



Kansas Register

Ron Thornburgh, Secretary of State

Vol. 24, No. 19 May 12, 2005 Pages 771-836

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State of Kansas

**Department of Administration
Division of Facilities Management**

**Notice of Commencement of Negotiations for
On-Call Landscape Architectural Services**

Notice is hereby given of the commencement of negotiations for "on-call" landscape architectural services for small projects for the Kansas Department of Administration, Division of Facilities Management, Topeka. Contracts will be for one year, renewable for two additional one-year periods. Two firms will be selected.

For more information concerning the scope of services, contact Dan Balch, (785) 296-2202.

To be considered, a letter of interest, an SF330 Part I, information regarding similar projects, and an SF330 Part II for each firm and consultant should be provided in one bound proposal. Also required are four bound copies of the same information and one CD with one PDF file of the same information. Proposals should be concise and follow the 2005 State Building Advisory Commission guidelines, which have previously been distributed to firms. If copies of the guidelines are needed, contact Phyllis Fast, Division of Facilities Management, Room 600, Landon State Office Building, 915 S.W. Jackson, Topeka, 66612, (785) 296-5796. Submittals should be received by Phyllis Fast before noon May 27.

D. Keith Meyers
Director, Division of
Facilities Management

Doc. No. 031961

State of Kansas

**Department of Administration
Division of Facilities Management**

**Notice of Commencement of Negotiations for
On-Call Architectural Services and Mechanical-
Electrical-Plumbing Engineering Services**

Notice is hereby given of the commencement of negotiations for "on-call" architectural services and "on-call" mechanical-electrical-plumbing engineering services for small projects for the University of Kansas Medical Center, Kansas City, Kansas. Contracts will be for one year, renewable for two additional one-year periods. One architectural firm and one engineering firm will be selected.

For more information concerning the scope of services, contact Dave Roland, (913) 588-9011.

To be considered, a letter of interest, an SF330 Part I, information regarding similar projects, and an SF330 Part II for each firm and consultant should be provided in one bound proposal. Also required are four bound copies of the same information and one CD with one PDF file of the same information. Proposals should be concise and follow the 2004 State Building Advisory Commission guidelines, which have previously been distributed to firms. If copies of the guidelines are needed, contact Phyllis Fast, Division of Facilities Management, Room 600, Landon State Office Building, 915 S.W. Jackson, Topeka, 66612, (785) 296-5796. Submittals should be received by Phyllis Fast before noon May 27.

D. Keith Meyers
Director, Division of
Facilities Management

Doc. No. 031952

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Ron Thornburgh
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(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

Board of Healing Arts

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 11 a.m. Tuesday, July 12, at the office of the Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, to consider the revocation of two rules and regulations and the adoption of eight proposed amended rules and regulations, all dealing with athletic training.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the above-referenced rules and regulations. All interested parties may submit comments prior to the hearing to the Board of Healing Arts at the address above. All interested parties will be given a reasonable opportunity to present their views, orally or in writing, concerning the adoption of the regulation during the hearing. In order to give all persons an opportunity to present their views, it may be necessary to request each participant to limit any oral presentations to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the regulations being considered and the economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Tammy Farr at (785) 296-8558. Handicapped parking is located at the west end of the Hutton Building, and the northwest entrance to the building is accessible.

A summary of the two rules and regulations proposed for revocation and the eight rules and regulations proposed for amendment and the respective economic impact follows:

K.A.R. 100-69-1. Approved education. This regulation establishes what proof of education will be required by applicants for licensure as athletic trainers.

K.A.R. 100-69-2. Clinical experience. This regulation specifies the number of hours of clinical experience required for licensure as an athletic trainer.

K.A.R. 100-69-3. Examination. This regulation designates the examination required to be passed by all applicants to be licensed as an athletic trainer.

K.A.R. 100-69-4. Approved national certifying organization. This regulation is being revoked because it is no longer applicable. Initially, the statute authorizing this regulation dealt with those persons applying for an application prior to July 1, 1997.

K.A.R. 100-69-6. Expiration of license. This regulation sets the expiration date of athletic trainer licenses as December 31 of each year.

K.A.R. 100-69-7. Unprofessional conduct; definition. This regulation defines nine specific grounds that would constitute unprofessional conduct by an athletic trainer.

K.A.R. 100-69-8. Temporary registration. This regulation is proposed for revocation since it currently mirrors the language contained in K.S.A. 2004 Supp. 65-6906 and is redundant.

K.A.R. 100-69-9. Practice protocols. This regulation establishes the criteria that must be contained in a practice

protocol and requires that the protocol be filed with the board on a form prescribed and issued by the board.

K.A.R. 100-69-10. License renewal; continuing education. This regulation specifies the continuing education requirements that shall be submitted with a license renewal.

K.A.R. 100-69-11. Reinstatement; canceled and revoked licenses. This regulation defines the continuing education requirements necessary for reinstatement of a canceled or revoked athletic trainer license.

The regulations are not mandated by any federal law. No other persons or entities will bear any costs or be affected by these proposed amended rules and regulations.

Copies of the proposed amended regulations and the associated economic impact statement may be obtained from the Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, 66603; from the board's Web site at www.ksbha.org/pubinfo.html; or by calling Cathy Brown at (785) 296-3680.

Lawrence T. Buening, Jr.
Executive Director

Doc. No. 031955

State of Kansas

Department of Commerce

Request for Comments

The Kansas Department of Commerce is requesting comments on the draft two-year Strategic State Plan for Title I of the Workforce Investment Act and the Wagner-Peyser Act. This plan will be submitted to the U.S. Department of Labor to become effective July 1, 2005 through June 30, 2007. This plan documents the Governor's vision and goals for the Kansas workforce development system, as well as the strategies, policies, activities and measures of success for this system.

To request a copy of the plan, contact Linda J. Weaver, Policy and Planning, Kansas Department of Commerce, Suite 100, Curtis State Office Building, 1000 S.W. Jackson, 66612, (785) 296-2159, TTY (785) 296-3487, or lweaver@kansascommerce.com. Copies of the draft plan may be requested in large print or alternative formats.

Comments must be received by 5 p.m. Monday, May 23, and may be submitted by any of the following methods:

- E-mail: Comments may be submitted by e-mail to lweaver@kansascommerce.com (enter "State Plan Comments" in the subject line of the message).
- Fax: Comments of five pages or less may be submitted by fax to (785) 291-3512 (please note that this is not a toll-free number).
- Postal mail: Comments may be submitted by postal mail to Linda J. Weaver at the address above.

Howard R. Fricke
Secretary of Commerce

Doc. No. 031862

State of Kansas

Commission on Veterans' Affairs**Notice of Meeting**

The Kansas Commission on Veterans' Affairs will meet at 1 p.m. Friday, May 20, at the American Legion Post #180, 1011 Kansas St., Great Bend. The public is invited to attend. For more information, call (785) 296-3976.

Wayne Bollig
Chief Operations Officer

Doc. No. 031949

State of Kansas

University of Kansas**Notice to Bidders**

Proposals for the items listed below will be received by E & I Cooperative Service, Inc., Hauppauge, New York, at the time and date indicated in the bid documents and then will be publicly opened. Interested bidders may call (631) 630-8280 or fax (631) 273-3370 for additional information:

Friday, June 10, 2005**RFP 682295**

Automotive Replacement Parts

Barry Swanson
Director, Business Services
and Purchasing

Doc. No. 031965

State of Kansas

University of Kansas**Notice to Bidders**

Sealed bids for the items listed below will be received by the University of Kansas Purchasing Office, Lawrence, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 864-3416 or fax (785) 864-3454 for additional information:

Monday, May 23, 2005**IFB 85023**Solid Surface Material Countertops
and Construction Components**RFQ 40081**Crestron Pro2 Controllers and Touchscreens,
Software Reprogramming and Troubleshooting**RFQ 40038**

Marching Band Instruments

RFQ 39865

University of Kansas Undergraduate Viewbook

Barry Swanson
Director, Business Services
and Purchasing

Doc. No. 031956

State of Kansas

Pooled Money Investment Board**Notice of Investment Rates**

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

Effective 5-9-05 through 5-15-05

Term	Rate
1-89 days	2.98%
3 months	2.86%
6 months	3.21%
1 year	3.44%
18 months	3.60%
2 years	3.69%

Derl S. Treff
Director of Investments

Doc. No. 031942

State of Kansas

Department of Transportation**Notice of Public Auction**

The Kansas Secretary of Transportation will offer for sale at public auction the following tract of land in Decatur County, Kansas: Tract KID-37, located in the Northwest Quarter of Section 18, Township 3 South, Range 26 West. This tract is located 5 miles east of Norcatur on US-36 and 2 miles south at the intersection of County Road R13E and 2S. A complete legal description is available upon request.

The auction will be at 11 a.m. Friday, June 17, at the site. In the event of bad weather, the sale will be at the KDOT District Office, 312 S. 2nd, Norton. The appraised value is \$500, and the minimum acceptable bid is \$334. An inspection of property will take place at 10:30 a.m. on the day of the sale.

Terms of Sale:

A cashier's check for 10 percent of the purchase price is required on the day of the sale. The balance of the purchase price must be paid by cashier's check on or before July 17, 2005. The successful bidder will receive a bill of sale on the day of the sale and a quit claim deed after the balance is paid. If the balance of the purchase price is not paid on or before July 17, 2005, the 10 percent down payment will be forfeited to the seller. For additional terms and information, contact the Bureau of Right of Way at 1-877-461-6817.

The seller reserves the right to reject any and all bids as is not responsible for accidents. The prospective buyer is encouraged to research the chain of title of the tract. The Kansas Department of Transportation ensures the acceptance of any bid pursuant to this notice will be without discrimination on the grounds of sex, race, color, religion, physical handicap or national origin.

Deb Miller
Secretary of Transportation

Doc. No. 031966

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 April 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-2005-005 Religious organization.

Opinion Letters

No new publications

Final Written Determinations

No new publications

Revenue Rulings

No new publications

Notices

No new publications

Memorandums

No new publications

Property Valuation Division Directives

No new publications

Q&A's

No new publications

Information Guides

No new publications

Joan Wagnon
Secretary of Revenue

Doc. No. 031945

State of Kansas

Racing and Gaming Commission

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at the Kansas Racing and Gaming Commission meeting at 1 p.m. Friday, July 22, at the Kanza Bank, Hospitality Room, 102 E. Main, Anthony, to consider the adoption of proposed permanent regulations of the Kansas Racing and Gaming Commission. This 60-day notice constitutes a public comment period for the purpose of receiving written public comments on the proposed regulations.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting the Kansas Racing and Gaming Commission, 700 S.W. Harrison, Suite 420, Topeka, 66603-3754, (785) 296-5800.

