes each resident's right to select one of the following alternatives for managing the personal needs fund:

(A) The resident or the resident's legal guardian, if any, may receive, retain, and manage the resident's personal needs fund;

(B) the resident may apply to the social security administration to have a representative payee designated for federal or state benefits to which the resident may be entitled; or

(C) except when paragraph (B) of this subsection applies, the resident may designate, in writing, another person to act for the purpose of managing the resident's personal needs fund;

(4) states that any charge for management of a resident's personal needs fund is included in the provider's per diem rate;

(5) states that any late fees, interest, or finance charges shall not be charged to the resident's personal needs fund for late payment of the resident liability;

(6) states that the provider is required to accept a resident's personal needs fund to hold, safeguard, and provide an accounting for it, upon the written authorization of the resident or representative, or upon appointment of the provider as the resident's representative payee; and

(7) states that, if the resident becomes incapable of managing the personal needs fund and does not have a representative, the provider shall be required to arrange for the management of the resident's personal funds as provided in subsection (j).

(b)(1) The provider shall, upon written authorization by the resident, accept responsibility for holding, safeguarding, and accounting for the resident's personal needs fund. The provider may make arrangements with a federally insured or state-insured banking institution to provide these services. However, the responsibility for the quality and accuracy of compliance with the requirements of this regulation shall remain with the provider. The provider shall not charge the resident for these services. Routine bank service charges shall be included in the provider's per diem rate and shall not be charged to the resident. Overdraft charges and other bank penalties shall not be allowable.

(2) The provider shall maintain current, written, and individual records of all financial transactions involving each resident's personal needs fund for which the provider has accepted responsibility. The records shall include at least the following:

(A) The resident's name;

(B) an identification of the resident's representative, if any;

(C) the admission date of the resident;

(D) the date and amount of each deposit and withdrawal, the name of the person who accepted the withdrawn funds, and the balance after each transaction;

(E) receipts indicating the purpose for which any withdrawn funds were spent; and

(F) the resident's earned interest, if any.

(3) The provider shall provide to each resident reasonable access to the resident's own financial records.

(4) The provider shall provide a written statement, at least quarterly, to each resident or representative. The statement shall include at least the following:

(A) The balance at the beginning of the statement period;

(B) total deposits and withdrawals;

(C) the interest earned, if any; and

(D) the ending balance.

(c) Commingling prohibited. The provider shall keep any funds received from a resident for holding, safeguarding, and accounting separate from the provider's operating funds, activity funds, and resident council funds and from the funds of any person other than another resident in that facility.

(d) Types of accounts; distribution of interest.

(1) Petty cash. The provider may keep up to \$50.00 of a resident's money in a non-interest-bearing account or petty cash fund.

(2) Interest-bearing accounts. The provider shall, within 15 days of receipt of the money, deposit in an interest-bearing account any funds in excess of \$50.00 from an individual resident. The account may be an individual account for the resident or may be pooled with other resident accounts. If a pooled account is used, each resident shall be individually identified on the provider's books. The account shall be in a form that clearly indicates that the provider does not have an ownership interest in the funds. The account shall be insured under federal or state law.

(3) The interest earned on any pooled interest-bearing account shall be distributed without reductions in one of the following ways, at the election of the provider:

(A) Prorated to each resident on an actual interest-earned basis; or

(B) prorated to each resident on the basis of the resident's end-of-quarter balance.

(e) The provider shall provide the residents with reasonable access to their personal needs funds. The provider shall, upon request or upon the resident's transfer or discharge, return to the resident, the legal guardian, or the representative payee the balance of the resident's personal needs fund for which the provider has accepted responsibility, and any funds maintained in a petty cash fund. When a resident's personal needs fund for which the provider has accepted responsibility is deposited in an account outside the facility, the provider, upon request or upon the resident's transfer or discharge, shall within 15 business days return to the resident, the legal guardian, or the representative payee the balance of those funds.

(f) If a provider is a resident's representative payee and directly receives monthly benefits to which the resident is entitled, the provider shall fulfill all of its legal duties as representative payee.

(g) Duties on change of provider.

(1) Upon change of providers, the former provider shall furnish the new provider with a written account of each resident's personal needs fund to be transferred and shall obtain a written receipt for those funds from the new provider.

(2) The provider shall give each resident's representative a written accounting of any personal needs fund held by the provider before any change of provider occurs.

(3) If a disagreement arises regarding the accounting provided by the former provider or the new provider, the resident shall retain all rights and remedies provided under state law.

(h) Upon the death of a resident who is a recipient of medical assistance, the provider shall take the following actions:

(1) The provider shall in good faith determine or attempt to determine within 30 days from the date of death whether there is a surviving spouse, minor or disabled children, or an executor or administrator of the resident's estate.

(A) If there is an executor or an administrator, the provider shall contact the executor or administrator and convey the monies in the personal needs fund as the executor or administrator directs.

(B) If there is no executor or administrator but there is a surviving spouse, the provider shall contact the surviving spouse and convey the monies in the personal needs fund as that surviving spouse directs.

(C) If there is no executor or administrator or surviving spouse, but there are minor or disabled children, the provider shall contact the guardian or personal representative of the minor or disabled children or, if appropriate, the adult disabled children and convey the monies in the personal needs fund as that person directs.

(D) If there is no surviving spouse, minor or disabled children, or executor or administrator, the provider shall convey within 30 days the personal needs fund to the estate recovery unit, which shall be responsible for notifying the appropriate court or personal representative of the receipt of the monies from the personal needs fund of the resident.

(2) The provider shall provide the estate recovery unit with a written accounting of the personal needs fund within 30 days of the resident's death. The accounting shall also be provided to the executor or administrator of the resident's estate, if any; the surviving spouse, if any; the guardian or representative of the surviving minor or disabled children, if any; the personal representative of the resident, if any; and the resident's next of kin.

(i) The provider shall purchase a surety bond and submit a report on forms designated by the state licensing agency. The provider shall give assurance of financial security in an amount equal to or greater than the sum of all residents' funds managed by the provider at any time.

(j) If a resident is incapable of managing the resident's personal needs fund, has no representative, and is eligible for supplemental security income (SSI), the provider shall notify the local office of the social security administration and request that a representative be appointed for that resident. If the resident is not eligible for SSI, the provider

(continued)

shall refer the resident to the local agency office, or the provider shall serve as a temporary representative payee for the resident until the actual appointment of a guardian, conservator, or representative payee.

(k) Resident property records.

(1) The provider shall maintain a current, written record for each resident that includes written receipts for all personal possessions deposited with the provider by the resident.

(2) The property record shall be available to the resident and the resident's representative.

(l) Providers shall keep all personal needs funds in the state of Kansas.

(m) Personal needs funds shall not be turned over to any person other than a duly accredited agent or guardian of the resident. With the consent of the resident, if the resident is able and willing to give consent, the administrator shall turn over a resident's personal needs fund to a designated person to purchase a particular item. However, a signed, itemized, and dated receipt shall be required for deposit in the resident's personal needs fund envelope or another type of file.

(n) A receipt for each transaction shall be signed by the resident, legal guardian, conservator, or responsible party. Recognizing that a legal guardian, conservator, or responsible party is not necessarily available at the time each transaction is made for or on behalf of a resident, the provider shall have a procedure that includes a provision for receipts to be signed on at least a quarterly basis.

(o) The provider shall provide and maintain a system of accounting for expenditures from the resident's personal needs fund. This system shall follow generally accepted accounting principles and shall be subject to audit by representatives of the agency.

(p) Suspension of program payments may be made if the agency determines that any provider is not in compliance with the regulations governing personal needs funds. Thirty days before suspending payment to the provider, written notice shall be sent by the agency to the provider stating the agency's intent to suspend payments. The notice shall explain the basis for the agency's determination and shall explain the necessary corrective action that shall be completed before payments are released.

(q) This regulation shall be effective on and after May 1, 2005. (Authorized by and implementing K.S.A. 39-708c; effective, E-74-43, Aug. 16, 1974; effective, E-74-44, Aug. 28, 1974; effective May 1, 1975; amended, E-78-35, Dec. 30, 1977; amended May 1, 1978; amended, E-80-13, Aug. 8, 1979; amended May 1, 1980; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended May 1, 1992; amended Jan. 4, 1993; amended Jan. 3, 1994; amended July 1, 2002; amended May 1, 2005.)

30-10-17. Cost reports. (a) Historical cost data.

(1) For cost reporting purposes, each provider shall submit the "nursing facility financial and statistical report," form MS-2004, revised August 2004 and hereby

adopted by reference, completed in accordance with the accompanying instructions. The MS-2004 cost report shall be submitted on diskette, using software designated by the agency for cost report periods ending on or after December 31, 1999.

(2) Each provider who has operated a facility for 12 or more months on December 31 shall file the nursing facility financial and statistical report on a calendar year basis.

(b) Projected cost data.

(1) Projected cost reports for providers.

(A) If a provider is required to submit a projected cost report under K.A.R. 30-10-18 (c) or (e), the provider's rate shall be based on a proposed budget with costs projected on a line item basis.

(B) The projected cost report for each provider who is required to file a projected cost report shall begin according to either of the following schedules:

(i) On the first day of the month in which the nursing facility was certified by the state licensing agency if that date is on or before the 15th of the month; or

(ii) on the first day of the following month if the facility is certified by the state licensing agency between the 16th and 31st of the month.

(C) The projected cost report shall end on the last day of the 12-month period following the date specified in paragraph (b)(1)(B) above, except under either of the following:

(i) The projected cost report shall end on December 31 when that date is not more than one month before or after the end of the 12-month period.

(ii) The projected cost report shall end on the provider's normal fiscal year-end used for the internal revenue service when that date is not more than one month before or after the end of the 12-month period and the criteria in K.A.R. 30-10-18 for filing the projected cost report ending on December 31 do not apply.

(D) The projected cost report period shall cover a consecutive period of time not less than 11 months and not more than 13 months.

(E) The projected cost report shall be reviewed for reasonableness and appropriateness by the agency. The projected cost report items that are determined to be unreasonable shall be disallowed before the projected rate is established.

(2) Projected cost reports for each provider with more than one facility.

(A) Each provider who is required to file a projected cost report in accordance with this subsection and who operates more than one facility, either in state or out of state, shall allocate central office costs to each facility that is paid rates from the projected cost data. The provider shall allocate the central office cost at the end of the provider's fiscal year or the calendar year that ends during the projection period.

(B) The method of allocating central office costs to those facilities filing projected cost reports shall be consistent with the method used to allocate the costs to those facilities in the chain that are filing historical cost reports.

(c) Amended cost reports.

(1) Each provider shall submit an amended cost report revising cost report information previously submitted if an error or omission is identified that is material in

amount and results in a change in the provider's rate of \$.10 or more per resident day.

(2) An amended cost report shall not be allowed after 13 months have passed since the last day of the year covered by the report.

(d) Due dates of cost reports.

(1) Each calendar year cost report shall be received not later than the close of business on the last working day of February following the year covered by the report.

(2) An historical cost report covering a projected cost report period shall be received by the agency not later than the close of business on the last working day of the second month following the close of the period covered by the report.

(3) Each cost report approved for a filing extension in accordance with subsection (e) shall be received not later than the close of business on the last working day of the month approved for the extension request.

(e) Extension of time for submitting a cost report.

(1) A one-month extension of the due date for the filing of a cost report may be granted by the agency when the cause for delay is beyond the control of the provider. Delays beyond the control of the provider that may be considered by the agency in granting an extension shall include the following:

(A) Disasters that significantly impair the routine operations of the facility or business;

(B) destruction of records as a result of a fire, flood, tornado, or another accident that is not reasonably foreseeable; and

(C) computer viruses that impair the accurate completion of cost report information.

(2) The provider shall make the request in writing. The request shall be received by the agency on or before the due date of the cost report. Requests received after the due date shall not be accepted.

(3) A written request for a second one-month extension may be granted by the Kansas medical assistance program director if the cause for further delay is beyond the control of the provider. The request shall be received by the agency on or before the due date of the cost report, or the request shall not be approved.

(f) Penalty for late filing. Each provider filing a cost report after the due date shall be subject to the following penalties:

(1) If the complete cost report has not been received by the agency by the close of business on the due date, all further payments to the provider shall be suspended until the complete cost report has been received. A complete cost report shall include all the required documents listed in the cost report.

(2) Failure to submit the cost report within one year after the end of the cost report period shall be cause for termination from the Kansas medical assistance program.

(g) Balance sheet requirement. Each provider shall file a balance sheet prepared in accordance with cost report instructions as part of the cost report forms for each provider.

(h) Working trial balance requirement. Each provider shall submit a working trial balance with the cost report. The working trial balance shall contain account numbers, descriptions of the accounts, the amount of each account,

and the cost report expense line on which the account was reported. Revenues and expenses shall be grouped separately and totaled on the working trial balance and shall reconcile to the applicable cost report schedules. A schedule that lists all general ledger accounts grouped by cost report line number shall be attached.

(i) An allocation of expenditures between the hospital and the long-term care unit facility shall be submitted through a step-down process prescribed in the cost report instructions.

(j) This regulation shall be effective on and after May 1, 2005. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995; amended Jan. 1, 1997; amended Jan. 1, 1999; amended July 1, 2002; amended Dec. 31, 2002; amended, T-30-5-30-03, July 1, 2003; amended July 25, 2003; amended May 1, 2005.)

30-10-19. Rates; effective dates. (a) Effective date of per diem rates for ongoing providers filing calendar year cost reports. The effective date of a new rate that is based on information and data in the nursing facility cost report for the calendar year shall be July 1.

(b) Effective date of the per diem rate for a new provider operating on the rate from cost data of the previous provider.

(1) The effective date of the per diem rate for a new provider shall be the date of certification by the state licensing agency.

(2) The effective date of the per diem rate based on the first historical cost report filed in accordance with K.A.R. 30-10-17 shall be the first day of the 25th month of operation. Any rates paid after the effective date of the rate based on the first historical cost report shall be adjusted to the new rate from the historical cost report.

(c) Effective date of the per diem rate from a projected cost report.

(1) The effective date of the per diem rate based on a projected cost report for a new provider, as set forth in K.A.R. 30-10-18 (c) and (e), shall be the date of certification by the state licensing agency.

(2) The interim rate determined from the projected cost report filed by the provider shall be established by the agency and given to the fiscal agent on or by the first day of the third month after the receipt of a complete and workable cost report.

(3) The effective date of the final rate, determined after an audit of the historical cost report filed for the projected cost report period, shall be the date of certification by the state licensing agency.

(4) The second effective date for a provider filing an historic cost report covering a projected cost report period shall be the first day of the month following the last day of the period covered by the report, which is the date that the inflation factor is applied in determining prospective rates.

(d) Each provider shall receive an adjusted rate quarterly if there are changes in the facility's Medicaid case mix index as described in K.A.R. 30-10-18.

(continued)

(e) This regulation shall be effective on and after May 1, 2005. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995; amended Jan. 1, 1997; amended July 1, 2002; amended, T-30-5-30-03, July 1, 2003; amended July 25, 2003; amended May 1, 2005.)

30-10-20. Payment of claims. (a) Payment to participating providers. Each participating provider shall be paid, at least monthly, a per diem rate for nursing facility services, excluding resident liability, rendered to eligible residents if all of the following conditions are met:

(1) The agency is billed on the paper claim form or electronic claim submission furnished by the contractor serving as the fiscal agent for the medicaid/medikan program.