A copy of the full text of the regulations and the economic impact statements may be reviewed or obtained at the commission office or by accessing the official Web site

of the Kansas Racing and Gaming Commission, <http://www.accesskansas.org/krc/krcregs.htm>. The following is a summary of the proposed regulations:

K.A.R. 112-4-1a. Concessionaire licenses. This regulation sets forth the requirements for entities selling goods at the racetrack facility that are not owned or operated by the organization licensee or facility manager licensee to be issued a concessionaire license by the commission. The amendment to this regulation creates a class 7 concessionaire license category expressly for the purpose of the executive director of the Kansas lottery to be eligible to apply for said concessionaire license for the purpose of providing lottery products at a specified racetrack facility.

Economic Impact: There are no costs anticipated to the agency or other governmental agencies or units as a result of this regulation amendment.

K.A.R. 112-10-5. Authorized medications. The amendment to this regulation sets forth the requirement for the horse to remain under the care, custody and control of the trainer or the designated representative from the time furosemide is administered until the time for the horse to be removed to the saddling paddock prior to racing.

Economic Impact: There are no costs anticipated to the agency or other governmental agencies or units as a result of this regulation amendment.

Tracy T. Diel
Executive Director

Doc. No. 031948

State of Kansas

Legislature

Legislative Bills and Resolutions Introduced

The following numbers and titles of bills and resolutions were introduced April 27-30 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 2537, An act reconciling amendments to certain statutes; amending K.S.A. 2004 Supp. 19-101a, 44-661, 44-820, 65-5703, 74-2622, 74-32,151, 8-135, as amended by section 1 of 2005 Senate Bill No. 23, 12-187, as amended by section 1 of 2005 Senate Bill No. 58, 12-189, as amended by section 2 of 2005 Senate Bill No. 58, 12-189, as amended by section 3 of this act; 12-192, as amended by section 3 of 2005 Senate Bill No. 58, K.S.A. 12-520, as amended by section 11 of 2005 House Bill No. 2083, K.S.A. 2004 Supp. 12-1770a, as amended by section 1 of 2005 Senate Substitute for House Bill No. 2144, 21-4619, as amended by section 2 of 2005 House Bill No. 2128, 21-4619, as amended by section 9 of this act, K.S.A. 40-3641, as amended by section 5 of 2005 House Bill No. 2326, K.S.A. 2004 Supp. 44-706, as amended by section 5 of 2005 Senate Bill No. 108, 60-1103b, as amended by section 15 of 2005 Senate Bill No. 258, 65-5603, as amended by section 1 of 2005 House Bill No. 2130, 74-50,115, as amended by section 1 of 2005 House Bill No. 2102 and 79-32,117, as amended by section 10 of 2005 House Bill No. 2222, and repealing the existing sections; also repealing K.S.A. 2004 Supp. 19-101k, 44-661a, 44-820a, 65-688a, 65-5703a, 74-567a, 74-2622a, 74-32,151a, 74-4911h, 82a-714a, 8-135, as amended by section 1 of 2005 House Bill No. 2124, 12-187, as amended by section 1 of 2005 Senate Bill No. 105, 12-187, as amended by section 1 of 2005 Senate Bill No. 295, 12-189, as amended

(continued)

by section 1 of 2005 Senate Bill No. 13, 12-189, as amended by section 2 of 2005 Senate Bill No. 295, 12-192, as amended by section 3 of 2005 Senate Bill No. 295, 12-520, as amended by section 1 of 2005 House Substitute for Senate Bill No. 24, 12-1770a, as amended by section 1 of 2005 House Bill No. 2140, K.S.A. 2003 Supp. 21-4619, as amended by section 59 of chapter 154 of the 2004 Session Laws of Kansas, K.S.A. 2004 Supp. 21-4619, as amended by section 1 of 2005 House Bill No. 2466, K.S.A. 40-3641, as amended by section 3 of 2005 House Bill No. 2325, K.S.A. 2004 Supp. 44-706, as amended by section 1 of 2005 House Bill No. 2157, 60-1103b, as amended by section 2 of 2005 Senate Bill No. 112, 65-5603, as amended by section 2 of 2005 Senate Bill No. 116, 74-50,115, as amended by section 1 of 2005 House Bill No. 2164 and 79-32,117, as amended by section 1 of 2005 Senate Bill No. 256, by Committee on Appropriations.

HB 2538, An act concerning adult care homes; providing for assessments on certain nursing facilities; prescribing powers, duties and functions for the secretary of aging; creating the quality assurance assessment fund; providing for implementation and administration, by Committee on Appropriations.

HB 2539, An act concerning crimes, punishment and criminal procedure; relating to methamphetamine; amending K.S.A. 2-1218, 21-2501a, as amended by section 9 of 2005 Senate Bill No. 27, and 65-7013 and repealing the existing sections, by Committee on Corrections and Juvenile Justice.

House Concurrent Resolutions

HCR 5020, A concurrent resolution relating to the 2005 regular session of the legislature and providing for an adjournment thereof.

House Resolutions

HR 6034, A resolution in memory of Justice Robert Gernon.

HR 6035, A resolution congratulating and commending the Wichita State University women's bowling team for winning the 2005 intercollegiate bowling national championship.

HR 6036, A resolution memorializing the Congress of the United States regarding the benefits of specialty hospitals.

HR 6037, A resolution congratulating and commending the Brown Mackie College men's basketball team and Coach Francis Flax for winning the 2005 National Junior College Athletic Association Division II basketball championship.

HR 6038, A resolution memorializing the Congress of the United States to continue funding of the TRiO and GEARUP educational programs.

HR 6039, A resolution in memory of Maj. Gen. (Ret) James F. Rueger.

Senate Bills

SB 313, An act concerning the governor's budget report; relating to the printing and distribution thereof; amending K.S.A. 75-3720 and repealing the existing section, by Committee on Ways and Means.

SB 314, An act concerning office-based surgeries; providing for regulation of physicians who perform office-based surgeries and special procedures, by Committee on Ways and Means.

Senate Resolutions

SR 1858, A resolution honoring legislative spouses.

SR 1859, A resolution authorizing the Legislative Coordinating Council to participate in the case of *Montoy v. State*.

SR 1860, A resolution congratulating and commending Victoria Luhrs.

SR 1861, A resolution commending 60 years of cooperative efforts by the state of Kansas and The American Legion and Veterans of Foreign Wars.

SR 1862, A resolution memorializing the Congress of the United States to continue the current federal moratorium on specialty hospitals.

SR 1863, A resolution declaring April 28, 2005, as Workers' Memorial Day in Kansas.

SR 1864, A resolution congratulating and commending the Wichita State University's women's bowling team for winning the 2005 intercollegiate bowling national championship.

SR 1865, A resolution designating July 30, 2005, as E.C. Tyree Health Clinic Day.

Doc. No. 031941

State of Kansas

Board of Technical Professions

Notice of Meetings

The Kansas State Board of Technical Professions will hold its Complaint Committee meeting at 1 p.m. Thursday, May 19, in Room 507 of the Landon State Office Building, 900 S.W. Jackson, Topeka. The board will hold its regular board meeting at 8:30 a.m. Friday, May 20, at the same location. All meetings are open to the public. For more information, call (785) 296-3054.

Betty L. Rose
Executive Director

Doc. No. 031954

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:

05/23/2005	08406	Standby Power Systems
05/25/2005	08412	Construction Compaction Rollers Self-Propelled
05/23/2005	08414	Rock Salt for Snow and Ice Removal
05/27/2005	08072	Rebid Janitorial Services
06/03/2005	08392	Property Insurance
06/06/2005	08308	Property Insurance
06/06/2005	08423	Telecommunication Bundled Services
06/07/2005	08416	Radio and Emergency Equipment Installation Services
06/07/2005	08419	Alternate Internet Access Provider
06/09/2005	08409	Web Site Redesign, Hosting and Support Services

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:

05/25/2005 A-010077 King Hall Chiller Installation

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. 031962

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 \$2,714,495.32 in the underground petroleum storage tank release trust fund and \$352,064.68 in the aboveground petroleum storage tank release trust fund at April 30, 2005.

Duane Goossen
 Secretary of Administration

Doc. No. 031946

(Published in the Kansas Register May 12, 2005.)

Summary Notice of Bond Sale
City of Colby, Kansas
\$1,585,000
General Obligation Bonds, Series 2005-1
(General obligation bonds payable from unlimited ad valorem taxes)

Bids

Subject to the notice of bond sale dated May 3, 2005, written and electronic bids will be received on behalf of the clerk of the city of Colby, Kansas (the issuer), in the case of written bids, on behalf of the governing body at City Hall, 585 N. Franklin, Colby, KS 67701, and in the case of electronic bids, through i-Deal's BiDCOMP/PARITY electronic bid submission system, until 11 a.m. May 24, 2005, for the purchase of \$1,585,000 principal amount of General Obligation Bonds, Series 2005-1. No bid of less than 100 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated June 15, 2005, and will become due on December 1 in the years as follows:

Year	Principal Amount
2007	\$ 50,000
2008	150,000
2009	160,000
2010	170,000
2011	170,000
2012	170,000
2013	175,000
2014	175,000
2015	180,000
2016	185,000

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

Optional Book-Entry-Only System

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

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

Good Faith Deposit

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$31,700 (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about June 15, 2005, to DTC for the account of the successful bidder or at such bank or trust company in the contiguous United States as may be specified by the successful bidder, or elsewhere at the expense of the successful bidder.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 2004 is \$33,565,981. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, is \$2,595,000.

Approval of Bonds

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

Additional Information

Additional information regarding the bonds may be obtained from the undersigned or from the financial advisor at the addresses set forth below.

Written and Facsimile Bid and Good Faith Deposit

Delivery Address:

Beverly J. Stieben, Clerk
 City Hall
 585 N. Franklin
 Colby, KS 67701
 (785) 460-4400
 Fax (785) 460-4444
 E-mail: manager@cityofcolby.com

Financial Advisor:

Froggatte & Company
 320 N. Main
 Wichita, KS 67202
 Attn: Theron L. Froggatte
 (316) 264-6300
 Fax (316) 264-7999
 E-mail: theron@froggatte.com

Dated May 3, 2005.

City of Colby, Kansas
 Beverly J. Stieben, Clerk

Doc. No. 031950

State of Kansas

Department of Agriculture

Notice of Hearing on Proposed
Permanent Quarantine

Pursuant to the provisions of K.S.A. 2-2117, a hearing will be conducted at 10 a.m. Thursday, June 9, in Room 401 of the Kansas Department of Agriculture, 109 S.W. 9th, Topeka, in the matter of the issuance of a permanent quarantine prohibiting Karnal bunt into and within the state of Kansas. The proposed quarantine would affect the entire state of Kansas.

All interested persons may attend the hearing and will be given the opportunity to express comments either orally or in writing, or both. Interested parties may appear in person or by counsel.

Written comments and requests for information concerning the proposed quarantine should be directed to Tom Sim, Manager, Plant Protection & Weed Control Section, Kansas Department of Agriculture, Forbes Field, Building 282, P.O. Box 19282, Topeka, 66619, at or before the time of hearing. For persons intending to present oral testimony at the hearing, prior notice to the department would be helpful in arranging the agenda. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the quarantine in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Leslie Garner at (785) 296-4623 or fax at (785) 368-6668. Handicapped parking is located at the southwest corner of 9th and Kansas Ave., and the north entrance to the building is accessible to individuals with disabilities.

The proposed quarantine order is as follows:

**BEFORE THE SECRETARY OF AGRICULTURE
TOPEKA, KANSAS
KARNAL BUNT QUARANTINE**

The Secretary of the Kansas Department of Agriculture, pursuant to authority authorized by K.S.A. 2-2117, hereby determines that quarantine action is necessary to prevent the introduction and spread of Karnal bunt into and within the state of Kansas.

The Secretary does hereby make the following findings relevant to Karnal bunt:

WHEREAS, the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ) has implemented a federal quarantine (7 CFR Part 301.89) to protect uninfested areas of the United States from Karnal bunt.

WHEREAS, the Kansas Department of Agriculture has determined that Karnal bunt, caused by *Tilletia indica* (Mitra) Mundkur, is a plant pest as defined by K.S.A. 2-2113.

WHEREAS, the detection of Karnal bunt in Kansas could have negative economic impact for wheat industry in the state of Kansas.

(I) THE SECRETARY DOES THEREFORE ORDER THAT:

In order to prevent and retard, suppress, and control the spread of Karnal bunt into Kansas those relevant provisions of the *Domestic Quarantine Notice* established in Title 7 Part 301, Sub Part *Karnal bunt* and any subsequent amendments are hereby incorporated by reference, so that no person shall import, plant, receive for delivery, or otherwise accept or bring into the state of Kansas regulated articles as specified in 7 CFR Part 301.89 from any Karnal bunt infested area designated by USDA-APHIS-PPQ unless the regulated articles have been approved for such movement as provided in 7 CR Part 301.89.

(II) DEFINITIONS

This quarantine shall apply to any "person" as defined by K.S.A. 2-2113, and all other terms used within this quarantine shall have the meanings as defined or established pursuant to K.S.A. 2-2113 *et seq.* as amended and supplemented and in 7 CFR 301.89-1.

(III) REGULATED AREAS

Regulated areas include those areas of the states of Arizona, California and Texas as identified by 7 CFR Part 301.89-3 and any areas identified in subsequent amendments to 7 CFR Part 301.89-3.

(IV) REGULATED ARTICLES

Regulated articles include all those established by 7 CFR Part 301.89-2 [69 FR 8095, Feb. 23, 2004], and any subsequent amendments to 7 CFR Part 301-89-2. These include:

(a) Conveyances, including trucks, railroad cars, and other containers used to move host crops produced in a regulated area that have tested positive for Karnal bunt through the presence of bunted kernels;

(b) Grain elevators/equipment/structures used for storing and handling host crops produced in a regulated area that have tested positive for Karnal bunt through the presence of bunted kernels;

(c) Seed conditioning equipment and storage/handling equipment/structures that have been used in the production of wheat, durum wheat, and triticale found to contain the spores of *Tilletia indica*;

(d) Plants or plant parts (including grain, seed, and straw) and hay cut after reaching the dough stage of all varieties of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*) that are produced in a regulated area, except for straw/stalks/seed heads for decorative purposes that have been processed or manufactured prior to movement and are intended for use indoors;

(e) *Tilletia indica* (Mitra) Mundkur;

(f) Mechanized harvesting equipment that has been used in the production of wheat, durum wheat, or triticale that has tested positive for Karnal bunt through the presence of bunted kernels; and

(g) Any other product, article, or means of conveyance when:

(1) An inspector determines that it presents a risk of spreading Karnal bunt based on appropriate testing and the intended use of the product, article, or means of conveyance; and

(2) The person in possession of the product, article, or means of conveyance has been notified that it is regulated under this subpart.

[69 FR 8095, Feb. 23, 2004]

(V) EFFECTIVE DATE OF QUARANTINE

This Order of Quarantine shall become effective on the date of signature and rescinds the ORDER OF THE SECRETARY issued on July 17, 2001. This ORDER shall remain in effect until rescinded or modified by order of the Secretary.

(VI) VIOLATION OF THIS QUARANTINE

Any person who knowingly moves a regulated article in violation of this quarantine may be subject to criminal prosecution or civil penalty pursuant to K.S.A 2-2124 and 2-2125.

Dated and signed this _____ day of _____, 2005.

Adrian J. Polansky, Secretary of Agriculture

Adrian J. Polansky
Secretary of Agriculture

Doc. No. 031958

State of Kansas

Secretary of State

Executive Appointments

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's office. A complete listing of Kansas state agencies, boards and commissions, and county officials are included in the Kansas Directory, which is available on the Secretary of State's Web site at www.kssos.org. The following appointments were recently filed with the Secretary of State:

Chautauqua County Attorney

Larry Markle, 1013 W. 8th St., Coffeyville, 67337. Succeeds D. Heath Lampson, resigned.

Saline County Treasurer

Brenda Siemsen, 2341 S. Holmes Road, Salina, 67401. Succeeds Keith Lilly, resigned.

Athletic Commission

Dr. Todd Herrenbruck, 406 Pine Ridge Drive, Salina, 67401. Term expires June 30, 2005.

Capitol Area Plaza Authority

Sen. Vicki Schmidt, 2619 S.W. Randolph Court, Topeka, 66611. Appointed by the President of the Senate. Succeeds Dave Jackson.

Governor's Mental Health Planning Council

Cherie Bledsoe, 1837 Walker, Kansas City, KS 66104. Term expires June 30, 2005. Succeeds Judy Thompson, resigned.

Information Network of Kansas

Bruce L. Flanders, 216 Sharon Drive, Lawrence, 66049. Term expires September 30, 2006. Succeeds Joe McKenzie.

Kansas Advisory Group on Juvenile Justice and Delinquency Prevention

Lisa C. Crook, 255 N. Michigan St., #9-45, Lawrence, 66044. Term expires June 30, 2005. Succeeds Anissa A. Vitale.

Brandon J. Johnson, 5203 E. 20th St. North, Wichita, 67208. Term expires June 30, 2006. Succeeds Tosha Webster.

Midwestern Higher Education Commission

Lana Oleen, 3000 Stagg Hill Road, Manhattan, 66502. Serves at the pleasure of the Governor. Succeeds John E. Moore.

Kansas Real Estate Commission

Tim Holt, 4645 S.E. 90th St., Kingman, 67068. Term expires April 30, 2009. Succeeds Jerry L. Gray.

Melville W. Perry III, 8201 Rosewood Lane, Prairie Village, 66208. Term expires April 30, 2009. Succeeds Reid Teaney.

Kansas State Fair Board

Charles Craig, 5812 132nd Road, Winfield, 67156. Term expires March 14, 2008. Reappointed.

Jeff H. Deeds, 1416 Arcade, Goodland, 67735. Term expires March 14, 2008. Reappointed.

Michael Gaskill, 1505 Tulane Court, Liberal, 67905. Term expires March 14, 2008. Reappointed.

Kansas Turnpike Authority

Mary E. Turkington, 1433 S.W. Campbell Ave., Topeka, 66604. Term expires April 30, 2009. Reappointment.

Kansas Volunteer Commission

Matt All, Office of the Governor, Room 220-S, State Capitol, 300 S.W. 10th Ave., Topeka, 66612. Term expires March 24, 2008. Reappointed.

Richard Jackson, 1129 N. Mulberry, Ottawa, 66067. Term expires March 24, 2008. Reappointed.

Bernard Mayse, 11150 Eby, Overland Park, 66210. Term expires March 24, 2008. Succeeds Steven Pershall.

Jolene Niernberger, 324 W. 11th St., Hays, 67601. Term expires March 24, 2008. Reappointed.

Patricia Sweeney, 805 Spruceway, Abilene, 67410. Term expires March 24, 2008. Reappointed.

Kansas Wildlife and Parks Commission

Gerald W. Lauber, 1912 S.W. 33rd St., Topeka, 66611. Term expires June 30, 2006. Succeeds John Fields, resigned.

Workforce Network of Kansas Board

Hoyt Hillman, 3705 E. Mt. Vernon, Wichita, 67218. Serves at the pleasure of the Governor. Succeeds Dwayne W. Peaslee.

Criss Mayfield, 430 McCall Road, Manhattan, 66502. Serves at the pleasure of the Governor. Succeeds Kenneth M. Bell, resigned.

Ron Thornburgh
Secretary of State

Doc. No. 031944

State of Kansas

**Criminal Justice Recodification,
Rehabilitation and Reconciliation Committee**

Notice of Meetings

The Kansas Criminal Justice Recodification, Rehabilitation and Reconciliation (3Rs) Committee will meet from 9 a.m. to 5 p.m. Monday, May 23, in the Old Supreme Courtroom, Room 313-S, State Capitol, 300 S.W. 10th Ave., Topeka. The 3Rs subcommittees will meet from 8 a.m. to 5 p.m. Tuesday, May 24, at the same location.

All meetings are open to the public. For more information, call Connie Burns at (785) 296-7655 or Cheryl Kingfisher at (785) 228-2079.

Rep. Ward Loyd
Chairman

Doc. No. 031951

State of Kansas

Kansas Development Finance Authority

Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, May 26, in the offices of the Kansas Development Finance Authority, 555 S. Kansas Ave., Suite 202, Topeka, on the proposal for the K DFA 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. 000632—Maximum Principal Amount: \$36,700. Owner/Operator: Justin Schroeder. Description: Acquisition of 31 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is located in the Northwest Quarter of Section 34, Township 21 South, Range 1 East, Marion County, Kansas, approximately 4 miles south of Goessel from Hwy. 15 and 110th St. and 7.25 miles east on 80th.

The bond, when issued, will be a limited obligation of the K DFA and will not constitute a general obligation or indebtedness of the state of Kansas or any political subdivision thereof, including the K DFA, 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 K DFA 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 K DFA.