(2) The paper claim form or electronic claim submission is verified by the administrator of the facility or a designated key staff member.

(3) The claim is filed no more than 12 months after the time the services were rendered pursuant to K.S.A. 39-708a, and amendments thereto.

(4) The claim does not include services for the date of discharge.

(b) Resident's liability. The resident's liability for services shall be the amount determined by the local agency office in which a medicaid/medikan resident or the resident's agent applies for care. The resident's liability begins on the first day of each month and shall be applied in full before any liability incurred by the medicaid/medikan program. The unexpended portion of the resident's liability payment shall be refunded to the resident or to the resident's agent if the resident dies or otherwise permanently leaves the facility. Providers shall not charge fees or finance charges related to late payment of resident liability.

(c) The payment of claims may be suspended if there has been an identified overpayment and the provider is financially insolvent.

(d) This regulation shall be effective on and after May 1, 2005. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1985; amended Jan. 2, 1989; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Nov. 2, 1992; amended April 1, 1995; amended May 1, 2005.)

30-10-23a. Non-reimbursable costs. (a) Costs not related to resident care, as set forth in K.A.R. 30-10-1a, shall not be considered in computing reimbursable costs. In addition, the following expenses or costs shall not be allowed:

(1) Fees paid to non-working directors and the salaries of non-working officers;

(2) bad debts;

(3) donations and contributions;

(4) fund-raising expenses;

(5) taxes, as follows:

(A) Federal income and excess profit taxes, including any interest or penalties paid on them;

(B) state or local income and excess profits taxes;

(C) taxes from which exemptions are available to the provider;

(D) taxes on property that is not used in providing covered services;

(E) taxes levied against any resident and collected and remitted by the provider;

(F) self-employment taxes applicable to individual proprietors, partners, or members of a joint venture; and

(G) interest or penalties paid on federal and state payroll taxes;

(6) insurance premiums on lives of owners and related parties;

(7) the imputed value of services rendered by non-paid workers and volunteers;

(8) utilization review;

(9) costs of social, fraternal, civic, and other organizations that concern themselves with activities unrelated to their members' professional or business activities;

(10) oxygen, and oxygen concentrators, tanks, and cylinders;

(11) vending machines and related supplies;

(12) board of director costs;

(13) resident personal purchases;

(14) advertising for resident utilization;

(15) public relations expenses;

(16) penalties, fines, and late charges;

(17) prescription drugs as defined in K.A.R. 30-10-1a;

(18) dental services;

(19) radiology;

(20) lab work;

(21) items or services provided only to non-medicaid/medikan residents and reimbursed from third party payors;

(22) automobiles and related accessories in excess of \$25,000.00 each. Buses and vans for resident transportation shall be reviewed for reasonableness and may exceed \$25,000.00 in costs;

(23) provider-owned or related party-owned, -leased, or -chartered airplanes and related expenses;

(24) therapeutic beds or mattresses;

(25) bank overdraft charges or other penalties;

(26) personal expenses not directly related to the provision of long-term resident care in a nursing facility;

(27) management fees paid to a related organization that are not clearly derived from the actual cost of materials, supplies, or services provided directly to an individual nursing facility;

(28) business expenses not directly related to the care of residents in a long-term care facility. These expenses shall include business investment activities, stockholder and public relations activities, and farm and ranch operations;

(29) legal and other costs associated with litigation, unless the litigation is decided in the provider's favor; and

(30) lobbying expenses and political contributions.

(b) Purchase discounts, allowances, and refunds shall be deducted from the cost of the items purchased. Refunds of prior years' expenses shall be deducted from the related expenses.

(c) This regulation shall be effective on and after May 1, 2005. (Authorized by and implementing K.S.A. 39-708c;

effective May 1, 1985; amended May 1, 1988; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended July 1, 1991; amended Oct. 28, 1991; amended May 1, 1992; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995; amended July 1, 2002; amended Dec. 31, 2002; amended May 1, 2005.)

30-10-23b. Costs allowed with limitations. (a) The following amortized expenses or costs shall be allowed with limitations:

(1) The provider shall amortize loan acquisition fees and standby fees over the life of the related loan if the loan is related to resident care.

(2) Only the taxes specified below shall be allowed as amortized costs:

(A) Taxes in connection with financing, refinancing, or refunding operations; and

(B) special assessments on land for capital improvements over the estimated useful life of those improvements.

(3) Any start-up cost of a provider with a newly constructed facility or a facility that has been closed for 24 months or more shall be recognized if the cost meets the following criteria:

(A) Is incurred within 90 days of the opening of the facility and related to developing the ability to care for residents;

(B) is amortized over a period of at least 60 months;

(C) is consistent with the facility's federal income tax return, and internal and external financial reports, with the exception of paragraph (a)(3)(B) above; and

(D) is identified in the cost report as a start-up expense, which may include the following:

(i) Administrative and nursing salaries;

(ii) utilities;

(iii) taxes, as identified in paragraph (a)(2)(A) and (B);

(iv) insurance;

(v) mortgage interest;

(vi) employee training costs; and

(vii) any other allowable costs incidental to the operation of the facility.

(4) Each cost that can properly be identified as an organization expense or can be capitalized as a construction expense shall be appropriately classified and excluded from the start-up cost.

(5) Organization and other corporate costs, as defined in K.A.R. 30-10-1a, of a provider that is newly organized shall be amortized over a period of at least 60 months beginning with the date of organization.

(A) The costs shall be reasonable and limited to the preparation and filing of documents required by the various governmental entities, the costs of preparing sale or lease contracts, and the associated legal and professional fees.

(B) The costs shall not include expenses of resolving contested issues of title or disputes arising from the performance of contracts or agreements related to the purchase or sale of a property or business.

(b) Membership dues and costs incurred as a result of membership in professional, technical, or business-related organizations shall be allowable. However, similar expenses set forth in paragraph (a)(9) of K.A.R. 30-10-23a shall not be allowable.

(c) The provider shall include the costs associated with services, facilities, and supplies furnished to the nursing facility by related parties, as defined in K.A.R. 30-10-1a, in the allowable cost of the facility at the actual cost to the related party, except that the allowable cost to the nursing facility provider shall not exceed the lower of the actual cost or the market price.

(d) If a provider pays an amount in excess of the market price for supplies or services, the agency shall use the market price to determine the allowable cost under the medicaid/medikan program in the absence of a clear justification for the premium.

(e) The net cost of job-related training and educational activities shall be an allowable cost. The allowable cost shall include the net cost of "orientation" and "on-the-job training."

(f) Resident-related transportation costs shall include only reasonable costs that are directly related to resident care and substantiated by detailed, contemporaneous expense and mileage records. Transportation costs only remotely related to resident care shall not be allowable. Estimates shall not be acceptable.

(g) Lease payments.

(1) Lease payments shall be reported in accordance with the financial accounting statements of the financial accounting standards board.

(2) Sale-leaseback transactions shall have the costs limited to the amount that the provider would have included in reimbursable costs if the provider had retained legal title to the facilities and equipment. These costs shall include mortgage interest, taxes, depreciation, insurance, and maintenance costs. The lease cost shall not be allowable if it exceeds the ownership costs before the sale-leaseback transaction.

(h) If the expenses reported for the current period are not paid within one year after the invoice date, the expenses shall be disallowed.

(i) This regulation shall be effective on and after May 1, 2005. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1985; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended May 1, 1992; amended Nov. 2, 1992; amended Dec. 29, 1995; amended Aug. 15, 2003; amended May 1, 2005.)

Gary J. Daniels
Acting Secretary of Social and
Rehabilitation Services

Doc. No. 031809

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

(continued)

(Published in the Kansas Register April 14, 2005.)

HOUSE BILL No. 2461

AN ACT concerning states of emergency; authorizing the division of emergency management to declare a state of emergency for purposes of hours of service of drivers of utility service vehicles under certain circumstances.

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

Section 1. (a) Upon application by any utility, the division of emergency management may declare a state of emergency in all or any part of the state whenever conditions exist which constitute an emergency, as defined in 49 CFR 390.5, as in effect on the effective date of this act or such later version as adopted by rules and regulations of the state corporation commission pursuant to K.S.A. 66-1,129, and amendments thereto, subject to the following:

(1) The state of emergency shall be deemed to exist solely for the purpose of exempting drivers of utility service vehicles, as defined in 49 CFR 395.2, as in effect on the effective date of this act or such later version as adopted by rules and regulations of the state corporation commission pursuant to K.S.A. 66-1,129, and amendments thereto, from limitations on hours of service prescribed by rules and regulations of the state corporation commission; and

(2) the exemption shall be subject to the conditions and limitations provided by 49 CFR 390.23, as in effect on the effective date of this act or such later version as adopted by rules and regulations of the state corporation commission pursuant to K.S.A. 66-1,129, and amendments thereto, for exemptions pursuant to that regulation.

(b) The adjutant general may adopt rules and regulations to implement the provisions of this section.

(c) This section shall be part of and supplemental to the Kansas emergency management act.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 14, 2005.)

HOUSE BILL No. 2156

AN ACT concerning the state board of pharmacy; regarding registration of pharmacy technicians; amending K.S.A. 2004 Supp. 65-1663 and repealing the existing section.

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

Section 1. K.S.A. 2004 Supp. 65-1663 is hereby amended to read as follows: 65-1663. (a) It shall be unlawful for any person to function as a pharmacy technician in this state unless such person is registered with the board as a pharmacy technician. Except as otherwise provided in subsection (d), every applicant for registration as a pharmacy technician shall have passed an examination approved by the board. The board shall adopt rules and regulations establishing the criteria for the required examination and a passing score.

(b) All applications for registration shall be made on a form to be prescribed and furnished by the board. Each application for registration shall be accompanied by a registration fee fixed by the board by rule and regulation of not to exceed \$50.

(c) The board shall take into consideration any felony conviction of an applicant, but such conviction shall not automatically operate as a bar to registration.

(d) All persons who are employed as a pharmacy technician in a Kansas pharmacy on the effective date of this act shall be entitled to continue performing the functions of a pharmacy technician until October 31, 2004, without registering pursuant to the requirements of this section and without passing the examination required by subsection (a). To perform the functions of a pharmacy technician after such date, such person shall have passed the examination referred to in subsection (a) and be registered by the board as a pharmacy technician.

(e) Each pharmacy technician registration issued by the board shall expire on October 31 of the year specified by the board. Each applicant for renewal of a pharmacy technician registration shall be made on a form prescribed and furnished by the board and shall be accompanied by a renewal fee fixed by the board by rule and regulation of not to exceed \$25. Except as otherwise provided in this subsection, the application for registration renewal, when accompanied by the renewal fee and received by the executive secretary of the board on or before the date of expiration of the registration, shall have the effect of temporarily renewing the applicant's registration until actual issuance or denial of the renewal registration. If at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's registration, the board may by emergency order declare that the application for renewal shall not have the effect of temporarily renewing such applicant's registration. If the renewal fee is not paid by December 1 of the renewal year, the registration is void.

(f) (1) The board may *limit, suspend or revoke a registration* or deny an application for issuance or renewal of any registration as a pharmacy technician on any ground, which would authorize the board to take action against the license of a pharmacist under K.S.A. 65-1627, and amendments thereto.

(2) The board may require a physical or mental examination, or both, of a person applying for or registered as a pharmacy technician.

(3) The board may temporarily suspend or temporarily limit the registration of any pharmacy technician in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action under this section against the registrant and that the registrant's continuation of pharmacy technician functions would constitute an imminent danger to the public health and safety.

(4) Proceedings under this section shall be subject to the Kansas administrative procedure act.

(g) Every registered pharmacy technician, within 30 days of obtaining new employment, shall furnish the board's executive secretary notice of the name and address of the new employer.

(h) Each pharmacy shall at all times maintain a list of the names of pharmacy technicians employed by the pharmacy and shall post in a conspicuous location in the prescription area of the pharmacy the names of the pharmacy technicians currently on duty at the pharmacy, if any. A pharmacy technician shall work under the direct supervision and control of a pharmacist. It shall be the responsibility of the supervising pharmacist to determine that the pharmacy technician is in compliance with the applicable rules and regulations of the board, and the supervising pharmacist shall be responsible for the acts and omissions of the pharmacy technician in the performance of the pharmacy technician's duties. The ratio of pharmacy technicians to pharmacists in the prescription area of a pharmacy shall ~~not exceed two to one~~ *be prescribed by the board by rule and regulation.*

(i) The board shall adopt such rules and regulations as are necessary to ensure that pharmacy technicians are adequately trained as to the nature and scope of their lawful duties.

(j) The board may adopt rules and regulations as may be necessary to carry out the purposes and enforce the provisions of this act.

(k) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 2. K.S.A. 2004 Supp. 65-1663 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 14, 2005.)

HOUSE BILL No. 2347

AN ACT concerning land conveyances; authorizing the state board of regents to sell and convey a certain tract of real estate located in Ellis county, Kansas, for and on behalf of Fort Hays state university to the city of Hays, Kansas; authorizing the secretary of the department of administration to transfer certain land.

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

Section 1. (a) The state board of regents is hereby authorized and empowered, for and on behalf of Fort Hays state university to sell and convey all of the rights, title and interest in the following tract of real estate, and any improvements thereon, to the city of Hays, Kansas:

A tract in the Northwest Quarter of Section 5, Township 14 South, Range 18 West of the 6th P.M., Ellis County, Kansas, more particularly described as follows, to wit: Commencing at the Southeast corner of the Northwest Quarter of Section 5, Township 14 South, Range 18 West; Thence N 00° 00' 00" E along the East line of the Northwest Quarter of said Section 5 a distance of 167.67 feet to the Point of Beginning; Thence N 40° 31' 51" W along the East line of a tract described in Book 180 of Deeds, Page 714 a distance of 230.00 feet; Thence N 49° 28' 09" E a distance of 94.00 feet; Thence S 40° 31' 51" E a distance of 120.06 feet to a point on the East line of the Northwest Quarter of said Section 5; Thence S 00° 00' 00" W a distance of 144.65 feet along the East line of the Northwest Quarter of said Section 5 to the Point of Beginning; said tract contains 16,452.83 SF, more or less, and is subject to any easements and/or right-of-way of record; Bearings are based on the East line of the Northwest Quarter of said Section 5 being S 00° 00' 00" W.

(b) Conveyance of such rights, title and interest in such real estate, and any improvements thereon, shall be executed in the name of the state board of regents by its chairperson and executive officer. The deed for such conveyance may be by warranty deed or by quitclaim deed as determined to be in the best interests of the state by the state board of regents in consultation with the attorney general. Any proceeds from the sale of such real estate, and any improvements thereon, shall be deposited in the state treasury and credited to the appropriate account or accounts of the restricted fees fund of Fort Hays state university for the use and benefit of Fort Hays state university.

(c) No sale and conveyance of real estate and improvements thereon as authorized by this section shall be made by the state board of regents until the deeds and conveyances have been reviewed and approved by the attorney general and if a warranty deed is to be the instrument of conveyance, a title review has been performed or title insurance has been obtained and the title opinion or the certificate of title insurance, as the case may be, has been approved by the attorney general.

Sec. 2. (a) The secretary of the department of administration is hereby authorized and empowered, for and on behalf of the juvenile justice authority, to convey, without consideration, to the helping hands humane society, inc., all of the rights, title and interest in the following described real estate, and any improvements thereon, located in Shawnee county, Kansas: Approximately 4.9 acres of real estate located in the northeast quarter of section 18, township 11 south, range 16 west; such 4.9 acres of real estate being located near or adjacent to the Topeka juvenile correctional facility and the Kansas juvenile correctional complex and near or adjacent to the property owned or used by the helping hands humane society, inc., as an animal shelter.