Any individual affected by the above-described project may, at or prior to the hearing, file a written request with

the K DFA 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. 031957

State of Kansas

**Department of Health
and Environment**

**Request for Bids on the Kansas Childhood
Lead Poisoning Prevention Program**

Sealed bids for the items listed will be received by the Kansas Department of Health and Environment until 2 p.m. on the date indicated. For more information, call (785) 296-1519:

May 27, 2005
264-05-13

**Project Lead Safe KCK —
Lead Hazard Reduction at the following properties:**

- Property #1 2421 N. 36th St.
Kansas City, KS 66104
- Property #2 1723 N. 86th St.
Kansas City, KS 66102
- Property #3 1833 N. 32nd St.
Kansas City, KS 66104
- Property #4 519 Ann Ave.
Kansas City, KS 66101
- Property #5 4567 Sortor Drive
Kansas City, KS 66104
- Property #6 1932 Praun Lane
Kansas City, KS 66102
- Property #7 37 S. 16th St.
Kansas City, KS 66102
- Property #8 125 S. 14th St.
Kansas City, KS 66102
- Property #9 5530 Georgia Ave.
Kansas City, KS 66104
- Property #10 1120 N. Washington Blvd.
Kansas City, KS 66102

Contractors will be required to attend a walkthrough of each property in order to be eligible to respond to the Invitation for Bid. For times and actual locations, call (913) 262-0796 or go to the following Web site: http://www.unleadedks.com/contractor_info.html.

The above-referenced bid documents may be downloaded at the Web site listed above.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 031959

State of Kansas

Department of Health
and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit renewal and amending previously issued construction approval. Collins Bus Corporation 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. Notice also is given that certain requirements in the construction approval dated July 20, 1990, are being modified by a modification of approval conditions.

Collins Bus Corporation, 15 Compound Drive, Hutchinson, owns and operates a small school and commercial bus manufacturing facility located at 415 W. 6th St., South Hutchinson.

A copy of the proposed permit, permit application, all supporting documentation, all information relied upon during the permit application review process, and a copy of the modification of approval conditions are available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE South Central District Office, 130 S. Market, Suite 6050, Wichita. To obtain or review either document, contact Rasha Allen, (785) 296-1693, at the KDHE central office; and to review the proposed permit only, contact David Butler, (316) 337-6042, 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 documents to Rasha Allen, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating final document decisions, written comments must be received before the close of business June 6.

A person may request a public hearing be held on the proposed documents. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Brie Wilkins, Bureau of Air and Radiation, not later than the close of business June 6 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. 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) 551-7622, 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. 031960

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-05-115/126
Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Longbranch Farms Warren Scott 6294 N.E. Coalfield Road Scammon, KS 66773	NW/4 of Section 18, T32S, R25E, Cherokee County	Neosho River Basin
Kansas Permit No. A-NECK-F023		
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
Jason Wiebe Dairy Jason Wiebe 2932 Goldenrod Durham, KS 67438	SW/4 of Section 08, T18S, R02E, Marion County	Neosho River Basin
Kansas Permit No. A-NEMN-M011		
This is a renewal permit for an existing facility for 120 head (168 animal units) of mature dairy cows, 20 head (20 animal units) of dry dairy		

(continued)

cows and 80 head (40 animal units) of dairy calves, for a total of 220 head (228 animal units) of livestock.

Name and Address of Applicant	Legal Description	Receiving Water
Rogers Farm Mike Rogers Route 2, Box 119 St. Francis, KS 67756	SE/4 of Section 30, T05S, R39W, Cheyenne County	Upper Republican River Basin

Kansas Permit No. A-URCN-B004

This is a renewal permit for an existing facility for 600 head (300 animal units) of cattle 700 pounds or less.

Name and Address of Applicant	Legal Description	Receiving Water
Clark Bros. and Hudson Mitch Clark 15920 E. 2300 Lane La Cygne, KS 66040	SE/4 of Section 31, T19S, R24E, Linn County	Marais des Cygnes River Basin

Kansas Permit No. A-MCLN-S008

This is a renewal permit and increase in animal units for an existing facility for 1,888 head (755 animal units) of swine weighing more than 55 pounds and 1,630 head (163 animal units) of swine weighing 55 pounds or less, for a total of 918 animal units. The increase is due to a change in law or method of counting baby pigs.

Name and Address of Applicant	Legal Description	Receiving Water
Rex D. Albin Feedlot Rex D. Albin 973 County Road 66 Quinter, KS 67752	NE/4 of Section 22, T14S, R27W, Gove County	Smoky Hill River Basin

Kansas Permit No. A-SHGO-C004 Federal Permit No. KS0117765

This is a renewal permit for an existing facility for 4,500 head (4,500 animal units) of cattle greater than 700 pounds.

Name and Address of Applicant	Legal Description	Receiving Water
Prairie Pork LLC Eric Hassell P.O. Box B Leoti, KS 67861	SE/4 of Section 22, T15S, R39W, Wallace County	Smoky Hill River Basin

Kansas Permit No. A-SHWA-H002 Federal Permit No. KS0095001

This is a renewal permit for an existing facility for 21,600 head (8,640 animal units) of swine greater than 55 pounds.

Name and Address of Applicant	Legal Description	Receiving Water
Beachy Dairy Farm Roman S. Beachy 6202 S. Whiteside Road Hutchinson, KS 67501	NW/4 of Section 08, T24S, R06W, Reno County	Lower Arkansas River Basin

Kansas Permit No. A-ARRN-M040

This is a renewal permit for an existing facility for 80 head (112 animal units) of mature dairy cows.

Name and Address of Applicant	Legal Description	Receiving Water
H & S Beachy Jersey Farm Harley S. Beachy 8815 S. Whiteside Road Hutchinson, KS 67501	NE/4 of Section 19, T24S, R06W, Reno County	Lower Arkansas River Basin

Kansas Permit No. A-ARRN-M039

This is a renewal permit for an existing facility for 120 head (168 animal units) of mature dairy cattle.

Name and Address of Applicant	Legal Description	Receiving Water
D. J. Dairy Jim Pauly 22601 W. 71st South Viola, KS 67149	NW/4 of Section 01, T29S, R03W, Sedgwick County	Lower Arkansas River Basin

Kansas Permit No. A-ARSG-M011

This is a renewal permit for an existing facility for 130 head (182 animal units) of dairy cattle.

Name and Address of Applicant	Legal Description	Receiving Water
Prather Farms, Inc Opal Prather 5023 County Road H Gove, KS 67736	NW/4 of Section 33, T14S, R28W, Gove County	Smoky Hill River Basin

Kansas Permit No. A-SHGO-B019

This is a renewal permit for an existing facility for 950 head (950 animal units) of cattle weighing greater than 700 pounds.

Name and Address of Applicant	Legal Description	Receiving Water
Four Mile Farm Dwight Busenitz 8999 N.W. 60th Potwin, KS 67123	NW/4 of Section 04, T25S, R04E, Butler County	Walnut River Basin

Kansas Permit No. A-WABU-S043

This is a new permit for a new facility for 2,400 head (960 animal units) of swine greater than 55 pounds.

Name and Address of Applicant	Legal Description	Receiving Water
Lane County Feeders, Inc. James Meetz P.O. Box 607 Dighton, KS 67839	NE/4 of Section 11, NW/4 of Section 12, SW/4 of Section 01, T17S, R29W, Lane County	Upper Arkansas River Basin

Kansas Permit No. A-UALE-C004 Federal Permit No. KS0115177

This is a permit modification for the construction of additional land application components. There will be no change in the numbering of head.

Public Notice No. KS-05-048/059

Name and Address of Applicant	Waterway	Type of Discharge
Axtell, City of P.O. Box A Axtell, KS 66403	North Fork Black Vermillion River	Treated Domestic Wastewater

Kansas Permit No. M-BB01-OO01 Federal Permit No. KS0047228

Legal: SE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, S24, T2S, R10E, Marshall County

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

Name and Address of Applicant	Waterway	Type of Discharge
Centralia, City of P.O. Box 247 Centralia, KS 66415	Black Vermillion River via Unnamed Tributary	Treated Domestic Wastewater

Kansas Permit No. M-BB05-OO01 Federal Permit No. KS0081418

Legal: S $\frac{1}{2}$, NE $\frac{1}{4}$, NE $\frac{1}{4}$, S11, T4S, R11E, Nemaha County

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

Name and Address of Applicant	Waterway	Type of Discharge
Clifton, City of P.O. Box 86 Clifton, KS 66937	Republican River	Treated Domestic Wastewater

Kansas Permit No. M-LR06-OO01 Federal Permit No. KS0048437

Legal: SW¹/₄, SW¹/₄, NE¹/₄, S1, T6S, R1E, Clay County

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

Name and Address of Applicant	Waterway	Type of Discharge
Frankfort, City of 109 N. Kansas Frankfort, KS 66427	Black Vermillion River	Treated Domestic Wastewater
Kansas Permit No. M-BB07-OO01		Federal Permit No. KS0024881

Legal: N¹/₂, SE¹/₄, SE¹/₄, S17, T4S, R9E, Marshall County

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

Name and Address of Applicant	Waterway	Type of Discharge
Geary County Public Works Dept. 310 E. 8th St. Junction City, KS 66441	Milford Reservoir	Treated Domestic Wastewater
Kansas Permit No. M-LR15-OO02		Federal Permit No. KS0079197

Legal: SE¹/₄, SW¹/₄, SW¹/₄, S11, T11S, R4E, Geary County

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

Name and Address of Applicant	Waterway	Type of Discharge
Goff, City of P.O. Box 44 Goff, KS 66428	Spring Creek via Unnamed Tributary	Treated Domestic Wastewater
Kansas Permit No. M-KS21-OO01		Federal Permit No. KS0047449

Legal: SE¹/₄, SE¹/₄, NW¹/₄, S35, T4S, R13E, Nemaha County

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

Name and Address of Applicant	Waterway	Type of Discharge
Holland Corporation P.O. Box 14130 Lenexa, KS 66215	Cedar Creek via Unnamed Tributary	Pit Dewatering and Stormwater Runoff
Facility Name: Olathe Quarry		
Kansas Permit No. I-KS52-PO10		Federal Permit No. KS0092321

Legal: W¹/₂, S16, T14S, R23E, Johnson County

Facility Description: The proposed action is to modify an existing permit for operation of an existing facility. This permit is being modified to fully describe the facility and all activities on site. This facility is a limestone quarrying and crushing operation with no washing. This site also has an asphalt plant on-site that operates nine months a

year and does not have a discharge. This site also has an active construction and demolition (C & D) landfill that is permitted by KDHE's Bureau of Waste Management. All contact water from the landfill is reused on-site and is not discharged. Outfall 001 consists of stormwater runoff from the asphalt production area. This water is normally reused on-site, but may discharge after a heavy precipitation event. Outfall 002 consists of rainwater pumped from the quarry pit and is treated in a settling pond before being discharged. Outfall 002 usually only discharges after a heavy precipitation event. The proposed permit includes generic water-quality language to protect waters of the state. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Lake Wabaunsee Improvement District P.O. Box 101 Eskridge, KS 66423	Mill Creek via East Branch Mill Creek via Unnamed Tributary	Treated Domestic Wastewater
Kansas Permit No. M-KS92-OO02		Federal Permit No. KS0086568