(b) Conveyance of such rights, title and interest in such real estate, and any improvements thereon, shall be executed in the name of the department of administration executed by the secretary of administration. The deed for such conveyance shall be by quitclaim deed.

(c) No exchange and conveyance of real estate and improvements thereon as authorized by this section shall be made by the secretary of administration until the deeds and conveyances have been reviewed and approved by the attorney general.

(d) All costs in any way related to the conveyance shall be paid by the helping hands humane society, inc. The conveyance of real property authorized by this section shall not be subject to the provisions of K.S.A. 75-3043a, and amendments thereto.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 14, 2005.)

SENATE BILL No. 152

AN ACT relating to district hospitals; relating to the sale of property; providing a limited authority to mortgage property; amending K.S.A. 80-2520 and repealing the existing section.

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

Section 1. K.S.A. 80-2520 is hereby amended to read as follows: 80-2520. (a) *Except as provided in subsection (c)*, the board of any hospital is hereby authorized to: (1) Sell personal property of the hospital in the value of less than \$10,000, either in the open market or upon bids in the manner provided in subsection (b); and

(2) subject to the provisions of subsection (b), sell and convey any real or personal property of the hospital in the value of \$10,000 or more.

(b) Before selling and conveying any real or personal property designated in provision (2) of subsection (a), the board shall negotiate a sale thereof and no such sale shall be completed and conveyance made until: (1) The board has solicited sealed bids by public notice inserted in one publication in a newspaper of general circulation in the taxing district of the hospital and such sale shall be to the highest responsible bidder after such notice, except such board may reject any or all bids, and, in any such case, new bids may be called for as in the first instance; and (2) the bid has been accepted and a resolution accepting the same has been made a part of the records of the board. Thereupon, the board, by its chairperson and secretary, is hereby authorized to make, execute and deliver a good and sufficient deed or deeds of conveyance to the purchaser or purchasers thereof.

(c) (1) *In lieu of following the procedures established in subsection (a), the board may adopt a resolution establishing an alternate methodology for the disposal of property. Such alternate methodology for the disposal of property shall contain, at a minimum, procedures for:*

(A) *Notification of the public of the property to be sold;*

(B) *describing the property to be sold;*

(C) *the method of sale, including, but not limited to, fixed price, negotiated bid, sealed bid, public auction or auction or any other method of sale which allows public participation; and*

(D) *public notice inserted in one publication in a newspaper of general circulation in the taxing district of the hospital.*

(2) *Any methodology for the disposal of property established pursuant to this subsection may contain different procedures for real property and personal property.*

(d) *Notwithstanding any provision of article 25 of chapter 80 of the Kansas Statutes Annotated, and amendments thereto, to the contrary, the board of a hospital district is hereby authorized to obtain financing for the construction of a hospital facility to be located in the hospital district, secured by a mortgage on any or all hospital property, provided such mortgage is insured pursuant to the United States department of housing and urban development's mortgage insurance program, section 242 of the national housing act, 12 U.S.C. 1715z-7, section 242, as amended.*

Sec. 2. K.S.A. 80-2520 is hereby repealed.

(continued)

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 14, 2005.)

HOUSE BILL No. 2155

AN ACT concerning pharmacists and pharmacy; relating to prescription refills; amending K.S.A. 65-1637 and repealing the existing section.

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

Section 1. K.S.A. 65-1637 is hereby amended to read as follows: 65-1637. In every store, shop or other place defined in this act as “pharmacy” there shall be a pharmacist in charge and, except as otherwise provided by law, the compounding and dispensing of prescriptions shall be limited to pharmacists only. Except as otherwise provided by the pharmacy act of this state, when a pharmacist is not in attendance at a pharmacy, the premises shall be enclosed and secured. Prescription orders may be written, oral, telephonic or by electronic transmission unless prohibited by law. Blank forms for written prescription orders may have two signature lines. If there are two lines, one signature line shall state: “Dispense as written” and the other signature line shall state: “Brand exchange permissible.” Prescriptions shall only be filled or refilled in accordance with the following requirements:

(a) All prescriptions shall be filled in strict conformity with any directions of the prescriber, except that a pharmacist who receives a prescription order for a brand name drug product may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:

(1) The prescriber, in the case of a prescription signed by the prescriber and written on a blank form containing two signature lines, signs the signature line following the statement “dispense as written,” or

(2) the prescriber, in the case of a prescription signed by the prescriber, writes in the prescriber’s own handwriting “dispense as written” on the prescription, or

(3) the prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated, or

(4) the federal food and drug administration has determined that a drug product of the same generic name is not bioequivalent to the prescribed brand name prescription medication.

(b) Prescription orders shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be dispensed by the pharmacist. This record, if telephoned by other than the physician shall bear the name of the person so telephoning. Nothing in this paragraph shall be construed as altering or affecting in any way laws of this state or any federal act requiring a written prescription order.

(c) (1) *Except as provided in paragraph (2)*, no prescription shall be refilled unless authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filled by the pharmacist.

(2) *A pharmacist may refill a prescription order issued on or after the effective date of this act for any prescription drug except a drug listed on schedule II of the uniform controlled substances act or a narcotic drug listed on any schedule of the uniform controlled substances act without the prescriber’s authorization when all reasonable efforts to contact the prescriber have failed and when, in the pharmacists’ professional judgment, continuation of the medication is necessary for the patient’s health, safety and welfare. Such prescription refill shall only be in an amount judged by the pharmacist to be sufficient to maintain the patient until the prescriber can be contacted, but in no event shall a refill under this paragraph be more than a seven day supply or one package of the drug. However, if the prescriber states on a prescription that there shall be no emergency refilling of that prescription, then the pharmacist shall not dispense*

any emergency medication pursuant to that prescription. A pharmacist who refills a prescription order under this subsection (c)(2) shall contact the prescriber of the prescription order on the next business day subsequent to the refill or as soon thereafter as possible. No pharmacist shall be required to refill any prescription order under this subsection (c)(2). A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this subsection (c)(2) unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.

(d) If any prescription order contains a provision that the prescription may be refilled a specific number of times within or during any particular period, such prescription shall not be refilled except in strict conformity with such requirements.

(e) If a prescription order contains a statement that during any particular time the prescription may be refilled at will, there shall be no limitation as to the number of times that such prescription may be refilled except that it may not be refilled after the expiration of the time specified or one year after the prescription was originally issued, whichever occurs first, except that a prescription may be refilled after such a one-year period if in the opinion of the prescriber continued renewal of the prescription does not present a medical risk to the patient.

(f) Any pharmacist who exercises brand exchange and dispenses a less expensive drug product shall not charge the purchaser more than the regular and customary retail price for the dispensed drug.

Nothing contained in this section shall be construed as preventing a pharmacist from refusing to fill or refill any prescription if in the pharmacist’s professional judgment and discretion such pharmacist is of the opinion that it should not be filled or refilled.

Sec. 2. K.S.A. 65-1637 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 14, 2005.)

HOUSE BILL No. 2326

AN ACT concerning insurance; pertaining to the Kansas Insurance Guaranty Association; relating to claims; amending K.S.A. 40-2903, 40-2906, 40-2909, 40-2910 and 40-3641 and repealing the existing sections.

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

Section 1. K.S.A. 40-2903 is hereby amended to read as follows: 40-2903. As used in this act: (a) “Association” means the Kansas insurance guaranty association created by this act.

(b) “Commissioner” means the commissioner of insurance of this state.

(c) “Covered claim” means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this act applies issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this act and:

(1) The claimant or insured is a resident of this state at the time of the insured event. *For entities other than an individual, the residence of a claimant, insured or policyholder is the state in which the principal place of business of such claimant, insured or policyholder is located at the time of the insured event;* or

(2) ~~the property from which the claim arises~~ *claim is a first party claim for damage to property that is permanently located in this state.*

“Covered claim” shall not include ~~any~~.

(1) ~~Amount~~ *Any amount* due any reinsurer, insurer, insurance pool or underwriting association, as subrogation recoveries or otherwise.

(2) *any amount awarded as punitive or exemplary damages unless such damages were covered under the policy of the insolvent insurer;*

(3) *any claim by an affiliate of the insolvent insurer.*

(d) "Insolvent insurer" means ~~(1) an~~:

(1) An insurer licensed by the commissioner to transact insurance in this state either at the time the policy was issued or when the insured event occurred; and

(2) determined to be insolvent by a court of competent jurisdiction *and against whom a final order of liquidation has been entered by a court of competent jurisdiction in the insured's home state.*

(e) "Member insurer" means any person who (1) is authorized to write any kind of insurance to which this act applies under K.S.A. 40-2902, *and amendments thereto*, including the exchange of reciprocal or inter-insurance contracts; and

(2) is licensed by the commissioner to transact insurance in this state. ~~Provided~~. This act shall not apply to those persons transacting business pursuant to the provisions of K.S.A. 40-202, *and amendments thereto*.

(f) "Net direct written premiums" means first gross premiums written in this state on insurance policies to which this act applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

(g) "Person" means any individual, corporation, partnership, association or voluntary organization.

Sec. 2. K.S.A. 40-2906 is hereby amended to read as follows: 40-2906. (a) In the event of the determination of insolvency *and order of liquidation* of a licensed insurer after the effective date of this act, the association shall:

(1) Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within ~~thirty (30)~~ 30 days after the determination of insolvency, or before the policy expiration date if less than ~~thirty (30)~~ 30 days after the determination, or before the insured replaces the policy or causes its cancellation, if such insured does so within ~~thirty (30)~~ 30 days of the determination, but such obligation shall include only that amount of each covered claim which ~~is more than one hundred dollars (\$100) and less than three hundred thousand dollars (\$300,000) does not exceed the first \$300,000 of any claim~~, except that the association shall pay the full amount of any covered claim arising out of a workmen's compensation policy. In no event shall the association be obligated to the policyholder or claimant in an amount in excess of the face amount of the policy from which the claim arises.

(2) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties and obligations of the insolvent insurer as if the insurer had not become insolvent.

(3) Assess insurers amounts necessary to pay the obligations of the association under subsection (1) subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and the cost of examinations under K.S.A. 40-2911, *and amendments thereto*, and other expenses authorized by this act. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year bears to the net direct written premiums of all member insurers for the preceding calendar year. Each member insurer shall be notified of the assessment not later than ~~thirty (30)~~ 30 days before it is due. No member insurer may be assessed in any year an amount greater than ~~two percent (2%)~~ 2% of that member insurer's net direct written premiums for the preceding calendar year. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is author-

ized to transact insurance, or if the commissioner advises the association that such assessment would in such commissioner's opinion, be detrimental to the solvency of a member insurer. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer.

(4) Investigate claims brought against the association and adjust, compromise, settle and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested.

(5) Notify such persons as the commissioner directs under K.S.A. 40-2908 (b)(1), *and amendments thereto*.

(6) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

(7) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this act.

(b) The association may:

(1) Employ or retain such persons as are necessary to handle claims and perform other duties of the association.

(2) Borrow funds necessary to effect the purposes of this act in accordance with the plan of operation.

(3) Sue or be sued.

(4) Negotiate and become a party to such contracts as are necessary to carry out the purposes of this act.

(5) Perform such other acts as are necessary or proper to effectuate the purposes of this act.

(6) Refund to the member insurers in proportion to the contribution of each member insurer to the association that amount by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities of the association as estimated by the board of directors for the coming year.

(c) The association shall issue to each insurer paying an assessment under this act a certificate of contribution, in a form prescribed by the commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

(d) *Notwithstanding any other provisions of this act:*

(1) A covered claim shall not include a claim filed with the association after the earlier of:

(A) Eighteen months after the date of the order of liquidation; or

(B) the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.

(2) A covered claim shall not include any claim filed with the association or a liquidator for protection afforded under the insured's policy for incurred-but-not-reported losses.

(3) Any obligation of the association to defend an insured on a covered claim shall cease upon the association's:

(A) Payment, by settlement or on a judgment, of an amount equal to the lesser of the association's covered claim obligation limit or the applicable policy limit; or

(B) tender of such amount.

Sec. 3. K.S.A. 40-2909 is hereby amended to read as follows: 40-2909. (a) Any person recovering under this act shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the association. Every insured or claimant seeking the protection of this act shall cooperate with the association to the same extent as such person would have been required to co-

(continued)

operate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out, except such causes of action as the insolvent insurer would have had if such sums had been paid out by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association shall not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments.

(b) The receiver, liquidator or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this act against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses. *For purposes of this subsection, expenses for the investigation or defense of claims against insureds under policies with an insolvent insurer shall be considered expenses of the association or other similar organization in handling claims.*

(c) The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer.

(d) *The association shall have the right to recover from any person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under this act.*

Sec. 4. K.S.A. 40-2910 is hereby amended to read as follows: 40-2910. (a) Any person having a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer which is also a covered claim shall be required to exhaust first his right under such policy. *A claim under an insurance policy shall include a claim under any kind of insurance, whether such claim is a first party or third party claim, and shall include, without limitation, accident and health insurance, workers' compensation, Blue Cross and Blue Shield and all other coverages except for policies of an insolvent insurer.* Any amount payable on a covered claim under this act shall be reduced by the amount of any recovery under such other insurance policy.

(b) Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured except that if it is a first party claim for damage to property with a permanent location, from the association of the location of the property, and if it is a workmen's compensation claim, from the association of the residence of the claimant. Any recovery under this act shall be reduced by the amount of the recovery from any other insurance guaranty association or its equivalent.

(c) *The provisions of this section, as amended, shall apply to all claims which have not been paid prior to the effective date of this act.*

Sec. 5. K.S.A. 40-3641 is hereby amended to read as follows: 40-3641. The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is herein set forth. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be:

(a) Class 1. The costs and expenses of administration during rehabilitation and liquidation including, but not limited to the following:

- (1) The actual and necessary costs of preserving or recovering the assets of the insurer;
- (2) compensation for all authorized services rendered in the rehabilitation and liquidation;

- (3) any necessary filing fees;
- (4) the fees and mileage payable to witnesses;
- (5) authorized reasonable attorney fees and other professional services rendered in the rehabilitation and liquidation;
- (6) the reasonable expenses of a guaranty association or foreign guaranty association ~~for unallocated loss adjustment expenses in handling claims.~~

~~(b) Class 2. Reasonable compensation to employees for services performed to the extent they do not exceed two months of monetary compensation and represent payment for services performed within one year before the filing of the petition for liquidation or, if rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation. Principal officers and directors shall not be entitled to the benefits of this priority except as otherwise approved by the liquidator and the court. Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees.~~

~~(c) Class 3. All claims under policies including claims for unearned premium or other premium refunds and such claims of the federal or any state or local government for losses incurred, ("loss claims") including third-party claims and all claims of a guaranty association or foreign guaranty association other than those claims included in Class 1. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds or investment values shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligation of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to an employee shall be treated as a gratuity.~~

~~(c) Class 3. Claims of the federal government not included in Class 2.~~

~~(d) Class 4. Reasonable compensation to employees for services performed to the extent they do not exceed two months of monetary compensation and represent payment for services performed within one year before the filing of the petition for liquidation or, if rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation. Principal officers and directors shall not be entitled to the benefits of this priority except as otherwise approved by the liquidator and the court. Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees. Where there are no claims and no potential claims of the federal government in the estate, claims in this class will have priority over claims in Class 2 and below.~~

~~(d) Class 4. (e) Class 5. Claims of general creditors including claims of ceding and assuming companies in their capacity as such.~~

~~(e) Class 5. (f) Class 6. Claims of the federal or any state or local government except those under Class 3 2. Claims, including those of any governmental body for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to be equal to the class of claims under subsection ~~(h)~~ (i).~~

~~(f) Class 6. (g) Class 7. Claims filed late or any other claims other than claims under subsections ~~(g)~~ and ~~(h)~~ (h) and (i).~~

~~(g) Class 7. (h) Class 8. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law.~~

~~(h) Class 8. (i) Class 9. The claims of shareholders or other owners in their capacity as shareholders.~~

The provisions of this section, as amended, shall apply to all claims which have not been paid prior to the effective date of this act.