Legal: NE¹/₄, NE¹/₄, NW¹/₄, S4, T14S, R11E, Wabaunsee County

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

Name and Address of Applicant	Waterway	Type of Discharge
Morganville, City of P.O. Box 82 Morganville, KS 67468	Republican River via Dry Creek	Treated Domestic Wastewater
Kansas Permit No. M-LR18-OO01		Federal Permit No. KS0024678

Legal: NW¹/₄, S10, T7S, R2E, Clay County

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

Name and Address of Applicant	Waterway	Type of Discharge
Randolph, City of P.O. Box 2 Randolph, KS 66554	Tuttle Creek Reservoir via Fancy Creek	Treated Domestic Wastewater
Kansas Permit No. M-BB19-OO01		Federal Permit No. KS0031721

Legal: NW¹/₄, SE¹/₄, S21, T7S, R6E, Riley County

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

Name and Address of Applicant	Waterway	Type of Discharge
Lois and Rick Borg 6201 Cedar Creek Road Manhattan, KS 66502	Cedar Creek	Treated Domestic Wastewater
Facility Name: Rocky Ford Trailer Court		
Kansas Permit No. C-BB25-OO04		Federal Permit No. KS0079201

Legal: W¹/₂, NW¹/₄, NE¹/₄, S30, T9S, R8E, Pottawatomie County

Facility Description: The proposed action is to reissue an existing permit for operation of an existing wastewater treatment facility treating

(continued)

primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids and fecal coliform. Monitoring of ammonia and pH also will be required. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Unified School District #335 Jackson Heights Grade & High School 12692 - 266th Road Holton, KS 66436	Straight Creek via Unnamed Tributary	Treated Domestic Wastewater
Kansas Permit No. M-KS23-OO02	Federal Permit No. KS0094528	
Legal: W $\frac{1}{2}$, SW $\frac{1}{4}$, SW $\frac{1}{4}$, S3, T6S, R15E, Jackson County		

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

Public Notice No. KS-ND-05-012

Name and Address of Applicant	Legal Location	Type of Discharge
Unified School District #434 Santa Fe Trail High School P.O. Box 310 Carbondale, KS 66414-9178	NW $\frac{1}{4}$, NE $\frac{1}{4}$, NE $\frac{1}{4}$, S5, T15S, R16E, Osage County	Nonoverflowing
Facility Location: 1663 E. U.S. Highway 56, Carbondale, KS 66414		
Kansas Permit No. M-MC32-NO01		

Facility Description: The proposed action is to reissue a permit for operation of an existing wastewater treatment facility. Included in this permit is a schedule of compliance requiring the permittee to obtain the services of a KDHE-certified wastewater treatment plant operator to achieve compliance with this permit. Discharge of wastewater from this treatment facility to surface waters of the state of Kansas is prohibited by this permit.

Public Notice No. KS-PT-05-008

Name and Address of Applicant	Receiving Facility	Type of Discharge
Stuart Gribble 4601 N. Tyler Maize, KS 67101	Maize MWWTP	Processed Wastewater
Kansas Permit No. P-AR58-OO01		

Facility Name: Carlson Products
Facility Location: 9010 W. 45th St. North, Maize, KS 67101

Facility Description: The proposed action is to issue a new pretreatment permit for this facility. This facility anodizes aluminum pans and doors. Wastewater from process tanks and contaminated rinse water is discharged to the city sewer. This facility is subject to the Metal Finishing Standard for new sources. The proposed permit includes limits for total toxic organics, cadmium, chromium, copper, lead, nickel, silver, zinc, total metals, total cyanide and pH. The monitoring of flow also will be required. The permit limits are pursuant to state and federal pretreatment requirements.

Persons wishing to comment on or object to the draft permits and/or permit applications must submit their comments in writing to the Kansas Department of Health and Environment if they wish to have the comments or objections considered in the decision making process.

Comments or objections should be submitted to the attention of April Romero for agricultural permits or applications, or to the permit clerk for all other permits, at the Kansas Department of Health and Environment, Division of Environment, Bureau of Water, 1000 S.W. Jackson, Suite 420, Topeka, 66612-1367.

All comments regarding the draft permit or application notice postmarked or received on or before June 11 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-05-115/126, KS-05-048/059, KS-ND-05-012, KS-PT-05-008) 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. 031953

State of Kansas

Office of Judicial Administration
 Court of Appeals Docket

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

Before Rulon, C.J.; Greene, J.; and Knudson, S.J.

Tuesday, June 7, 2005

1:30 p.m.

Case No. / Case Name	Attorneys	Jurisdiction
<p>92,442 State of Kansas, Appellee v. Nelson H. Boykins, Appellant</p>	<p>Attorney General Debra S. Peterson, Asst. D.A. Boyd K. Isherwood, Asst. D.A. Heather Cessna, Asst. A.D.</p>	<p>Sedgwick</p>
<p>92,449 State of Kansas, Appellee v. Michael Wayne Sexton Jr., Appellant</p>	<p>Attorney General Ty Kaufman, C.A. Nathan B. Webb, Asst. A.D.</p>	<p>McPherson</p>
<p>92,272 State of Kansas, Appellee v. Doreen Elizabeth Sanborn, Appellants</p>	<p>Attorney General James R. Spring, Deputy C.A. Nathan B. Webb, Asst. A.D.</p>	<p>Cowley</p>
<p>92,357 State of Kansas, Appellee v. Wallace L. Carroll, Appellant</p>	<p>Attorney General Debra S. Peterson, Asst. D.A. Kristi L. Barton, Asst. D.A. Sandra Carr, Asst. A.D.</p>	<p>Sedgwick</p>
<p>93,249 David Adams and Janet Adams, Appellants v. Butler County, Kansas, and the Board of County Commissioners of Butler County, Kansas, Appellees</p>	<p>Robert W. Kaplan Norman G. Manley</p>	<p>Butler</p>

Wednesday, June 8, 2005

9:00 a.m.

Case No.	Case Name	Attorneys	Jurisdiction
93,033	<p>Patrick J. Roskilly, Appellee v. The Boeing Company and Insurance Co. State of Pennsylvania, Appellants</p>	<p>Thomas E. Hammond Kirby A. Vernon</p>	<p>Work Comp.</p>
92,326	<p>State of Kansas, Appellant v. Dalton J. Upton, Appellee</p>	<p>Attorney General Debra S. Peterson, Asst. D.A. Charles L. Rutter, Asst. D.A. Steven D. Mank</p>	<p>Sedgwick</p>
92,243	<p>State of Kansas, Appellee v. Anthony Mork, Appellant</p>	<p>Attorney General Debra S. Peterson, Asst. D.A. Matt J. Maloney, Asst. D.A. Mark T. Schoenhofer</p>	<p>Sedgwick</p>
92,458	<p>State of Kansas, Appellee v. Tonya Bosmon, Appellant</p>	<p>Attorney General Debra S. Peterson, Asst. D.A. Lesley A. Isherwood, Asst. D.A. Carl Maughan</p>	<p>Sedgwick</p>

(continued)

<p>92,504 State of Kansas, Appellant v. Connie M. Jones, Appellee</p>	<p>Attorney General Debra S. Peterson, Asst. D.A. Lesley A. Isherwood, Asst. D.A.</p>	<p>Sedgwick</p>
1:30 p.m.		
<p>92,426 State of Kansas, Appellee v. Antonio M. Jones, Appellant</p>	<p>Attorney General Debra S. Peterson, Asst. D.A. Lesley A. Isherwood, Asst. D.A. Charles A. O'Hara</p>	<p>Sedgwick</p>
<p>92,409 State of Kansas, Appellee v. Lori Lynn Stout, Appellant</p>	<p>Attorney General William R. Mott, C.A. Richard Ney</p>	<p>Sumner</p>
<p>93,717 State of Kansas, Appellant v. Autobea Chato Rael, Appellee</p>	<p>Attorney General Joe Shepack, C.A. Roger D. Struble</p>	<p>Ellsworth</p>
<p>92,080 Amanda S. Gruber, Appellant v. Kansas Department of Revenue, Appellee</p>	<p>Michael S. Holland II James G. Keller</p>	<p>Ellis</p>

Summary Calendar—No Oral Argument

Case No. / Case Name	Attorneys	Jurisdiction
<p>92,678/92,679 State of Kansas, Appellee v. Scott A. Gilbert, Appellant</p>	<p>Attorney General Debra S. Peterson, Asst. D.A. Boyd K. Isherwood, Asst. D.A. Korey A. Kaul, Asst. A.D.</p>	<p>Sedgwick</p>
<p>92,388 State of Kansas, Appellant v. Dennis E. Valentine, Appellee</p>	<p>Attorney General Debra S. Peterson, Asst. D.A. Charles L. Rutter, Asst. D.A. Carl Maughan</p>	<p>Sedgwick</p>
<p>92,949 Matthew M. Miller, Appellant v. State of Kansas, Appellee</p>	<p>Randall L. Hodgkinson, Deputy A.D. Attorney General Ty Kaufman, C.A.</p>	<p>McPherson</p>
<p>92,849 State of Kansas, Appellee v. Lyle D. Schafer, Appellant</p>	<p>Attorney General Donna L. Longsworth, Asst. C.A. Korey A. Kaul, Asst. A.D.</p>	<p>Harvey</p>
<p>93,548 State of Kansas, Appellee v. Kenneth Beckley, Appellant</p>	<p>Attorney General John D. Gutierrez, D.A. Randall L. Hodgkinson, Deputy A.D.</p>	<p>Crawford</p>
<p>92,387 State of Kansas, Appellant v. Brian K. Hopkins, Appellee</p>	<p>Attorney General Debra S. Peterson, Asst. D.A. Charles L. Rutter, Asst. D.A. Randall L. Hodgkinson, Deputy A.D.</p>	<p>Sedgwick</p>
<p>93,209 State of Kansas, Appellee v. Eddie McFarland, Appellant</p>	<p>Attorney General Ernest H. Richardson, C.A. Shawn E. Minihan, Asst. A.D.</p>	<p>Pratt</p>
<p>92,683 State of Kansas, Appellee v. Jason Vincent Schlesener, Appellant</p>	<p>Attorney General Daryl E. Hawkins, Asst. C.A. Sandra Carr, Asst. A.D.</p>	<p>Dickinson</p>

<p>93,671 State of Kansas, Appellee v. Daryl J. Myers, Appellant</p>	<p>Attorney General Benjamin T. Cook, Asst. C.A. Randall L. Hodgkinson, Deputy A.D.</p>	<p>Brown</p>
<p>92,887 State of Kansas, Appellee v. Hairl D. Ripka, Jr., Appellant</p>	<p>Attorney General Chris Oakley, C.A. Randall L. Hodgkinson, Deputy A.D.</p>	<p>Rice</p>
<p>93,542 State of Kansas, Appellee v. Lisa Dawn Greeley, a/k/a Lisa Lemley-Dockstander, Appellant</p>	<p>Attorney General Daryl E. Hawkins, Asst. C.A. Randall L. Hodgkinson, Deputy A.D.</p>	<p>Dickinson</p>
<p>93,431 State of Kansas, Appellee v. Blake C. Asher, Appellant</p>	<p>Attorney General Benjamin T. Cook, Asst. C.A. Shawn E. Minihan, Asst. A.D.</p>	<p>Brown</p>
<p>93,642 State of Kansas, Appellee v. Thomas P. Guitreau, Jr., Appellant</p>	<p>Attorney General Benjamin T. Cook, Asst. C.A. Randall L. Hodgkinson, Deputy A.D.</p>	<p>Brown</p>

**Kansas Court of Appeals
Court of Appeals Courtroom
Kansas Judicial Center
301 S.W. 10th Ave.
Topeka, Kansas**

Before Rulon, C.J.; Hill and Caplinger, JJ.

Tuesday, June 14, 2005

9:00 a.m.

Case No. / Case Name	Attorneys	Jurisdiction
<p>92,780 State of Kansas, Appellant v. Brian K. Ussery, Appellee</p>	<p>Attorney General Bethany C. Daniels, Asst. D.A. Michael R. Clarke</p>	<p>Douglas</p>
<p>92,779 State of Kansas, Appellant v. William N. Haney, Appellee</p>	<p>Attorney General Bethany C. Daniels, Asst. D.A. Kathleen Downey Ambrosio</p>	<p>Douglas</p>
<p>93,358 Earl H. Busey, Jr., Appellant v. The Board of County Commissioners of Shawnee County, Kansas; Richard Eckert, Shawnee County Counselor; Dick Barta, Shawnee County Sheriff, and Dan Bryant, Former Captain Shawnee County Sheriff's Department, Appellees</p>	<p>Margie J. Phelps Teresa L. Sittenauer William A. Larson</p>	<p>Shawnee</p>
<p>92,509 State of Kansas, Appellee v. Elijah Lopez, Appellant</p>	<p>Attorney General Bethany C. Fields, Asst. C.A. Heather Cessna, Asst. A.D.</p>	<p>Riley</p>
<p>92,664 State of Kansas, Appellee v. Timothy Robert Goeminne, Appellant</p>	<p>Attorney General Steven L. Opat, C.A. Shawn Minihan, Asst. A.D.</p>	<p>Geary</p>
<p>92,475 State of Kansas, Appellee v. Harold M. McGee, Jr., Appellant</p>	<p>Attorney General Robert D. Hecht, D.A. Shawn Minihan, Asst. A.D.</p>	<p>Shawnee</p>

(continued)

1:30 p.m.

<p>92,820 In the Matter of the Application of Community Memorial Healthcare, Inc. for Exemption From Ad Valorem Taxation in Marshall County, Kansas</p> <p>93,714 State of Kansas, Appellant v. Lukas Zouzias, Appellee</p> <p>93,537 In the Matter of the Marriage of: Debra L. Iwed, Appellant and Joshua Iwed, Appellee</p> <p>93,434 Senne & Company, Inc., et al., Appellants v. Simon Capital Limited Partnership, d/b/a Simon Property Group, Inc., et al., Appellees</p>	<p>Stephen F. Baker Brian S. Carroll, C.A.</p> <p>Attorney General John P. Whitton, Asst. C.A. Mike Sheahon</p> <p>Bruce C. Barry Susan C. Jacobson</p> <p>Richard M. Paul III G. Edgar James Stewart Stein Jere D. Sellers</p>	<p>Tax Appeal</p> <p>Saline</p> <p>Riley</p> <p>Shawnee</p>
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Wednesday, June 15, 2005

9:00 a.m.

Case No. / Case Name	Attorneys	Jurisdiction
<p>93,229 Home Builders Association of Topeka, Inc., et al., Appellants v. City of Topeka, Kansas, and the Board of County Commissioners of the County of Shawnee, Kansas, Appellees</p> <p>92,605 State of Kansas, Appellee v. William Randall Manrose, Appellant</p> <p>93,473 Shirley Sutton, Appellant v. William E. Sutton, et al., Appellees</p>	<p>Vernon L. Jarboe Martha A. Peterson Edward L. Bailey Richard V. Eckert Jonathan C. Brzon</p> <p>Attorney General Eric Godderz, C.A. Heather Cessna, Asst. A.D.</p> <p>Joan Hawkins Bradley R. Finkeldei</p>	<p>Shawnee</p> <p>Osage</p> <p>Douglas</p>

Summary Calendar—No Oral Argument

Case No. / Case Name	Attorneys	Jurisdiction
<p>93,408 Robert Swayne, Appellee v. Cates Service Company, Inc. and Federated Mutual Insurance Co., Appellants</p> <p>92,649 State of Kansas, Appellee v. Kent E. Gardner, Appellant</p> <p>92,459/92,460 State of Kansas, Appellee v. Roger A. Anderson, Appellant</p> <p>93,247 State of Kansas, Appellee v. Lucas D. Wade, Appellant</p>	<p>Richard C. Wallace Edwin M. Soltz Donald P. Herron</p> <p>Attorney General Debra S. Peterson, Asst. D.A. Matt J. Maloney, Asst. D.A. Shawn Minihan, Asst. A.D.</p> <p>Attorney General Debra S. Peterson, Asst. D.A. Charles L. Rutter, Asst. D.A. Cory D. Riddle, Deputy A.D.</p> <p>Attorney General Debra S. Peterson, Asst. D.A. Michelle Davis</p>	<p>Work Comp.</p> <p>Sedgwick</p> <p>Sedgwick</p> <p>Sedgwick</p>

<p>92,697 Jacalyn Patterson, Appellant v. Allstate Insurance Company, Appellee</p>	<p>Jacalyn Patterson, Pro Se Bradley S. Russell</p>	<p>Shawnee</p>
<p>92,397 State of Kansas, Appellee v. Julian Castillo, Appellant</p>	<p>Attorney General Vernon E. Buck, Asst. C.A. Korey A. Kaul, Asst. A.D.</p>	<p>Lyon</p>
<p>93,272 In the Matter of J.S.G., Date of Birth: 07/05/1984</p>	<p>Gregory D. Keith Amber R. Norris, Asst. C.A.</p>	<p>Butler</p>
<p>92,384 Artis Swafford, Appellant v. Jack Sheahon, Appellee</p>	<p>Artis Swafford, #57225, Pro Se Jack Sheahon, Pro Se</p>	<p>Saline</p>
<p>92,857 State of Kansas, Appellee v. Thomas Christenson, Appellant</p>	<p>Attorney General Bryant T. Barton, Asst. C.A. Sandra Carr, Asst. A.D.</p>	<p>Riley</p>
<p>93,558 State of Kansas, Appellant v. Emily White, Appellee</p>	<p>Attorney General Jon P. Whitton, Asst. C.A.</p>	<p>Saline</p>
<p>93,141 Dan Vitale, Appellee v. Lawrence Battery Co. and AIG Claim Services, Appellants</p>	<p>Neil Dean Matthew S. Crowley</p>	<p>Work Comp.</p>
<p>93,074 State of Kansas, Appellee v. Katie Marie Pope, Appellant</p>	<p>Attorney General John J. Bryant, Asst. D.A. Virginia A. Girard-Brady, Asst. A.D.</p>	<p>Wyandotte</p>

**Kansas Court of Appeals
Johnson County Courthouse
Division 4 Courtroom
100 N. Kansas Ave.
Olathe, Kansas**

Before Malone, P.J.; Green and Buser, JJ.

Tuesday, June 14, 2005

1:30 p.m.

Case No. / Case Name	Attorneys	Jurisdiction
<p>92,853 State of Kansas, Appellant v. Joey R. Elliott, Appellee</p>	<p>Attorney General Steven J. Obermeier, Asst. D.A. Michelle Davis, Asst. A.D.</p>	<p>Johnson</p>
<p>88,092 State of Kansas, Appellee v. Joseph Ervin Czechan, Jr., Appellant</p>	<p>Attorney General Steven J. Obermeier, Asst. D.A. Sandra Carr, Asst. A.D.</p>	<p>Johnson</p>
<p>93,310 Michael S. Hayes, Appellant v. State of Kansas, Appellee</p>	<p>John R. Kurth Attorney General Gerald R. Kuckelman, C.A.</p>	<p>Atchison</p>
<p>92,749 State of Kansas, Appellee v. Ricky Martinez, Appellant</p>	<p>Attorney General Kristafer Ailslienger, Asst. A.D. Sally Pokorny</p>	<p>Montgomery</p>

(continued)

Wednesday, June 15, 2005

9:00 a.m.