Sec. 6. K.S.A. 40-2903, 40-2906, 40-2909, 40-2910 and 40-3641 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 14, 2005.)

HOUSE BILL No. 2102

AN ACT concerning sales taxation; relating to exemptions; amending K.S.A. 2004 Supp. 74-50,115 and repealing the existing section.

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

Section 1. K.S.A. 2004 Supp. 74-50,115 is hereby amended to read as follows: 74-50,115. (a) A manufacturing business may be eligible for a sales tax exemption under the provisions of subsection (cc) of K.S.A. 79-3606, and amendments thereto, if the manufacturing business complies with the following requirements:

(1) A manufacturing business shall provide documented evidence of job expansion involving the employment of at least two additional full-time employees; and

(2) a manufacturing business located within the state of Kansas that has documented evidence of job expansion as provided in paragraph (1), which relocates in another city or county within the state of Kansas must receive approval from the secretary prior to qualifying for the sales tax exemption in subsection (cc) of K.S.A. 79-3606, and amendments thereto, except that approval by the secretary shall not be required if the manufacturing business relocates within the same city.

(b) A nonmanufacturing business may be eligible for a sales tax exemption under the provisions of subsection (cc) of K.S.A. 79-3606, and amendments thereto, if the nonmanufacturing business complies with the following requirements:

(1) A nonmanufacturing business shall provide documented evidence of job expansion involving the employment of at least five additional full-time employees; and

(2) a nonmanufacturing business located within the state of Kansas that has documented evidence of job expansion as provided in paragraph (1), which relocates in another city or county within the state of Kansas must receive approval from the secretary prior to qualifying for the sales tax exemption in subsection (cc) of K.S.A. 79-3606, and amendments thereto, except that approval by the secretary shall not be required if the nonmanufacturing business relocates within the same city.

(c) A retail business may qualify for the sales tax exemption under subsection (cc) of K.S.A. 79-3606, and amendments thereto, if the retail business complies with the following requirements:

(1) A retail business shall provide documented evidence of job expansion involving the employment of at least two additional full-time employees; and

(2) (A) such retail business locates or expands to a city having a population of 2,500 or less, as determined by the latest United States federal census, or (B) such retail business locates or expands prior to July 1, 2004, to a location outside a city in a county having a population of 10,000 or less, as determined by the latest United States federal census.

(d) Any person constructing, reconstructing, remodeling or enlarging a facility which will be leased in whole or in part for a period of five years or more, or commencing on the effective date of this act and ending on April 1, 2007, any person constructing, reconstructing, remodeling or enlarging a facility located within Saline county which title of such facility will be conveyed, to a business that would be eligible for a sales tax exemption hereunder if such business had constructed, reconstructed, enlarged or remodeled such facility or portion thereof itself shall be entitled to the sales tax exemption under the provisions of subsection (cc) of K.S.A. 79-3606, and amendments thereto. When such person leases less than the total facility to an eligible business, a project exemption certificate may be granted on: (1) The total cost of constructing, reconstructing, remodeling or enlarging, the facility multiplied by a fraction given by dividing the

number of leased square feet eligible for the sales tax exemption by the total square feet being constructed, reconstructed, remodeled or enlarged; or (2) the actual cost of constructing, reconstructing, remodeling or enlarging that portion of the facility to be occupied by the eligible business, as the person may elect.

(e) A business may qualify for a sales tax exemption under subsection (cc) of K.S.A. 79-3606, and amendments thereto, without regard to any of the foregoing requirements of this section if it is certified as a qualified firm by the secretary of commerce pursuant to K.S.A. 74-50,131, and amendments thereto, and is entitled to the corporate tax credit established in K.S.A. 74-50,132, and amendments thereto, or has received written approval for participation and has participated, during the tax year in which the exemption is claimed, in training assistance by the department of commerce under the Kansas industrial training, Kansas industrial retraining or state of Kansas investments in lifelong learning program.

(f) The secretary may adopt rules and regulations to implement and administer the provisions of this section.

Sec. 2. K.S.A. 2004 Supp. 74-50,115 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 14, 2005.)

SENATE BILL No. 58

AN ACT concerning sales taxation; relating to countywide retailers' sales tax in Sedgwick county; amending K.S.A. 2004 Supp. 12-187, 12-189 and 12-192 and repealing the existing sections.

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

Section 1. K.S.A. 2004 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

(continued)

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.

(C) *Except as otherwise provided in this paragraph, the result of the election held on November 2, 2004, on the question submitted by the board of county commissioners of Sedgwick 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 used only to pay the costs of: (i) Acquisition of a site and constructing and equipping thereon a new regional events center, associated parking and infrastructure improvements and related appurtenances thereto, to be located in the downtown area of the city of Wichita, Kansas, (the "downtown arena"); (ii) design for the Kansas coliseum complex and construction of improvements to the pavilions; and (iii) establishing an operating and maintenance reserve for the downtown arena and the Kansas coliseum complex. The tax imposed pursuant to this paragraph shall commence on July 1, 2005, and shall terminate not later than 30 months after the commencement thereof.*

(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.

(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. 2. K.S.A. 2004 Supp. 12-189 is hereby amended to read as follows: 12-189. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class A, class B or class C city retailers' sales tax shall be fixed in the amount of .25%, .5%, .75% or 1% which amount shall be determined by the governing body of the city. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class D city retailers' sales tax shall be fixed in the amount of .10%, .25%, .5%, .75%, 1%, 1.125%, 1.25%, 1.5% or 1.75%. The rate of any countywide retailers' sales tax shall be fixed in an amount of either .25%, .5%, .75% or 1% which amount shall be determined by the board of county commissioners, except that:

(a) The board of county commissioners of Wabaunsee county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%; the board of county commissioners of Osage county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25% or 1.5%; the board of county commissioners of Cherokee, Crawford, Ford, Saline, Seward or Wyandotte county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%; the board of county commissioners of Atchison county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5% or 1.75% and the board of county commissioners of Anderson, Barton, Jefferson or

(continued)

Ottawa county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(b) the board of county commissioners of Jackson county, for the purposes of paragraph (3) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(c) the boards of county commissioners of Finney and Ford counties, for the purposes of paragraph (4) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at .25%;

(d) the board of county commissioners of any county for the purposes of paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at a percentage which is equal to the sum of the rate allowed to be imposed by a board of county commissioners on the effective date of this act plus .25%, .5%, .75% or 1%, as the case requires;

(e) the board of county commissioners of Dickinson county, for the purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%, and the board of county commissioners of Miami county, for the purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%, 1.5%, 1.75% or 2%;

(f) the board of county commissioners of Sherman county, for the purposes of paragraph (8) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%, 1.75% or 2%;

(g) the board of county commissioners of Russell county for the purposes of paragraph (9) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%;

(h) the board of county commissioners of Franklin county, for the purposes of paragraph (10) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.75%;

(i) the board of county commissioners of Douglas county, for the purposes of paragraph (11) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%; ~~or~~

(j) the board of county commissioners of Jackson county, for the purposes of subsection (b)(13) of K.S.A. 12-187 and amendments thereto, may fix such rate at 1.4%; *or*

(k) *the board of county commissioners of Sedgwick county, for the purposes of paragraph (3)(C) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%.*

Any county or city levying a retailers' sales tax is hereby 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. Except as otherwise specifically provided in K.S.A. 12-189a, and amendments thereto, such tax shall be identical in its application, and exemptions therefrom, to the Kansas retailers' sales tax act and all laws and administrative rules and regulations of the state department of revenue relating to the Kansas retailers' sales tax shall apply to such local sales tax insofar as such laws and rules and regulations may be made applicable. The state director of taxation is hereby authorized to administer, enforce and collect such local sales taxes and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement thereof.

Upon receipt of a certified copy of an ordinance or resolution authorizing the levy of a local retailers' sales tax, the director of taxation shall cause such taxes to be collected within or without the boundaries of such taxing subdivision at the same time and in the same manner provided for the collection of the state retailers' sales tax. Such copy shall be submitted to the director of taxation within 30 days after adoption of any such ordinance or resolution. All moneys collected by the director of taxation under the provisions of this section shall be credited to a county and city retailers' sales tax fund which fund is hereby established in the state treasury. Any refund due on any county or city retailers' sales tax collected pursuant to this act shall be paid out of the sales tax refund fund and reimbursed by the director of taxation from collections of local retailers' sales tax revenue. Except for local retailers' sales tax revenue required to be deposited in the redevelopment bond fund established under K.S.A. 74-8927, and amendments thereto, all local retailers' sales tax reve-

nue collected within any county or city pursuant to this act shall be apportioned and remitted at least quarterly by the state treasurer, on instruction from the director of taxation, to the treasurer of such county or city.

Revenue that is received from the imposition of a local retailers' sales tax which exceeds the amount of revenue required to pay the costs of a special project for which such revenue was pledged shall be credited to the city or county general fund, as the case requires.

The director of taxation shall provide, upon request by a city or county clerk or treasurer of any city or county levying a local retailers' sales tax, monthly reports identifying each retailer having a place of business in such city or county setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month and identifying each business location maintained by the retailer within such city or county. Such report shall be made available to the clerk or treasurer of such city or county within a reasonable time after it has been requested from the director of taxation. The director of taxation shall be allowed to assess a reasonable fee for the issuance of such report. Information received by any city or county pursuant to this section shall be confidential, and it shall be unlawful for any officer or employee of such city or county to divulge any such information in any manner. Any violation of this paragraph by a city or county officer or employee is a class B misdemeanor, and such officer or employee shall be dismissed from office.

Sec. 3. K.S.A. 2004 Supp. 12-192 is hereby amended to read as follows: 12-192. (a) Except as otherwise provided by subsection (b), (d) or (h), all revenue received by the director of taxation from a countywide retailers' sales tax shall be apportioned among the county and each city located in such county in the following manner: (1) One-half of all revenue received by the director of taxation shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year, and (2) ½ of all revenue received by the director of taxation from such countywide retailers' sales tax shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county, except that no persons residing within the Fort Riley military reservation shall be included in the determination of the population of any city located within Riley county. All revenue apportioned to a county shall be paid to its county treasurer and shall be credited to the general fund of the county.

(b) (1) As an alternative and in lieu of the apportionment formula provided in subsection (a), all revenue received by the director of taxation from a countywide retailers' sales tax imposed within Johnson county at the rate of .75% or 1% after the effective date of this act may be apportioned among the county and each city located in such county in the following manner: (A) The revenue received from the first .5% rate of tax shall be apportioned in the manner prescribed by subsection (a) and (B) the revenue received from the rate of tax exceeding .5% shall be apportioned as follows: (i) One-fourth shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year and (ii) one-fourth shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county and (iii) one-half shall be retained by the county for its sole use and benefit.

(2) In lieu of the apportionment formula provided in subsection (a), all money received by the director of taxation from a countywide sales tax imposed within Montgomery county pursuant to the election held on November 8, 1994, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged. All revenue apportioned and paid from the imposition of such tax to the treasurer of any city prior to the effective date of this act shall be remitted to the county treasurer and expended only for the purpose for which the revenue received from the tax was pledged.

(c) (1) Except as otherwise provided by paragraph (2) of this subsection, for purposes of subsections (a) and (b), the term "total tangible property tax levies" means the aggregate dollar amount of tax revenue derived from ad valorem tax levies applicable to all tangible property located within each such city or county. The ad valorem property tax levy of any county or city district entity or subdivision shall be included within this term if the levy of any such district entity or subdivision is applicable to all tangible property located within each such city or county.

(2) For the purposes of subsections (a) and (b), any ad valorem property tax levied on property located in a city in Johnson county for the purpose of providing fire protection service in such city shall be included within the term "total tangible property tax levies" for such city regardless of its applicability to all tangible property located within each such city. If the tax is levied by a district which extends across city boundaries, for purposes of this computation, the amount of such levy shall be apportioned among each city in which such district extends in the proportion that such tax levied within each city bears to the total tax levied by the district.

(d) (1) All revenue received from a countywide retailers' sales tax imposed pursuant to paragraphs (2), (3)(C), (6), (7), (8), (9) or (12) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(2) Except as otherwise provided in paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, all revenues received from a countywide retailers' sales tax imposed pursuant to paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(e) All revenue apportioned to the several cities of the county shall be paid to the respective treasurers thereof and deposited in the general fund of the city. Whenever the territory of any city is located in two or more counties and any one or more of such counties do not levy a countywide retailers' sales tax, or whenever such counties do not levy countywide retailers' sales taxes at a uniform rate, the revenue received by such city from the proceeds of the countywide retailers' sales tax, as an alternative to depositing the same in the general fund, may be used for the purpose of reducing the tax levies of such city upon the taxable tangible property located within the county levying such countywide retailers' sales tax.

(f) Prior to March 1 of each year, the secretary of revenue shall advise each county treasurer of the revenue collected in such county from the state retailers' sales tax for the preceding calendar year.

(g) Prior to December 31 of each year, the clerk of every county imposing a countywide retailers' sales tax shall provide such information deemed necessary by the secretary of revenue to apportion and remit revenue to the counties and cities pursuant to this section.

(h) The provisions of subsections (a) and (b) for the apportionment of countywide retailers' sales tax shall not apply to any revenues received pursuant to a county or countywide retailers' sales tax levied or collected under K.S.A. 74-8929, and amendments thereto. All such revenue collected under K.S.A. 74-8929, and amendments thereto, shall be deposited into the redevelopment bond fund established by K.S.A. 74-8927, and amendments thereto, for the period of time set forth in K.S.A. 74-8927, and amendments thereto.

Sec. 4. K.S.A. 2004 Supp. 12-187, 12-189 and 12-192 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 14, 2005.)

SENATE BILL No. 19

AN ACT concerning the legislative post audit act; prescribing the confidentiality of responses to surveys administered for audits; access to information and records for audits; amending K.S.A. 46-1119 and K.S.A. 2004 Supp. 46-1106 and repealing the existing sections.

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

New Section 1. (a) As used in this section:

(1) "Audit" means any financial-compliance audit, performance audit or any other audit or audit work conducted by the division of post audit or by a firm under the legislative post audit act;

(2) "survey" means any questionnaire or other survey instrument administered by the division of post audit or by a firm under the legislative post audit act for the purposes and in the course of an audit, regardless of form or characteristics; and

(3) any other words and phrases used in this section shall have the meanings respectively ascribed thereto by K.S.A. 46-1112 and amendments thereto.

(b) A response to any survey administered for the purposes and in the course of an audit approved by the legislative post audit committee shall be confidential and shall not be disclosed pursuant to the provisions of the open records act or under any other law except as required pursuant to the legislative post audit act. Nothing in this section shall limit the use of any information contained in responses to any survey by the division of post audit for the purposes of any audit or for any other purpose authorized or required under the legislative post audit act.

Sec. 2. K.S.A. 2004 Supp. 46-1106 is hereby amended to read as follows: 46-1106. (a) (1) A financial-compliance audit shall be conducted each year of the general purpose financial statements prepared by the division of accounts and reports for its annual financial report. This audit shall be conducted in accordance with generally accepted governmental auditing standards. The resulting written audit report shall be issued as soon after the end of the fiscal year as is practicable.

(2) In addition, separate written audit reports on the financial management practices of the office of the state treasurer and the pooled money investment board shall be prepared addressing the adequacy of financial management practices and compliance with applicable state laws. The separate audit of the pooled money investment board also shall include a comparative investment performance review and an analysis of the investment program, including an evaluation of investment policies and practices and of specific investments in the pooled money investment portfolio. The analysis of the specific investments in the pooled money investment portfolio shall review whether such investments meet the investment priorities of safety, liquidity and performance. The performance of such investments shall be measured by comparison to an appropriate market index.

(3) Copies of the reports of audits conducted pursuant to this subsection (a) shall be furnished to the governor, director of accounts and reports, director of the budget, each state agency, the legislative post audit committee and other persons or agencies as may be required by law or by the specifications of the audit.

(4) Any additional costs associated with preparing the separate additional reports on the office of the state treasurer and the pooled money investment board shall be borne by the office of the state

(continued)

treasurer and the pooled money investment board in accordance with K.S.A. 46-1121, and amendments thereto.

(b) Including financial-compliance audit work conducted as part of the audit conducted pursuant to subsection (a), financial-compliance audit work shall be conducted at each state agency at least once every three years as directed by the legislative post audit committee. Written reports on the results of such auditing shall be furnished to the governor, director of accounts and reports, director of the budget, the state agency which is audited, the legislative post audit committee and such other persons or agencies as may be required by law or by the specifications of the audit.

(c) Books and accounts of the state treasurer and the director of accounts and reports, including the bond register of the state treasurer, may be examined monthly if the legislative post audit committee so determines, and such examination may include detailed checking of every transaction or test checking.

Any person receiving tax information under the provisions of subsection (a) or (b) shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

(d) The post auditor shall report immediately in writing to the legislative post audit committee, governor and attorney general whenever it appears in the opinion of the post auditor that there may have occurred any violation of penal statutes or any instances of misfeasance, malfeasance or nonfeasance by a public officer or employee disclosed by any audit or audit work conducted under the legislative post audit act. The post auditor shall furnish the attorney general all information in the possession of the post auditor relative to any report referred to the attorney general. The attorney general shall institute and prosecute civil proceedings against any such delinquent officer or employee, or upon such officer or employee's official bond, or both, as may be needed to recover for the state any funds or other assets misappropriated. The attorney general shall also prosecute such ouster and criminal proceedings as the evidence in the case warrants. Any person receiving tax information under the provisions of this subsection shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

(e) The post auditor shall immediately report to the committee on surety bonds and insurance when any audit or audit work conducted under the legislative post audit act discloses a shortage in the accounts of any state agency, officer or employee.

(f) In the discharge of the duties imposed under the legislative post audit act, the post auditor may require state agencies to preserve and make available their accounts, records, documents, vouchers, requisitions, payrolls, canceled checks or vouchers and coupons, and other evidence of financial transactions.

(g) In the discharge of the duties imposed under the legislative post audit act, the post auditor or firm conducting a financial-compliance audit or conducting *any* other ~~financial-compliance audit~~ or audit work shall have access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, of any person or state agency subject to the legislative post audit act or in the custody of any such person or state agency. Except as otherwise provided in this subsection, the post auditor or firm conducting a financial-compliance audit or other ~~financial-compliance audit~~ or audit work *under the legislative post audit act* and all employees and former employees of the division of post audit or firm performing a financial-compliance audit or other ~~financial-compliance audit~~ or audit work shall be subject to the same duty of confidentiality imposed by law on any such person or state agency with regard to any such books, accounts, records, files, documents and correspondence, and any information contained therein, and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality. The duty of confidentiality imposed on the post auditor and on firms conducting financial-compliance audits or *any*

other ~~financial-compliance audits~~ or audit work *under the legislative post audit act* and all employees of the division of post audit and all employees of such firms shall be subject to the provisions of subsection (d), and the post auditor may furnish all such books, accounts, records, files, documents and correspondence, and any information contained therein to the attorney general pursuant to subsection (d). Upon receipt thereof, the attorney general and all assistant attorneys general and all other employees and former employees of the office of attorney general shall be subject to the same duty of confidentiality with the exceptions that any such information contained therein may be disclosed in civil proceedings, ouster proceedings and criminal proceedings which may be instituted and prosecuted by the attorney general in accordance with subsection (d), and any such books, accounts, records, files, documents and correspondence furnished to the attorney general in accordance with subsection (d) may be entered into evidence in any such proceedings. Nothing in this subsection shall be construed to supersede any requirement of federal law.

(h) Any firm or firms which develop information in the course of conducting a financial-compliance audit or other ~~financial-compliance audit~~ or audit work *under the legislative post audit act* which the post auditor is required to report under subsection (d) or (e) shall immediately report such information to the post auditor. The post auditor shall then make the report required in subsection (d) or (e).

Sec. 3. K.S.A. 46-1119 is hereby amended to read as follows: 46-1119. The provisions of K.S.A. 46-1101 through ~~46-1127~~ *46-1128 and section 1* and amendments thereto and any other acts contained in article 11 of chapter 46 of the Kansas Statutes Annotated and any acts amendatory thereof or made specifically supplemental thereto, shall be construed together and may be cited as the legislative post audit act.

Sec. 4. K.S.A. 46-1119 and K.S.A. 2004 Supp. 46-1106 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 14, 2005.)

HOUSE BILL No. 2265

AN ACT concerning economic development; concerning qualified manufacturers of cellulose film; Kansas downtown redevelopment act; amending K.S.A. 2004 Supp. 12-17,122 and 12-17,125 and repealing the existing sections.

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

New Section 1. The provisions of this act shall be known as and may be cited as the "qualified manufacturer act."

New Sec. 2. For the purposes of this act:

(a) "Agreement" means an agreement entered into between the qualified manufacturer and the secretary for benefits under this act.

(b) "Gross compensation" means gross wages and benefits paid to or on behalf of employees receiving wages.

(c) "Qualified manufacturer" means a person, corporation, partnership or other entity engaged in the production of cellulose film in Shawnee county, Kansas, or proposing to engage in the production of cellulose film in Shawnee county, Kansas, that satisfies conditions imposed by the secretary which shall include, among other conditions, that the person, corporation, partnership or other entity meet the requirements of subsection (a) of section 3, and amendments thereto.

(d) "Secretary" means the secretary of commerce.

New Sec. 3. (a) A qualified manufacturer may be eligible for a period of three and no more than four calendar years to receive an amount, not to exceed \$1,000,000 in the aggregate, from the special qualified manufacturer fund, if the qualified manufacturer complies with the following requirements:

(1) Has paid or agrees to pay at least \$10,000,000 in annual gross compensation to employees located in Kansas;

(2) has an average wage and salary of at least \$50,000 plus benefits;

(3) has currently at least \$26,000,000 total investment in Kansas;

(4) employs at least 190 full-time equivalent employees in Kansas as defined in K.S.A. 74-50,114, and amendments thereto; and

(5) enters into an agreement with the secretary in which in return for the benefits authorized pursuant to this act, the qualified manufacturer agrees to maintain at least 190 full-time equivalent employees as defined in K.S.A. 74-50,114, and amendments thereto, in Kansas for a period of five years or such longer period as the qualified manufacturer and the secretary may agree.

(b) A qualified manufacturer may apply to the secretary to enter into an agreement for benefits under this act. The application shall include (1) evidence that the applicant is a qualified manufacturer as defined in section 2, and amendments thereto, and (2) that the qualified manufacturer intends to employ at least 190 full-time equivalent employees for a period of at least five years commencing from the date of the agreement.

(c) Upon receipt of an application described in subsection (b), if the secretary finds that the application is from a qualified manufacturer, the secretary may enter into an agreement with the qualified manufacturer for benefits under this act. The agreement shall commit the secretary to request that for a period of three years, but in no event longer than four years at the discretion of the secretary, from the date of the executed agreement, an amount not to exceed \$1,000,000, from the special qualified manufacturer fund created in subsection (d) and shall be transferred by the state treasurer to the qualified manufacturer. The agreement shall set forth the terms and conditions under which the secretary shall direct the state treasurer to transfer revenues in the special qualified manufacturer fund to the qualified manufacturer. The agreement shall specifically provide that if at any time the balance of the fund is insufficient to make a payment prescribed by the agreement, that the qualified manufacturer shall not be entitled to the payment. In the event the qualified manufacturer fails to comply with the terms and conditions set forth in the agreement, the agreement shall provide that the secretary can terminate the agreement, and the qualified manufacturer shall not be entitled to further distributions from the special qualified manufacturer fund.

(d) The state treasurer shall credit all revenue collected or received from withholding upon Kansas wages paid by a taxpayer which is a qualified manufacturer, as certified by the secretary, to the special qualified manufacturer fund, which fund is hereby created in the custody of the state treasurer, but which fund shall not be a part of the state treasury or the state general fund. Distributions from the fund shall not be subject to appropriation. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the special qualified manufacturer fund interest earnings based on: (1) The average daily balance of moneys in the special qualified manufacturer fund for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month. The provisions of this section shall expire when all revenues that, pursuant to the agreement are to be paid to the qualified manufacturer, have been distributed. Moneys credited to the special qualified manufacturer fund in accordance with the foregoing provisions shall be distributed to or on the order of the secretary. The state treasurer shall make such distributions on such dates as mutually agreed to by the secretary and the state treasurer, serving as paying agent pursuant to the terms of the agreement. The total of all distributions under this section shall not exceed \$1,000,000.

(e) Income tax refunds and balances due resulting from withholding upon Kansas wages paid by the qualified manufacturer pursuant to K.S.A. 79-3294 et seq., and amendments thereto, shall be reconciled on at least an annual basis by a method defined in the agreement described in subsection (c).

(f) A qualified manufacturer shall not be allowed to participate in the IMPACT act or program pursuant to K.S.A. 74-50,102 et seq., and amendments thereto. The secretary may include provisions in the agreement described in subsection (c) to limit or reduce the amount of eligible credits related to the provisions of this act, including, but not limited to, those allowed pursuant to K.S.A. 79-32,160a or 79-32,182b, and amendments thereto. Nothing in this subsection shall be construed to prohibit the qualified manufacturer from receiving credits allowed by law for any investment not related to the provisions of this act.

(g) The agreement between the qualified manufacturer and the secretary shall be entered into before any benefits may be provided under this act, and shall specify that should the qualified manufacturer fail to maintain the employment levels set forth in the agreement, that the qualified manufacturer shall be required to repay an amount in proportion to the level that employment has fallen below the agreement, which has been distributed to the qualified manufacturer from the special qualified manufacturer fund, as may be determined by the secretary.

(h) Benefits authorized pursuant to this act shall not be used to provide for or to increase compensation packages, rewards, bonuses, pensions, enhanced retirement, stock options, buyouts or substantial severance pay or other financial benefits to any chief executive officer, chief financial officer or any officers of the company.

New Sec. 4. (a) The secretary shall transmit annually to the governor, the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives and the joint committee on economic development, a report, based upon information received from each qualified manufacturer for which benefits have been issued during the preceding year, describing the following: (1) The manner in which the purpose, as described in this act, has been carried out;

(2) an estimate of jobs created and jobs preserved by cash investments made in qualified manufacturers; and

(3) an estimate of the multiplier effect on the Kansas economy of the cash investments made pursuant to this act.

(b) The secretary shall conduct an annual review of the activities undertaken pursuant to this act to ensure that benefits issued pursuant to this act are issued in compliance with the provisions of this act or rules and regulations promulgated by the department with respect to this act.

(c) Any violation of the reporting requirements set forth in this section shall be grounds for loss of designation as a qualified manufacturer under this section.

(d) If the secretary determines that a qualified manufacturer is not in substantial compliance with the requirements of this act, the secretary, by written notice, shall inform the officers of the qualified manufacturer that such qualified manufacturer will lose its designation as a qualified manufacturer unless such qualified manufacturer corrects the deficiencies and is once again in compliance with the requirements for designation.

Sec. 5. K.S.A. 2004 Supp. 12-17,122 is hereby amended to read as follows: 12-17,122. For the purposes of this act, the following terms shall have the meanings provided herein, unless the context clearly indicates, otherwise:

(a) "Base year appraised value" means the appraised value, as determined by the county appraiser, of the real property located within the boundaries of a downtown redevelopment area for the tax year immediately preceding a twelve-month period in which an investment for improvements to the real property or trade fixtures therein, equal to or exceeding 25% of the appraised value of the real property, was made;

(b) "core commercial district" means an area of a city or unincorporated area of a county characterized by a variety of compact commercial, office, residential and public uses that make it most directly analogous to central business districts commonly identified by zoning regulations;

(continued)

(c) “distressed community” means an area in which 20% or more of the population of all ages for each census tract located within the area has an income below the poverty level as reported in the most recently completed decennial census published by the U.S. bureau of the census;

(d) “downtown redevelopment area” or “redevelopment area” means an area designated by the secretary of commerce pursuant to this act for the purpose of identifying real property that is eligible to receive tax benefits as provided in K.S.A. 2004 Supp. 12-17,124, and amendments thereto;

(e) “fund” means the fund created by the governing body of a city or unincorporated area of a county to comply with the requirements of this act;

(f) “governing body” means the governing body of a city or the unincorporated area of a county;

(g) “real property taxes” means all taxes levied on an ad valorem basis upon land and the improvements thereon;

(h) “secretary” means the secretary of the department of commerce; and

(i) “tax increment” means all real property taxes assessed pursuant to K.S.A. 79-1439, and amendments thereto, to the amount of the current appraised value of the property in excess of the base year appraised value of the property located within a redevelopment area or proposed redevelopment area.

Sec. 6. K.S.A. 2004 Supp. 12-17,125 is hereby amended to read as follows: 12-17,125. Real property that has been approved for downtown redevelopment tax benefits pursuant to K.S.A. 2004 Supp. 12-17,124, and amendments thereto, shall be assessed and taxed for real property tax purposes pursuant to law in the same manner that such property would be assessed and taxed if it had not been approved for downtown redevelopment tax benefits. ~~All real property taxes assessed to the base year appraised value~~ *The tax increment generated by the improvement shall be credited to the fund created by a governing body of a city or an unincorporated area of a county for the purpose of returning all or part of the property tax increment to the taxpayer in the form of a rebate of 100% each year in years one through five, 80% in year six, 60% in year seven, 40% in year eight and 20% in year nine. No rebate shall be paid on or after the tenth year. Upon payment of taxes by the taxpayer, the rebate must be made within 30 days after the next distribution date as specified in K.S.A. 12-1678a, and amendments thereto.*

Sec. 7. K.S.A. 2004 Supp. 12-17,122 and 12-17,125 are hereby repealed.

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

(Published in the Kansas Register April 14, 2005.)