Case No. / Case Name	Attorneys	Jurisdiction
91,942 State of Kansas, Appellee v. Jasen Kaiser, Appellant	Attorney General Steven J. Obermeier, Asst. D.A. Jessica R. Kunen	Johnson
92,146 City of Lenexa, Kansas, Appellee v. Eric T. Oligschlaeger, Appellant	Ann Henderson, City Prosecutor Thomas J. Bath, Jr.	Johnson
91,946 Kathleen S. Zak, Appellant v. Lawrence D. Riffel, M.D., et al., Appellees	Robert P. Numrich Pieter A. Brower Reid F. Holbrook Mark A. Lynch James R. Howell, Amicus Curiae Kyle J. Steadman, Amicus Curiae	Johnson
93,285 National City Mortgage Co., d/b/a Common Wealth United Mortgage Company, Appellee v. Kevin D. Ross, a/k/a Kevin Dale Ross; Terri Ross, et al., Defendants and Leon A. Boldridge and Sandra Boldridge, Appellants v. National City Mortgage Co., d/b/a Commonwealth United Mortgage Company; Kevin D. Ross; Terri Ross; Matthew Tumberger; Elaina Tumberger, et al., Third Party Defendants	Linda S. Mock Charles S. Scott, Jr.	Johnson

Summary Calendar—No Oral Argument

Case No. / Case Name	Attorneys	Jurisdiction
93,684 Charles F. Smith, Deceased, Appellant v. Designer Construction, Inc. and Kansas Building Industry Workers Compensation Fund/Employers Mutual Casualty Company, Appellees	Judy A. Pope Roy T. Artman	Work Comp.
92,249 State of Kansas, Appellee v. Eugene C. Turner, Appellant	Attorney General Debra S. Peterson, Asst. D.A. Kristi L. Barton, Asst. D.A. Shawn Minihan, Asst. A.D.	Sedgwick
93,601 Christopher Emery, Appellant v. Hutchinson Correctional Facility, Appellee	Christopher Emery, #74444, Pro se Jon D. Graves	Reno
92,441 Charles Jorgensen, Appellant v. State of Kansas, Appellee	Michael P. Whalen Attorney General Debra S. Peterson, Asst. D.A. Matt J. Maloney, Asst. D.A.	Sedgwick
92,492 State of Kansas, Appellee v. Chuck E. Ragland, Appellant	Attorney General David L. Miller, C.A. Matthew J. Edge, Asst. A.D.	Miami

<p>93,450 In the Matter of the Marriage of Janet Bouley, f/k/a Kimbrell, Appellee and William David Kimbrell, Appellant</p>	<p>Sherri E. Loveland Brant M. Laue</p>	<p>Douglas</p>
<p>93,001 State of Kansas, Appellee v. Thomas Clelland, Appellant</p>	<p>Attorney General John Gutierrez, C.A. Thomas L. Clelland, Pro Se</p>	<p>Crawford</p>
<p>92,609 Jerry R. C. Cooper, Inmate No. 38341, Appellant v. State of Kansas, Appellee</p>	<p>Bryan Hitchcock Attorney General Karen S. Smart, Asst. D.A.</p>	<p>Reno</p>
<p>93,551 In the Interest of: S.R., Date of Birth: 02/13/89 R.R., Date of Birth: 04/26/90</p>	<p>Hatem B. Chahine Steven J. Obermeier, Asst. D.A.</p>	<p>Johnson</p>
<p>93,082 State of Kansas, Appellee v. Richard Arlen Miller, Appellant</p>	<p>Attorney General Steven J. Obermeier, Asst. D.A. Richard Arlen Miller, #35100, Pro Se</p>	<p>Johnson</p>
<p>93,039 State of Kansas, Appellee v. Floyd D. Samilton, Appellant</p>	<p>Attorney General Debra S. Peterson, Asst. D.A. Michelle Davis, Asst. A.D.</p>	<p>Sedgwick</p>
<p>93,574 Steven Kent Bloom, #70714, Appellant v. Duane Muchenthaler, et al., Appellees</p>	<p>Steven K. Bloom, #70714, Pro Se Fred W. Phelps, Jr.</p>	<p>Leavenworth</p>
<p>92,599 Michael S. Lamb, Appellant v. State of Kansas, Appellee</p>	<p>Sarah Ellen Johnson, Asst. A.D. Attorney General Amy L. Aranda, Asst. C.A.</p>	<p>Lyon</p>
<p>93,219 In the Interest of: B.L., DOB: 11/29/91 J.H., DOB: 05/01/93 A.L., DOB: 12/21/99 B.L., DOB: 12/21/99</p>	<p>Gary House Kellie E. Hogan</p>	<p>Chautauqua</p>
<p>93,419 State of Kansas, Appellant v. Kristina M. Groshong, Appellee</p>	<p>Attorney General Vernon E. Buck, Asst. C.A. Mark A. Sherman</p>	<p>Lyon</p>

Kansas Court of Appeals
U.S. Courthouse
Courtroom 643
500 State Ave.
Kansas City, Kansas
Before Elliott, P.J.; Marquardt and McAnany, JJ.
Tuesday, June 14, 2005
1:30 p.m.

Case No. / Case Name	Attorneys	Jurisdiction
<p>92,275 State of Kansas, Appellee v. Tyler Ray White, Appellant</p>	<p>Virginia A. Girard-Brady, Asst. A.D.</p>	<p>Leavenworth</p>
<p>91,680 State of Kansas, Appellee v. Donald E. Robinson, Appellant</p>	<p>Attorney General Kristen Chowning Martin, Asst. D.A. Cory D. Riddle, Deputy A.D.</p>	<p>Wyandotte</p>

(continued)

93,013 Matthew Patrick Sall, By and Through His Natural Parents, Guardians and Conservators, Kay Sall and David Sall, and Kay Sall and David Sall, Individually, Appellants v. T's, Inc., d/b/a Smiley's Golf Complex, Appellee	Bryson R. Cloon Richard T. Merker Steve R. Fabert	Johnson
92,286 Mike Conner, Appellee v. Occidental Fire & Casualty Company of North Carolina and Wilshire Insurance Company, Appellants	Daniel F. Church Steve R. Fabert	Jewell

Wednesday, June 15, 2005**9:00 a.m.**

Case No. / Case Name	Attorneys	Jurisdiction
92,133 State of Kansas, Appellee v. Andrew B. Udell, Appellant	Attorney General Steven J. Obermeier, Asst. D.A. Joseph L. Dioszeghy	Johnson
92,288 In the Matter of the Marriage of Dixie L. Weers, Appellee and Ronald G. Weers, Appellant	S. W. Longan III Ronald P. Wood	Miami
92,807 In the Matter of the Marriage of Jenny Ann Haynes, Appellant and William Martin Haynes, Appellee	Brian L. Burge Louis S. Wexler William Colvin	Johnson

Summary Calendar—No Oral Argument

Case No. / Case Name	Attorneys	Jurisdiction
93,400 Pro Care Auto, LLC, Appellant v. Melvin Eugene Hillhouse, et al., Appellees	Michael S. Martin Dennis L. Harris	Wyandotte
92,521 State of Kansas, Appellee v. Arlando T. Latham, Appellant	Attorney General Debra S. Peterson, Asst. D.A. Lesley A. Isherwood, Asst. D.A. Matthew J. Edge, Asst. A.D.	Sedgwick
93,332 Wendy L. Bahner Mansfield, Appellant v. PB& J Restaurant, Inc. and Highlands Insurance Company, Appellees	Seth G. Valerius Dennis L. Horner	Work Comp.
92,744 Vernon Bourbon, Jr., Appellant v. State of Kansas, Appellee	Michelle Davis, Asst. A.D. Attorney General Gerald R. Kuckelman, C.A.	Atchison
93,317 State of Kansas, Appellee v. Jason Dominic Carter, Appellant	Attorney General Ty Kaufman, C.A. Brent Getty, Asst. A.D.	McPherson
93,614 Robert Gracia, #35537, Appellant v. Sam Cline, Warden, et al., Appellees	Paula D. Hofaker Robert E. Wasinger	Ellsworth

93,117 In the Matter of the Estate of Billy B. Kinkead, Deceased	Glenn D. Young, Jr. Carl B. Davis	Sedgwick
93,101 Melinda Sterling-Stewart, Appellant v. U.S.D. 457 and Kansas Assoc. of School Boards, Appellees	Seth G. Valerius Teresa L. Sittnauer Anton Anderson	Work Comp.
93,151 In the Matter of the Marriage of Elizabeth A. Harp, Appellee and Donald E. Harp, Appellant	Elizabeth Harp, Pro Se Donald E. Harp, Pro Se	Sedgwick
93,566 Calvin L. Strong, Appellant v. Kansas Parole Board, Appellee	Calvin L. Strong, #31810, Pro Se Ralph J. DeZago, Asst. A.G.	Reno
93,217 Jack Shane, Appellee v. Treasure Chest Advertising, and Continental Casualty, Appellants	James L. Wisler John David Jurcyk	Work Comp.
93,053 The Travelers Indemnity Company of Illinois, Appellant v. Challenger Fence Co., Inc., Appellee	Daniel S. Rabin Cynthia F. Grimes	Leavenworth
93,308 Artis Swafford, Appellant v. David R. McKune, et al., Appellees	Artis Swafford, #57225, Pro Se Fred W. Phelps, Jr.	Leavenworth
93,218 Artis Swafford, Appellant v. Jessica Kunen, Formerly the Chief Appellate Defender of the State of Kansas, Appellee	Artis Swafford, #57225, Pro Se Fred J. Logan, Jr.	Leavenworth
92,612/92,613/92,614/92,615 State of Kansas, Appellee v. Robert S. Jennings, Appellant	Attorney General Debra S. Peterson, Asst. D.A. Matt J. Maloney, Asst. D.A. Randall L. Hodgkinson, Deputy A.D.	Sedgwick
92,656 State of Kansas, Appellee v. Harold D. Pfaff, Appellant	Attorney General Debra S. Peterson, Asst. D.A. Kristi L. Barton, Asst. D.A. Sandra Carr, Asst. A.D.	Sedgwick

Carol G. Green
Clerk of the Appellate Courts

State of Kansas

Board of Accountancy

Permanent Administrative
Regulations

Article 4.—PERMITS TO PRACTICE

74-4-1a. Experience requirement for attest services. (a) Each permit holder who supervises attest services or who signs or authorizes a person to sign a report on any audit, attest, review, or compilation engagement on behalf of a firm shall meet the requirements set forth in the "statements on quality control standards" issued by the auditing standards board of the American institute of certified public accountants and contained in the "AICPA professional standards," as adopted by reference in K.A.R. 74-5-2.

(b) Notwithstanding subsection (a), each permit holder who supervises attest services or signs or authorizes a person to sign a report on any applicable engagement on behalf of a firm that is registered with the PCAOB shall comply with the following applicable standards of the PCAOB, as in effect on July 1, 2004, which are hereby adopted by reference unless otherwise specified:

(1) "Auditing standard no. 1—references in auditors' reports to the standards of the public company accounting oversight board";

(2) "auditing standard no. 2—an audit of internal control over financial reporting performed in conjunction with an audit of financial statements" and appendices a, b, c, d, and e;

(3) "auditing standard no. 3—audit documentation"; and

(4) interim rules 3200T, 3300T, 3400T, 3500T and 3600T, as contained in volume 1 of the "AICPA professional standards," which is adopted by reference in K.A.R. 74-5-2.

(c) Each permit holder who supervises attest services or who signs or authorizes a person to sign a report for a governmental audit engagement on behalf of a firm shall comply with the government auditing standards adopted by reference in K.A.R. 74-5-2. (Authorized by and implementing K.S.A. 1-202 and K.S.A. 1-302b; effective Nov. 17, 2000; amended May 27, 2005.)