SENATE BILL No. 110

AN ACT concerning the Kansas commission on veterans affairs; relating to memorials for Kansas veterans who served in the armed forces of the United States of America; prescribing certain guidelines and procedures; establishing the Kansas veterans memorials fund.

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

Section 1. (a) As used in this section “memorial for veterans” means a capital improvement or other suitable memorial for Kansas veterans who served in the armed forces of the United States of America which is proposed to be located or is located at an institution, building or facility on state-owned property of the Kansas commission on veterans affairs and may include trees, shrubs and other landscaping.

(b) In accordance with this section, the Kansas commission on veterans affairs may initiate and conduct capital improvement projects to construct, reconstruct or repair or to maintain memorials for veterans. Each memorial for veterans shall be located at an institu-

tion, building or facility on state-owned property of the Kansas commission on veterans affairs and shall become the property of Kansas upon completion and acceptance of the project by the secretary of administration and the Kansas commission on veterans affairs. Except as otherwise provided by law or rules and regulations adopted under this section, each such capital improvement project for any such memorial for veterans shall be totally financed from private moneys received by the Kansas commission on veterans affairs for such purpose. Prior to initiating a capital improvement project for any such memorial for veterans, the plans and specifications for the project shall be reviewed and shall receive prior approval by the secretary of administration. No such capital improvement project for any such memorial for veterans shall be approved or initiated by the Kansas commission on veterans affairs without having first advised and consulted with the joint committee on state building construction.

(c) In accordance with the provisions of this act and the rules and regulations adopted thereunder, the Kansas commission on veterans affairs may apply for, accept and receive any private donation, gift, grant or bequest made to establish, modify or maintain memorials for veterans. The Kansas commission on veterans affairs shall administer and expend any such private donation, gift, grant or bequest in accordance with the terms or conditions imposed by the donor.

(d) The Kansas commission on veterans affairs shall develop and adopt rules and regulations prescribing guidelines, limitations and procedures for the approval of proposed memorials for veterans and for the acceptance of private donations, gifts, grants and bequests made for memorials for veterans. The rules and regulations prescribing such guidelines and procedures shall include:

(1) Procedures for the appointment by the commission of an advisory committee to advise the commission regarding memorials for veterans, which committee shall include one or more members of the legislature representing each area where a memorial may be located pursuant to this section and such other persons selected by the commission;

(2) guidelines for memorials for veterans to assure that each memorial for veterans is an appropriate tribute to Kansas veterans who served in the armed forces of the United States of America, is non-partisan in nature and is in accord with nondiscrimination principles;

(3) guidelines and procedures to provide that the prior, express approval of the Kansas commission on veterans affairs has been obtained before (A) the name of the Kansas commission on veterans affairs or the name of the Kansas soldiers’ home, the Kansas veterans’ home or any other institution, building or facility under the jurisdiction of the commission, or (B) the name of any member of the commission or of any officer or employee of the commission or of any such institution, building or facility, is used in connection with any fund-raising for any memorial for veterans;

(4) guidelines for appropriate recognition of donors for memorials for veterans, except that no memorial for veterans shall be named for any donor;

(5) procedures to provide that the design, plans and specifications for memorials for veterans are reviewed and approved by the secretary of administration to assure conformance with the requirements and guidelines applicable to state capital improvement projects; and

(6) limitations and other guidelines for the expenditure of moneys in benefit funds established under K.S.A. 75-3728e et seq., and amendments thereto, for the Kansas soldiers’ home or the Kansas veterans’ home for the establishment or maintenance of memorials for veterans.

(e) Members of the advisory committee established under this section shall receive no compensation or reimbursement for expenses incurred for their service on such advisory committees.

(f) There is hereby established in the state treasury the Kansas veterans memorials fund which shall be administered by the Kansas commission on veterans affairs. All moneys received from any private

donation, gift, grant or bequest made for memorials for Kansas veterans who served in the armed forces of the United States of America shall be remitted 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 Kansas veterans memorials fund. All expenditures from the Kansas veterans memorials fund shall be for the purpose of financing capital improvement projects for the construction, reconstruction or repair or for the maintenance of memorials for veterans and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the Kansas commission on veterans affairs or the commission's designee.

(g) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas veterans memorials fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas veterans memorials fund for the preceding month; and

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

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 14, 2005.)

HOUSE BILL No. 2040

AN ACT concerning sales taxation; relating to exemptions; repair of hearing aids; amending K.S.A. 2004 Supp. 79-3606 and repealing the existing section.

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

Section 1. K.S.A. 2004 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry services taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross receipts from regulated sports contests taxed pursuant to the Kansas professional regulated sports act, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities

provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is paid from funds of such political subdivision or district and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school or educational institution concerned shall be liable for tax on all materials purchased

(continued)

for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft for use outside of the United States and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state,

which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603 and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "drug" means a compound, substance or preparation and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages, recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, and supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or intended to affect the structure or any function of the body;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and *repair and* replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) "Mobility enhancing equipment" means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) "prosthetic device" means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;

(s) except as provided in K.S.A. 2004 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 *et seq.* and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 *et seq.*, 19-3522 *et seq.*, or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of tangible personal property to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of tangible personal property for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose, and all sales of food products by or on behalf of any such contractor or organization for any such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for non-commercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales of natural gas, electricity and heat delivered through mains, lines or pipes pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions of this subsection shall expire on December 31, 2005;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises occurring prior to January 1, 2006;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment, including durable medical equipment, purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes. As used in this subsection, "durable medical equipment" means equipment including repair and replacement parts for such equipment, but does not include mobility enhancing equipment as defined in subsection (r) which can withstand repeated

(continued)

use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury and is not worn in or on the body;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto and all sales of tangible personal property or services purchased by contractors during the time period from July, 2003, through June, 2004, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based mental retardation facility or mental health center located in Riverton, Cherokee County, Kansas, which would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) "production line" means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or

paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from offsite, from the point where the substance enters

the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and to education, research and support for them and their families;

(continued)

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease;

(8) the National Kidney Foundation of Kansas and Western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

(9) the heartstrings community foundation for the purpose of providing training, employment and activities for adults with developmental disabilities;

(10) the Cystic Fibrosis Foundation, Heart of America Chapter, for the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease; and

(11) the spina bifida association of Kansas for the purpose of providing financial, educational and practical aid to families and individuals with spina bifida. Such aid includes, but is not limited to, funding for medical devices, counseling and medical educational opportunities;

(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or com-

pensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor to-

gether with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of

the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation;

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas Academy of Science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials; and

(hhh) all sales of tangible personal property and services purchased by or on behalf of all domestic violence shelters that are member agencies of the Kansas coalition against sexual and domestic violence.

Sec. 2. K.S.A. 2004 Supp. 79-3606 is hereby repealed.

Sec. 3. 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 and 2004 Supplement of the *Kansas Administrative Regulations*.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

| Reg. No. | Action | Register |
|----------|-------------|----------------|
| 1-9-4 | Amended | V. 23, p. 718 |
| 1-45-18 | Amended (T) | V. 23, p. 424 |
| 1-45-18 | Amended | V. 23, p. 1044 |
| 1-45-19 | Amended (T) | V. 23, p. 424 |
| 1-45-19 | Amended | V. 23, p. 1044 |
| 1-45-20 | Amended (T) | V. 23, p. 424 |
| 1-45-20 | Amended | V. 23, p. 1045 |
| 1-45-23 | Amended (T) | V. 23, p. 425 |
| 1-45-23 | Amended | V. 23, p. 1045 |
| 1-45-24 | Amended (T) | V. 23, p. 425 |
| 1-45-24 | Amended | V. 23, p. 1045 |

AGENCY 4: DEPARTMENT OF AGRICULTURE

| Reg. No. | Action | Register |
|----------------|-------------|----------------------|
| 4-8-14a | Amended (T) | V. 23, p. 900 |
| 4-8-14a | Amended | V. 23, p. 1102 |
| 4-8-27 through | | |
| 4-8-37 | Amended | V. 23, p. 1102, 1103 |
| 4-8-39 | Amended | V. 23, p. 1103 |
| 4-8-40 | Amended (T) | V. 23, p. 901 |
| 4-8-40 | Amended | V. 23, p. 1103 |
| 4-8-42 | Amended | V. 23, p. 1103 |
| 4-11-2 | Amended | V. 23, p. 895 |
| 4-11-3 | Amended | V. 23, p. 895 |
| 4-11-6 | Revoked | V. 23, p. 896 |
| 4-11-7 | Revoked | V. 23, p. 896 |
| 4-11-8 | Amended | V. 23, p. 896 |
| 4-11-9 | Amended | V. 23, p. 896 |
| 4-11-14 | Amended | V. 23, p. 896 |
| 4-25-16 | Amended (T) | V. 22, p. 2176 |
| 4-25-16 | Amended | V. 23, p. 95 |
| 4-28-1 | New (T) | V. 23, p. 1597 |
| 4-28-2 | New (T) | V. 23, p. 1597 |
| 4-28-1 through | | |
| 4-28-7 | New | V. 24, p. 145, 146 |

AGENCY 5: DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES

| Reg. No. | Action | Register |
|----------------|-------------|---------------------|
| 5-3-4e | Amended (T) | V. 23, p. 1284 |
| 5-3-4e | Amended | V. 23, p. 1580 |
| 5-3-5o | New | V. 23, p. 1130 |
| 5-3-29 | New (T) | V. 23, p. 1284 |
| 5-3-29 | New | V. 23, p. 1580 |
| 5-17-1 through | | |
| 5-17-18 | New | V. 23, p. 1131-1137 |
| 5-22-1 | Amended | V. 23, p. 1534 |
| 5-22-4b | New | V. 23, p. 1536 |
| 5-22-4c | New | V. 23, p. 1536 |
| 5-22-4d | New | V. 23, p. 1537 |
| 5-22-6 | Amended | V. 23, p. 1634 |
| 5-22-7 | Amended | V. 23, p. 1537 |
| 5-22-8 | Amended | V. 23, p. 1538 |
| 5-22-9 | Amended | V. 23, p. 1538 |
| 5-22-10 | New | V. 23, p. 1635 |
| 5-22-13 | New | V. 23, p. 1636 |
| 5-22-14 | New | V. 23, p. 1636 |
| 5-22-15 | New | V. 23, p. 1637 |
| 5-22-17 | New | V. 23, p. 1539 |
| 5-23-1 | Amended | V. 23, p. 181 |

| | | |
|---------|---------|---------------|
| 5-23-3 | Amended | V. 23, p. 181 |
| 5-23-3a | Amended | V. 23, p. 182 |
| 5-24-1 | Amended | V. 23, p. 65 |
| 5-24-2 | Amended | V. 23, p. 65 |
| 5-24-3 | Amended | V. 23, p. 66 |
| 5-24-4 | Amended | V. 23, p. 68 |
| 5-24-6 | Amended | V. 23, p. 68 |
| 5-24-8 | Amended | V. 23, p. 68 |
| 5-24-11 | New | V. 23, p. 69 |

AGENCY 7: SECRETARY OF STATE

| Reg. No. | Action | Register |
|----------|---------|----------------|
| 7-18-1 | Revoked | V. 23, p. 1366 |
| 7-18-2 | Revoked | V. 23, p. 1366 |
| 7-18-3 | Revoked | V. 23, p. 1366 |
| 7-27-1 | Amended | V. 23, p. 1366 |
| 7-29-2 | Amended | V. 23, p. 1366 |
| 7-34-2 | New (T) | V. 24, p. 42 |
| 7-34-2 | New | V. 24, p. 332 |

AGENCY 9: ANIMAL HEALTH DEPARTMENT

| Reg. No. | Action | Register |
|----------|-------------|---------------|
| 9-2-32 | Amended (T) | V. 24, p. 272 |
| 9-11-10 | Amended (T) | V. 24, p. 272 |

AGENCY 10: KANSAS BUREAU OF INVESTIGATION

| Reg. No. | Action | Register |
|----------|--------|---------------|
| 10-22-1 | New | V. 24, p. 245 |

AGENCY 11: STATE CONSERVATION COMMISSION

| Reg. No. | Action | Register |
|-----------------|--------|-------------------|
| 11-11-1 through | | |
| 11-11-7 | New | V. 24, p. 242-244 |

AGENCY 16: ATTORNEY GENERAL

| Reg. No. | Action | Register |
|----------|---------|--------------|
| 16-1-7 | Amended | V. 24, p. 95 |
| 16-4-2 | New | V. 24, p. 95 |
| 16-4-3 | New | V. 24, p. 95 |
| 16-4-4 | New | V. 24, p. 96 |
| 16-6-1 | Amended | V. 24, p. 96 |

AGENCY 22: STATE FIRE MARSHAL

| Reg. No. | Action | Register |
|----------|---------|---------------|
| 22-1-2 | Amended | V. 23, p. 978 |
| 22-1-7 | New | V. 23, p. 978 |

AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT

| Reg. No. | Action | Register |
|------------------|-------------|----------------------|
| 28-1-2 | Amended | V. 23, p. 202 |
| 28-1-4 | Amended | V. 23, p. 203 |
| 28-1-20 | Amended | V. 23, p. 360 |
| 28-4-576 | Amended (T) | V. 23, p. 389 |
| 28-4-576 | Amended | V. 23, p. 1255 |
| 28-4-577 | Amended (T) | V. 23, p. 390 |
| 28-4-577 | Amended | V. 23, p. 1257 |
| 28-4-578 | Amended (T) | V. 23, p. 391 |
| 28-4-578 | Amended | V. 23, p. 1257 |
| 28-4-583 | Amended (T) | V. 23, p. 392 |
| 28-4-583 | Amended | V. 23, p. 1258 |
| 28-4-585 | Amended (T) | V. 23, p. 392 |
| 28-4-585 | Amended | V. 23, p. 1259 |
| 28-4-587 | Amended (T) | V. 23, p. 394 |
| 28-4-587 | Amended | V. 23, p. 1260 |
| 28-4-590 | Amended (T) | V. 23, p. 396 |
| 28-4-590 | Amended | V. 23, p. 1262 |
| 28-4-591 | Amended (T) | V. 23, p. 397 |
| 28-4-591 | Amended | V. 23, p. 1264 |
| 28-4-600 through | | |
| 28-4-613 | New | V. 23, p. 957-962 |
| 28-4-700 through | | |
| 28-4-705 | New (T) | V. 23, p. 398-400 |
| 28-4-705 | New | V. 23, p. 1265, 1266 |
| 28-15-11 | Revoked | V. 23, p. 1367 |
| 28-15-13 | Revoked | V. 23, p. 1367 |

| | | |
|--------------------|-------------|----------------------|
| 28-15-14 | Revoked | V. 23, p. 1367 |
| 28-15-15a | Revoked | V. 23, p. 1367 |
| 28-15-16 | Amended | V. 23, p. 1367 |
| 28-15-18 | Amended | V. 23, p. 1367 |
| 28-15-20 | Revoked | V. 23, p. 1368 |
| 28-15-21 | Revoked | V. 23, p. 1368 |
| 28-15-22 | Revoked | V. 23, p. 1368 |
| 28-15-35 | Amended | V. 23, p. 305 |
| 28-15-36 | Amended | V. 23, p. 309 |
| 28-15a-2 | New | V. 23, p. 1368 |
| 28-15a-3 | New | V. 23, p. 1368 |
| 28-15a-4 | New | V. 23, p. 1368 |
| 28-15a-6 | New | V. 23, p. 1369 |
| 28-15a-11 | New | V. 23, p. 1369 |
| 28-15a-21 | New | V. 23, p. 1369 |
| 28-15a-23 through | | |
| 28-15a-29 | New | V. 23, p. 1369, 1370 |
| 28-15a-31 | New | V. 23, p. 1370 |
| 28-15a-33 | New | V. 23, p. 1370 |
| 28-15a-41 | New | V. 23, p. 1370 |
| 28-15a-42 | New | V. 23, p. 1370 |
| 28-15a-43 | New | V. 23, p. 1370 |
| 28-15a-60 through | | |
| 28-15a-66 | New | V. 23, p. 1370 |
| 28-15a-70 | New | V. 23, p. 1370 |
| 28-15a-72 through | | |
| 28-15a-76 | New | V. 23, p. 1370, 1371 |
| 28-15a-80 through | | |
| 28-15a-91 | New | V. 23, p. 1371 |
| 28-15a-100 | New | V. 23, p. 1371 |
| 28-15a-101 | New | V. 23, p. 1371 |
| 28-15a-110 | New | V. 23, p. 1371 |
| 28-15a-111 | New | V. 23, p. 1371 |
| 28-15a-130 through | | |
| 28-15a-135 | New | V. 23, p. 1371, 1372 |
| 28-15a-151 through | | |
| 28-15a-155 | New | V. 23, p. 1372 |
| 28-15a-170 | New | V. 23, p. 1372 |
| 28-15a-172 through | | |
| 28-15a-175 | New | V. 23, p. 1372, 1373 |
| 28-15a-201 through | | |
| 28-15a-210 | New | V. 23, p. 1373 |
| 28-15a-500 through | | |
| 28-15a-503 | New | V. 23, p. 1373, 1374 |
| 28-15a-530 through | | |
| 28-15a-536 | New | V. 23, p. 1374 |
| 28-15a-540 through | | |
| 28-15a-544 | New | V. 23, p. 1374 |
| 28-15a-550 through | | |
| 28-15a-553 | New | V. 23, p. 1374 |
| 28-15a-560 through | | |
| 28-15a-564 | New | V. 23, p. 1374, 1375 |
| 28-15a-570 | New | V. 23, p. 1375 |
| 28-15a-571 | New | V. 23, p. 1375 |
| 28-16-28b through | | |
| 28-16-28f | Amended | V. 24, p. 42-51 |
| 28-16-28g | New | V. 24, p. 52 |
| 28-16-58 | Amended | V. 24, p. 52 |
| 28-17-1 | Amended (T) | V. 23, p. 1597 |
| 28-17-1 | Amended | V. 24, p. 178 |
| 28-17-6 | Amended (T) | V. 23, p. 1598 |
| 28-17-6 | Amended | V. 24, p. 179 |
| 28-17-20 | Amended (T) | V. 23, p. 1598 |
| 28-17-20 | Amended | V. 24, p. 179 |
| 28-17-22 | New (T) | V. 23, p. 1600 |
| 28-17-22 | New | V. 24, p. 181 |
| 28-19-202 | Amended | V. 23, p. 70 |
| 28-19-720 | Amended | V. 23, p. 1596 |
| 28-19-735 | Amended | V. 23, p. 1596 |
| 28-19-750 | Amended | V. 23, p. 1596 |
| 28-19-750a | New | V. 23, p. 1596 |

| | | |
|------------|---------|-------------------|
| 28-29-75 | | |
| through | | |
| 28-29-82 | Amended | V. 23, p. 203-205 |
| 28-31-10 | Amended | V. 23, p. 1486 |
| 28-35-145 | Amended | V. 23, p. 1404 |
| 28-35-146 | Amended | V. 23, p. 1404 |
| 28-35-146a | New | V. 23, p. 1404 |
| 28-35-147 | Revoked | V. 23, p. 1404 |
| 28-35-147a | New | V. 23, p. 1404 |

(By Department of Agriculture)

| | | |
|-----------|---------|---------------|
| 28-36-1 | Revoked | V. 24, p. 146 |
| 28-36-32 | Revoked | V. 24, p. 146 |
| 28-36-60 | Revoked | V. 24, p. 146 |
| 28-36-120 | Revoked | V. 24, p. 146 |

AGENCY 30: SOCIAL AND REHABILITATION SERVICES

| Reg. No. | Action | Register |
|----------|-------------|----------------|
| 30-4-50 | Amended | V. 23, p. 894 |
| 30-4-90 | Amended (T) | V. 23, p. 897 |
| 30-4-90 | Amended | V. 23, p. 1104 |
| 30-5-59 | Amended | V. 23, p. 1637 |
| 30-5-64 | Amended | V. 24, p. 333 |
| 30-5-71 | Amended | V. 23, p. 1211 |
| 30-5-81u | Amended | V. 24, p. 271 |
| 30-6-91 | New | V. 23, p. 894 |
| 30-10-18 | Amended (T) | V. 24, p. 23 |
| 30-10-18 | Amended | V. 24, p. 334 |
| 30-46-10 | Amended | V. 23, p. 977 |
| 30-46-13 | Amended | V. 23, p. 978 |
| 30-46-15 | Amended | V. 23, p. 978 |
| 30-46-16 | Amended | V. 23, p. 978 |
| 30-46-17 | Amended | V. 23, p. 978 |

AGENCY 36: DEPARTMENT OF TRANSPORTATION

| Reg. No. | Action | Register |
|----------|---------|--------------------|
| 36-41-1 | | |
| through | | |
| 36-41-5 | New (T) | V. 24, p. 273, 274 |

AGENCY 40: KANSAS INSURANCE DEPARTMENT

| Reg. No. | Action | Register |
|----------|---------|----------------|
| 40-1-48 | Amended | V. 23, p. 426 |
| 40-1-50 | New (T) | V. 23, p. 244 |
| 40-1-50 | New | V. 23, p. 951 |
| 40-1-51 | New | V. 23, p. 361 |
| 40-2-26 | Amended | V. 23, p. 151 |
| 40-2-27 | New | V. 23, p. 825 |
| 40-3-6 | Amended | V. 23, p. 1212 |
| 40-3-20 | Revoked | V. 23, p. 693 |
| 40-3-53 | New (T) | V. 24, p. 15 |

AGENCY 44: DEPARTMENT OF CORRECTIONS

| Reg. No. | Action | Register |
|-----------|-------------|---------------|
| 44-5-115 | Amended (T) | V. 23, p. 384 |
| 44-5-115 | Amended | V. 23, p. 952 |
| 44-7-104 | Amended (T) | V. 23, p. 385 |
| 44-7-104 | Amended | V. 23, p. 953 |
| 44-7-113 | Amended (T) | V. 23, p. 386 |
| 44-7-113 | Amended | V. 23, p. 955 |
| 44-12-313 | Amended (T) | V. 23, p. 386 |
| 44-12-313 | Amended | V. 23, p. 955 |
| 44-12-601 | Amended (T) | V. 23, p. 387 |
| 44-12-601 | Amended | V. 23, p. 955 |

AGENCY 63: BOARD OF MORTUARY ARTS

| Reg. No. | Action | Register |
|----------|---------|----------------|
| 63-1-4 | Amended | V. 23, p. 1533 |
| 63-3-21 | Amended | V. 23, p. 1533 |
| 63-5-1 | Amended | V. 23, p. 1534 |
| 63-6-1 | Amended | V. 23, p. 1534 |

AGENCY 65: BOARD OF EXAMINERS IN OPTOMETRY

| Reg. No. | Action | Register |
|----------|---------|----------------|
| 65-4-3 | Amended | V. 23, p. 893 |
| 65-5-5 | Revoked | V. 23, p. 1596 |
| 65-5-11 | New | V. 23, p. 893 |
| 65-5-12 | New | V. 23, p. 1596 |
| 65-8-5 | Revoked | V. 23, p. 893 |

AGENCY 66: BOARD OF TECHNICAL PROFESSIONS

| Reg. No. | Action | Register |
|----------|---------|--------------|
| 66-6-4 | Amended | V. 24, p. 79 |
| 66-8-5 | Amended | V. 23, p. 95 |
| 66-8-8 | New | V. 24, p. 80 |
| 66-9-6 | Amended | V. 24, p. 80 |
| 66-9-7 | New | V. 24, p. 80 |
| 66-10-14 | New | V. 24, p. 80 |
| 66-14-3 | Amended | V. 24, p. 80 |
| 66-14-5 | Amended | V. 24, p. 81 |

AGENCY 68: BOARD OF PHARMACY

| Reg. No. | Action | Register |
|----------|---------|----------------|
| 68-1-3a | Amended | V. 23, p. 1739 |
| 68-7-20 | New | V. 23, p. 382 |

AGENCY 69: BOARD OF COSMETOLOGY

| Reg. No. | Action | Register |
|----------|-------------|---------------|
| 69-1-4 | Amended (T) | V. 24, p. 14 |
| 69-1-4 | Amended | V. 24, p. 392 |

AGENCY 70: BOARD OF VETERINARY EXAMINERS

| Reg. No. | Action | Register |
|----------|---------|---------------|
| 70-5-1 | Amended | V. 23, p. 360 |

AGENCY 71: KANSAS DENTAL BOARD

| Reg. No. | Action | Register |
|----------|---------|----------------|
| 71-1-1 | Revoked | V. 23, p. 151 |
| 71-1-2 | Revoked | V. 23, p. 151 |
| 71-1-3 | Revoked | V. 23, p. 151 |
| 71-1-8 | Revoked | V. 23, p. 151 |
| 71-1-10 | Revoked | V. 23, p. 151 |
| 71-1-11 | Revoked | V. 23, p. 151 |
| 71-1-15 | Amended | V. 23, p. 151 |
| 71-2-1 | Revoked | V. 23, p. 151 |
| 71-2-2 | Amended | V. 24, p. 338 |
| 71-2-4 | Revoked | V. 23, p. 151 |
| 71-2-5 | Amended | V. 23, p. 717 |
| 71-2-6 | Revoked | V. 23, p. 718 |
| 71-2-7 | Amended | V. 23, p. 718 |
| 71-2-9 | Revoked | V. 23, p. 151 |
| 71-2-11 | Amended | V. 23, p. 1286 |
| 71-2-12 | Revoked | V. 23, p. 151 |
| 71-3-2 | Amended | V. 23, p. 1286 |
| 71-3-4 | Amended | V. 23, p. 1286 |
| 71-3-5 | Revoked | V. 23, p. 151 |
| 71-3-9 | New | V. 23, p. 1286 |
| 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 82: STATE CORPORATION COMMISSION

| Reg. No. | Action | Register |
|-----------|-------------|-------------------|
| 82-3-101 | Amended | V. 23, p. 426 |
| 82-3-108 | Amended | V. 23, p. 1739 |
| 82-3-123 | Amended | V. 23, p. 1740 |
| 82-3-123a | Amended | V. 23, p. 1740 |
| 82-3-138 | Amended | V. 23, p. 1741 |
| 82-3-208 | Amended | V. 23, p. 1741 |
| 82-3-301 | Revoked | V. 23, p. 1742 |
| 82-3-304 | Amended | V. 23, p. 1742 |
| 82-3-312 | Amended | V. 23, p. 1742 |
| 82-3-314 | New | V. 23, p. 1743 |
| 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 |
| 82-3-1005 | Amended | V. 23, p. 1743 |
| 82-4-3 | Amended (T) | V. 24, p. 97 |
| 82-4-3a | | |
| through | | |
| 82-4-3m | New (T) | V. 24, p. 97-122 |

AGENCY 88: BOARD OF REGENTS

| Reg. No. | Action | Register |
|----------|---------|---------------------|
| 88-16-5b | New | V. 23, p. 1595 |
| 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 |
| 88-26-1 | | |
| through | | |
| 88-26-16 | New | V. 23, p. 1487-1491 |
| 88-27-1 | New | V. 23, p. 1491 |
| 88-27-2 | New | V. 23, p. 1492 |

AGENCY 91: DEPARTMENT OF EDUCATION

| Reg. No. | Action | Register |
|----------|---------|----------------|
| 91-1-68a | | |
| through | | |
| 91-1-68e | Revoked | V. 23, p. 1111 |
| 91-1-230 | New | V. 23, p. 1106 |
| 91-1-231 | New | V. 23, p. 1107 |
| 91-1-232 | New | V. 23, p. 1108 |
| 91-1-235 | New | V. 23, p. 1108 |
| 91-1-236 | New | V. 23, p. 1109 |
| 91-8-2 | Revoked | V. 23, p. 1493 |
| 91-8-15 | Revoked | V. 23, p. 1493 |
| 91-8-16 | Revoked | V. 23, p. 1493 |
| 91-8-17 | Revoked | V. 23, p. 1493 |
| 91-8-19 | Revoked | V. 23, p. 1493 |
| 91-8-26 | Revoked | V. 23, p. 1493 |
| 91-8-30 | | |
| through | | |
| 91-8-33 | Revoked | V. 23, p. 1493 |
| 91-9-11 | Revoked | V. 23, p. 1493 |
| 91-15-1 | Amended | V. 24, p. 272 |
| 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 |
| 91-25-1a | Revoked | V. 23, p. 1493 |
| 91-25-1c | Revoked | V. 23, p. 1493 |
| 91-25-2 | Revoked | V. 23, p. 1493 |
| 91-25-3a | Revoked | V. 23, p. 1493 |
| 91-25-4a | Revoked | V. 23, p. 1493 |
| 91-25-17 | Revoked | V. 23, p. 1493 |
| 91-25-18 | Revoked | V. 23, p. 1493 |
| 91-25-19 | Revoked | V. 23, p. 1493 |
| 91-35-1 | | |
| through | | |
| 91-35-4 | Revoked | V. 24, p. 272 |

AGENCY 92: DEPARTMENT OF REVENUE

| Reg. No. | Action | Register |
|-----------|---------|----------------|
| 92-12-113 | New | V. 24, p. 423 |
| 92-26-4 | Amended | V. 23, p. 1533 |
| 92-51-34a | Amended | V. 24, p. 423 |

AGENCY 94: BOARD OF TAX APPEALS

| Reg. No. | Action | Register |
|----------|-------------|----------------|
| 94-2-21 | Amended (T) | V. 23, p. 896 |
| 94-2-21 | Amended | V. 23, p. 1375 |

AGENCY 100: BOARD OF HEALING ARTS

| Reg. No. | Action | Register |
|-----------|-------------|----------------|
| 100-11-1 | Amended (T) | V. 23, p. 580 |
| 100-11-1 | Amended | V. 23, p. 1042 |
| 100-28a-1 | Amended | V. 23, p. 1558 |

(continued)

| | | |
|----------|-------------|----------------|
| 100-29-7 | Amended | V. 23, p. 1558 |
| 100-49-4 | Amended | V. 23, p. 1148 |
| 100-54-4 | Amended (T) | V. 23, p. 383 |
| 100-54-4 | Amended | V. 23, p. 1042 |
| 100-55-4 | Amended (T) | V. 23, p. 383 |
| 100-55-4 | Amended | V. 23, p. 1042 |
| 100-69-5 | Amended | V. 23, p. 1558 |
| 100-72-8 | New | V. 24, p. 14 |
| 100-72-9 | New | V. 23, p. 1558 |

**AGENCY 102: BEHAVIORAL SCIENCES
REGULATORY BOARD**

| Reg. No. | Action | Register |
|----------|-------------|----------------|
| 102-1-13 | Amended | V. 24, p. 424 |
| 102-1-18 | Amended | V. 24, p. 424 |
| 102-2-3 | Amended | V. 24, p. 424 |
| 102-2-8 | Amended | V. 24, p. 424 |
| 102-2-12 | Amended | V. 24, p. 426 |
| 102-2-14 | Amended | V. 24, p. 427 |
| 102-3-2 | Amended | V. 24, p. 428 |
| 102-3-3a | Amended (T) | V. 24, p. 330 |
| 102-3-7a | Amended | V. 23, p. 1139 |
| 102-3-15 | Amended | V. 24, p. 428 |
| 102-4-2 | Amended | V. 24, p. 428 |
| 102-4-3a | Amended | V. 23, p. 1141 |
| 102-4-4a | Amended | V. 23, p. 1143 |
| 102-4-7a | Amended | V. 23, p. 1144 |
| 102-4-15 | Amended | V. 24, p. 428 |
| 102-5-2 | Amended | V. 24, p. 428 |
| 102-5-4a | Amended | V. 23, p. 1145 |
| 102-5-7a | Amended | V. 23, p. 1147 |
| 102-5-14 | Amended | V. 24, p. 429 |

**AGENCY 108: STATE EMPLOYEES
HEALTH CARE COMMISSION**

| Reg. No. | Action | Register |
|----------|---------|----------------|
| 108-1-1 | Amended | V. 23, p. 1189 |
| 108-1-4 | Amended | V. 23, p. 823 |

**AGENCY 109: BOARD OF
EMERGENCY MEDICAL SERVICES**

| Reg. No. | Action | Register |
|----------|--------|---------------|
| 109-3-2 | New | V. 23, p. 202 |

AGENCY 110: DEPARTMENT OF COMMERCE

| Reg. No. | Action | Register |
|----------|---------|----------------|
| 110-8-1 | | |
| through | | |
| 110-8-6 | Revoked | V. 23, p. 1595 |
| 110-8-8 | | |
| through | | |
| 110-8-11 | Revoked | V. 23, p. 1595 |
| 110-10-1 | New | V. 23, p. 180 |
| 110-11-1 | New | V. 24, p. 429 |
| 110-11-2 | New | V. 24, p. 429 |
| 110-11-3 | New | V. 24, p. 429 |
| 110-12-1 | | |
| through | | |
| 110-12-6 | New | V. 24, p. 371 |

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 |
| 111-2-159 | New | V. 23, p. 901 |
| 111-2-160 | New | V. 23, p. 1655 |
| 111-2-161 | New | V. 23, p. 1655 |
| 111-2-162 | New | V. 23, p. 1655 |
| 111-2-163 | New | V. 24, p. 15 |
| 111-2-164 | New | V. 24, p. 199 |

| | | |
|------------|---------|---------------------|
| 111-2-165 | New | V. 24, p. 296 |
| 111-2-166 | New | V. 24, p. 296 |
| 111-2-167 | | |
| through | | |
| 111-2-172 | New | V. 24, p. 430, 431 |
| 111-3-13 | Amended | V. 23, p. 1433 |
| 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 | | |
| through | | |
| 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 |
| 111-4-2147 | | |
| through | | |
| 111-4-2160 | New | V. 23, p. 901-909 |
| 111-4-2161 | | |
| through | | |
| 111-4-2173 | New | V. 23, p. 1025-1033 |
| 111-4-2174 | New | V. 23, p. 1074 |
| 111-4-2175 | New | V. 23, p. 1075 |
| 111-4-2176 | New | V. 23, p. 1076 |
| 111-4-2177 | | |
| through | | |
| 111-4-2180 | New | V. 23, p. 1169-1171 |
| 111-4-2181 | | |
| through | | |
| 111-4-2185 | New | V. 23, p. 1343-1346 |
| 111-4-2186 | | |
| through | | |
| 111-4-2195 | New | V. 23, p. 1434-1438 |
| 111-4-2196 | | |
| through | | |
| 111-4-2205 | New | V. 23, p. 1655-1659 |
| 111-4-2206 | | |
| through | | |
| 111-4-2213 | New | V. 24, p. 15-22 |
| 111-4-2214 | | |
| through | | |
| 111-4-2227 | New | V. 24, p. 199-207 |
| 111-4-2228 | | |
| through | | |
| 111-4-2235 | New | V. 24, p. 297-300 |
| 111-4-2236 | | |
| through | | |
| 111-4-2241 | New | V. 24, p. 432-435 |
| 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 |
| 111-5-116 | | |
| through | | |
| 111-5-120 | New | V. 24, p. 208, 209 |
| 111-6-1 | Amended | V. 23, p. 1439 |
| 111-6-7 | Amended | V. 23, p. 1440 |
| 111-6-26 | New | V. 24, p. 23 |
| 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 |
| 111-7-193 | | |
| through | | |
| 111-7-197 | New | V. 24, p. 436, 437 |
| 111-9-122 | New | V. 23, p. 910 |
| 111-9-123 | New | V. 23, p. 910 |
| 111-9-124 | New | V. 24, p. 437 |
| 111-9-125 | New | V. 24, p. 438 |
| 111-9-126 | New | V. 24, p. 438 |

| | | |
|-----------|---------|-------------------|
| 111-11-1 | | |
| through | | |
| 111-11-11 | New | V. 23, p. 911-914 |
| 111-11-1 | Amended | V. 23, p. 1077 |
| 111-12-1 | New | V. 23, p. 914 |

**AGENCY 112: RACING AND GAMING
COMMISSION**

| Reg. No. | Action | Register |
|-----------|---------|----------------|
| 112-10-3 | Amended | V. 23, p. 93 |
| 112-10-5 | Amended | V. 23, p. 1073 |
| 112-10-6 | Amended | V. 23, p. 1073 |
| 112-10-6a | New | V. 23, p. 1074 |
| 112-10-13 | New | V. 23, p. 495 |
| 112-13-2 | Amended | V. 23, p. 94 |

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

| Reg. No. | Action | Register |
|-----------|---------|----------------|
| 115-2-1 | Amended | V. 24, p. 147 |
| 115-2-2 | Amended | V. 23, p. 1581 |
| 115-2-3 | Amended | V. 23, p. 1581 |
| 115-2-3a | New | V. 23, p. 1582 |
| 115-3-2 | Amended | V. 24, p. 148 |
| 115-4-2 | Amended | V. 24, p. 420 |
| 115-4-4 | Amended | V. 24, p. 421 |
| 115-4-4a | New | V. 24, p. 422 |
| 115-4-6 | Amended | V. 24, p. 148 |
| 115-4-6a | New | V. 24, p. 151 |
| 115-4-11 | Amended | V. 24, p. 151 |
| 115-4-13 | Amended | V. 24, p. 422 |
| 115-4-14 | New | V. 23, p. 1583 |
| 115-5-1 | Amended | V. 24, p. 152 |
| 115-7-1 | Amended | V. 23, p. 1584 |
| 115-7-2 | Amended | V. 24, p. 153 |
| 115-9-4 | Amended | V. 24, p. 153 |
| 115-11-2 | Amended | V. 24, p. 153 |
| 115-15-1 | Amended | V. 24, p. 154 |
| 115-15-2 | Amended | V. 24, p. 155 |
| 115-18-1 | Amended | V. 24, p. 156 |
| 115-18-7 | Amended | V. 24, p. 159 |
| 115-18-10 | Amended | V. 23, p. 1043 |
| 115-18-14 | Amended | V. 23, p. 1585 |
| 115-20-1 | Amended | V. 24, p. 159 |
| 115-20-2 | Amended | V. 24, p. 160 |

**AGENCY 117: REAL ESTATE
APPRAISAL BOARD**

| Reg. No. | Action | Register |
|----------|---------|----------------|
| 117-2-2 | Amended | V. 23, p. 1407 |
| 117-3-2 | Amended | V. 23, p. 1408 |
| 117-4-2 | Amended | V. 23, p. 1408 |
| 117-6-3 | Amended | V. 24, p. 77 |
| 117-7-1 | Amended | V. 24, p. 78 |
| 117-8-1 | Amended | V. 24, p. 78 |
| 117-9-1 | Amended | V. 23, p. 150 |

**AGENCY 123: JUVENILE JUSTICE
AUTHORITY**

| Reg. No. | Action | Register |
|------------|--------|--------------------|
| 123-1-101 | New | V. 24, p. 301 |
| 123-2-105 | New | V. 24, p. 338 |
| 123-2-110 | New | V. 24, p. 338 |
| 123-5-101 | New | V. 24, p. 339 |
| 123-5-106 | New | V. 24, p. 339 |
| 123-5-111 | New | V. 24, p. 339 |
| 123-5-112 | New | V. 24, p. 340 |
| 123-5-505 | New | V. 24, p. 340 |
| 123-12-101 | | |
| through | | |
| 123-12-107 | New | V. 24, p. 301, 302 |
| 123-12-201 | | |
| through | | |
| 123-12-210 | New | V. 24, p. 302, 303 |
| 123-12-301 | | |
| through | | |
| 123-12-315 | New | V. 24, p. 303-305 |
| 123-12-317 | New | V. 24, p. 305 |
| 123-12-318 | New | V. 24, p. 305 |
| 123-12-319 | New | V. 24, p. 306 |
| 123-12-321 | | |
| through | | |
| 123-12-325 | New | V. 24, p. 306 |
| 123-12-327 | New | V. 24, p. 306 |

| | | | | | | | | |
|-------------|-----|--------------------|-------------|-----|--------------------|-------------|-----|--------------------|
| 123-12-328 | New | V. 24, p. 307 | 123-13-101 | New | V. 24, p. 342 | 123-13-601 | New | V. 24, p. 351 |
| 123-12-401 | New | V. 24, p. 307 | 123-13-101a | New | V. 24, p. 343 | 123-13-602 | New | V. 24, p. 351 |
| 123-12-501 | | | 123-13-103 | New | V. 24, p. 343 | 123-13-603 | New | V. 24, p. 351 |
| through | | | 123-13-105 | New | V. 24, p. 343 | 123-13-610 | New | V. 24, p. 351 |
| 123-12-505 | New | V. 24, p. 307, 308 | 123-13-106 | New | V. 24, p. 343 | 123-13-701 | | |
| 123-12-505b | New | V. 24, p. 308 | 123-13-201 | New | V. 24, p. 343 | through | | |
| 123-12-506 | New | V. 24, p. 308 | 123-13-201b | New | V. 24, p. 344 | 123-13-704 | New | V. 24, p. 352, 353 |
| 123-12-601 | New | V. 24, p. 308 | 123-13-202 | New | V. 24, p. 345 | 123-13-706 | New | V. 24, p. 353 |
| 123-12-602 | New | V. 24, p. 310 | 123-13-203 | New | V. 24, p. 345 | 123-13-707 | New | V. 24, p. 353 |
| 123-12-702 | New | V. 24, p. 310 | 123-13-306 | New | V. 24, p. 345 | 123-15-101 | New | V. 24, p. 353 |
| 123-12-801 | New | V. 24, p. 310 | 123-13-307 | New | V. 24, p. 346 | 123-15-101a | New | V. 24, p. 354 |
| 123-12-901 | New | V. 24, p. 310 | 123-13-401 | | | 123-15-101b | New | V. 24, p. 354 |
| 123-12-902 | New | V. 24, p. 310 | through | | | 123-15-102 | New | V. 24, p. 354 |
| 123-12-1001 | New | V. 24, p. 311 | 123-13-404 | New | V. 24, p. 346-348 | 123-15-104 | New | V. 24, p. 355 |
| 123-12-1002 | New | V. 24, p. 311 | 123-13-405a | New | V. 24, p. 349 | 123-15-105 | New | V. 24, p. 355 |
| 123-12-1101 | New | V. 24, p. 311 | 123-13-406 | New | V. 24, p. 349 | 123-15-105a | New | V. 24, p. 356 |
| 123-12-1201 | New | V. 24, p. 312 | 123-13-408 | New | V. 24, p. 350 | 123-15-106 | New | V. 24, p. 356 |
| 123-12-1202 | New | V. 24, p. 312 | 123-13-409 | New | V. 24, p. 350 | 123-15-201 | New | V. 24, p. 356 |
| 123-12-1301 | New | V. 24, p. 312 | 123-13-501 | New | V. 24, p. 350 | 123-16-102 | New | V. 24, p. 356 |
| 123-12-1302 | New | V. 24, p. 312 | 123-13-502a | New | V. 24, p. 350 | 123-16-105 | New | V. 24, p. 357 |
| 123-12-1303 | New | V. 24, p. 312 | 123-13-505 | | | | | |
| 123-12-1306 | New | V. 24, p. 312 | through | | | | | |
| 123-12-1308 | New | V. 24, p. 313 | 123-13-509 | New | V. 24, p. 350, 351 | | | |

Order a custom-made loose-leaf binder for the Kansas Register!

Custom-made binders are available to attractively hold up to a year's worth of your copies of the Kansas Register for permanent use. The high quality, durable casebound swinge-hinge binders are manufactured by ABZ Binder. (A swinge-hinge binder has more capacity and allows for easier interfiling than standard ring binders.) The three-inch binder features dark blue supported vinyl covering and gold imprinting, with a label holder on the spine.

\$15 each, includes shipping and handling.

(Kansas residents must include an additional \$1.08 state and local sales tax.)



In this issue . . .

| | |
|---|-------------|
| Kansas Department of Health and Environment Request for comments on proposed air quality permits | Page 34, 39 |
| Annual Program Report for the Voluntary Cleanup and Property Redevelopment Program | 35 |
| Notice of hearing on proposed air quality permit | 36 |
| Notice concerning Kansas water pollution control permit | 37 |
| Pooled Money Investment Board Notice of investment rates | 37 |
| State Banking Board Notice of 2002 meeting schedule | 37 |
| Department of Administration Public notice | 37 |
| Wildlife and Parks Commission Notice of hearing on proposed administrative regulations | 39 |
| Attorney General Opinions 2001-48 through 2001-56 | 39 |
| Information Network of Kansas Notice of meetings | 40 |
| City of Overland Park Notice to bidders | 42 |
| Department of Administration—Division of Purchases Notice to bidders for state purchases | 42 |
| | 43 |

Clip and mail

Please send _____

Kansas Register Binders @ \$15

(Note: Kansas residents must include an additional \$1.08 state and local sales tax.)

Total enclosed _____

Ship to:

Shipping is by
U.P.S. Delivery Service—
Street address is necessary.

Mail this form, with payment, to: Kansas Register, Secretary of State, 1st Floor, Memorial Hall, 120 S.W. 10th Ave., Topeka, KS 66612-1594

**Kansas Register
Secretary of State
1st Floor, Memorial Hall
120 S.W. 10th Ave.
Topeka, KS 66612-1594**

Use this form or a copy of it to enter a subscription:

_____ **One-year subscription @ \$80 ea.**
(Kansas residents must include
\$5.76 state and local sales tax.)

Total Enclosed
(Make check payable to the Kansas Register)

Send to: _____

(Please, no more than 4 address lines.)

Zip code must be included

This space for Register office use only.

Rec. No. _____ Exp. _____ Code _____

Use this form or a copy of it to enter a name or address change:

Remove your mailing label (above) and affix it here:



Indicate change of name or address here:

**Mail either form to: Kansas Register, Secretary of State, 1st Floor,
Memorial Hall, 120 S.W. 10th Ave., Topeka, KS 66612-1594**