74-4-8. Continuing professional education programs; requirements. (a) A program designed to allow a participant to learn a given subject through interaction with an instructor and other participants either in a classroom or conference setting, or by using the internet may be approved for continuing professional education credit under K.A.R. 74-4-7 if the program meets the following conditions:

(1) It is a formal program of learning that maintains or improves the professional competence of a permit holder and requires attendance.

(2) An outline of the program is prepared in advance and provided to the permit holder.

(3) The program is at least 50 minutes in length.

(4) The program is conducted by a person qualified in the subject area.

(5) A record of registration and attendance is retained.

(b) The following types of programs shall qualify as acceptable continuing professional education if they meet the requirements of subsection (a):

(1) Professional development programs of the American institute of certified public accountants, and of state societies and local chapters of certified public accountants;

(2) technical sessions at meetings of the American institute of certified public accountants, and of state societies and local chapters of certified public accountants;

(3) university or college credit courses. Each semester hour of credit shall equal 15 hours of continuing education credit. Each quarter hour of credit shall equal 10 hours of continuing education credit;

(4) university or college non-credit courses. These courses shall qualify for continuing professional education credit that equals the number of actual, full 50-minute class hours attended;

(5) formal, organized, in-firm, or interfirm educational programs;

(6) programs in accounting, auditing, consulting services, specialized knowledge and applications, taxation, management, or ethics; and

(7) programs in personal development, which may include communications, managing group processes, dealing effectively with others, interviewing, counseling, and career planning.

(c) Any author of a published article or book and any writer of a continuing professional education program may receive continuing professional education credit for the actual research and writing time if all of the following conditions are met:

(1) The board determines that the research and writing maintain or improve the professional competence of the author or writer.

(2) The number of credit hours claimed is consistent with the quality and scope of the article, book, or program.

(3) The article or book has been published or the program was created during the biennial period for which credit is claimed.

(d) Individual self-study programs that allow a participant to learn a particular subject without the major involvement of an instructor may be eligible for continuing education credit if all of the following conditions are met:

(1) The program sponsor meets one of the following requirements:

(A) Has been approved by NASBA's national registry of continuing professional education sponsors or NASBA's quality assurance service;

(B) is sponsored through the American institute of certified public accountants; or

(C) is sponsored through a state society of certified public accountants.

(2) The program requires registration.

(3) The program includes a final examination.

(4) The participant scores at least 70 percent on the final examination.

(5) The participant provides certificates of satisfactory completion.

(e) The amount of credit for self-study programs shall be determined by the board, as follows:

(1) Self-study programs may be approved for one hour of continuing professional education credit for each 50 minutes of participation and one-half credit for each 25-minute period of participation after the first hour of credit has been earned.

(2) The amount of credit shall not exceed the number of recommended hours assigned by the program sponsor.

(f) Independent study programs that are designed to allow a participant to learn a given subject under the guidance of a continuing professional education program sponsor may be eligible for continuing professional education credit if all of the following conditions are met:

(1) The program sponsor meets one of the following requirements:

(A) Has been approved by NASBA's national registry of continuing professional education sponsors or NASBA's quality assurance service;

(B) is sponsored through the American institute of certified public accountants; or

(C) is sponsored through a state society of certified public accountants.

(2) The participant has a written learning contract with a program sponsor that contains a recommendation of the number of credit hours to be awarded upon successful completion of the program.

(3) The sponsor reviews and signs a report indicating that all of the requirements of the independent study program, as outlined in the learning contract, are satisfied.

(4) The program is completed in 15 weeks or less.

(g) Any participant in an independent study program may receive up to one hour of credit for each 50 minutes of participation and one-half hour of credit for each 25-minute period of participation after the first hour of credit has been earned. (Authorized by K.S.A. 1-202 and K.S.A. 75-1119; implementing K.S.A. 1-202, K.S.A. 1-310, and K.S.A. 75-1119; effective, E-82-27, Dec. 22, 1981; effective May 1, 1982; amended May 1, 1985; amended Feb. 14, 1994; amended Sept. 25, 1998; amended Nov. 2, 2001; amended Nov. 15, 2002; amended Nov. 14, 2003; amended May 27, 2005.)

Article 5.—RULES OF PROFESSIONAL CONDUCT

74-5-2. Definitions. The following definitions shall be applicable wherever this terminology is used in the rules of professional conduct: (a) "AICPA" means the American institute of certified public accountants.

(b) "AICPA professional standards" means the "AICPA professional standards," volumes 1 and 2, published by the AICPA, as in effect on July 1, 2004, which are hereby adopted by reference.

(c) "Audit" means an independent examination of financial information or assertions of any entity, regardless of profit orientation, size, and legal form, if the examination is conducted to express an opinion thereon.

(d) "Board" means the Kansas state board of accountancy.

(e) "Certified public accountant" and "CPA" mean any of the following:

(1) A holder of a Kansas certificate;

(2) a person practicing certified public accountancy under the authorization to practice by notification as provided in K.S.A. 1-322 and amendments thereto; or

(3) a firm.

(f) "Compilation" shall have the meaning specified in K.S.A. 1-321 and amendments thereto.

(g) "Firm" means a proprietorship, partnership, limited liability partnership, professional corporation or association, limited liability company, or general corporation organized for the practice of certified public accountancy.

(h) "Generally accepted accounting principles" means the following standards, as applicable, in effect on July 1, 2004:

(1) "Federal accounting standards," issued by the federal accounting standards advisory board and hereby adopted by reference;

(2) "accounting standards," volumes I and II, issued by the financial accounting standards board and hereby adopted by reference;

(3) "statements of position accounting," issued by the accounting standards executive committee of the AICPA and contained in the "AICPA professional standards" adopted in subsection (b); and

(4) "governmental accounting and financial reporting standards," issued by the governmental accounting standards board and hereby adopted by reference.

(i) "Government auditing standards" means the "government auditing standards," 2003 revision, issued by the comptroller general of the United States, as in effect on July 1, 2003 and hereby adopted by reference.

(j) "Licensed municipal public accountant" and "LMPA" mean a holder of a permit issued under the laws of Kansas to practice as a municipal public accountant.

(k) "Practice of certified public accountancy" means performing or offering to perform attest or nonattest services for the public while using the designation "certified public accountant" or "C.P.A." in conjunction with these services. "Attest" and "nonattest" services shall have the meaning specified in K.S.A. 1-321 and amendments thereto.

(l) "PCAOB" means the public company accounting oversight board created by the Sarbanes-Oxley act of 2002.

(m) "Staff accountant" means a certified public accountant who meets the following requirements:

(1) Holds both a Kansas certificate and a Kansas permit;

(2) is employed by a firm that is the certified public accountant's primary employer; and

(3) works at least 1,040 hours for the firm during a calendar year. (Authorized by and implementing K.S.A. 1-202 and K.S.A. 75-1119; effective Jan. 1, 1974; amended May 1, 1978; amended May 1, 1979; amended May 1, 1985; amended July 22, 1991; amended July 13, 1992; amended April 5, 1993; amended Aug. 23, 1993; amended Jan. 12, 1996; amended Jan. 8, 1999; amended Nov. 17, 2000; amended Nov. 2, 2001; amended May 27, 2005.)

74-5-101. Independence. (a) Each certified public accountant or a licensed municipal public accountant who performs professional services requiring independence shall comply with the following standards, as applicable:

(1) Rule 101 of the code of professional conduct, including the definitions and interpretations, as contained

(continued)

in the "AICPA professional standards" adopted by reference in K.A.R. 74-5-2. Rule 101, including the definitions and interpretations, shall be used by the board in determining whether independence is impaired;

(2) chapter three of the government auditing standards adopted by reference in K.A.R. 74-5-2;

(3) regulation S-X codified at 17 C.F.R. Part 210, as in effect on July 1, 2004, which is hereby adopted by reference; and

(4) interim rule 3600T promulgated by the PCAOB, as contained in volume 1 of the "AICPA professional standards" adopted by reference in K.A.R. 74-5-2.

(b) In determining whether a certified public accountant's or a licensed municipal public accountant's independence is impaired, any other circumstances, relationship, or activity that the board determines could impair independence may be considered by the board. (Authorized by and implementing K.S.A. 1-202 and K.S.A. 75-1119; effective Jan. 1, 1966; amended Jan. 1, 1972; amended Jan. 1, 1974; amended May 1, 1978; amended May 1, 1985; amended Nov. 15, 2002; amended May 27, 2005.)

74-5-102. Integrity and objectivity. (a) In the performance of professional services, a certified public accountant or a licensed municipal public accountant shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts to others or subordinate the accountant's or firm's judgment to another's judgment. In tax practice, any certified public accountant or a licensed municipal public accountant may resolve doubt in favor of the client if there is reasonable support for that position.

(b) Each certified public accountant or licensed municipal accountant shall comply with the following applicable standards:

(1) Rule 102 of the code of professional conduct, including the definitions and interpretations, as contained in the "AICPA professional standards" adopted by reference in K.A.R. 74-5-2. Rule 102, including the interpretations, shall be used in determining whether integrity and objectivity have been maintained;

(2) chapter three of the government auditing standards adopted by reference in K.A.R. 74-5-2; and

(3) interim rule 3500T promulgated by the PCAOB, as contained in volume 1 of the "AICPA professional standards" adopted by reference in K.A.R. 74-5-2. (Authorized by and implementing K.S.A. 1-202 and K.S.A. 75-1119; effective Jan. 1, 1966; amended Jan. 1, 1974; amended May 1, 1978; amended May 1, 1985; amended Nov. 15, 2002; amended May 27, 2005.)

74-5-103. Commissions and referral fees. Each certified public accountant shall comply with rule 503 of the code of professional conduct regarding commissions and referral fees, including the definitions and interpretations, as contained in the "AICPA professional standards" adopted by reference in K.A.R. 74-5-2. (Authorized by and implementing K.S.A. 1-202; effective May 1, 1978; amended July 13, 1992; amended Jan. 12, 1996; amended Jan. 8, 1999; amended Sept. 10, 1999; amended May 27, 2005.)

74-5-104. Contingent fees. Each certified public accountant shall comply with rule 302 of the code of professional conduct regarding contingent fees, including the definitions and interpretations, as contained in the "AICPA professional standards" adopted by reference in K.A.R. 74-5-2. (Authorized by and implementing K.S.A. 1-202; effective May 1, 1978; amended July 13, 1992; amended Jan. 8, 1999; amended Sept. 10, 1999; amended May 27, 2005.)

74-5-201. Due professional competence. A certified public accountant or a licensed municipal public accountant shall not undertake any engagement for the performance of professional services that the accountant or the firm cannot reasonably expect to complete with due professional competence, or that the accountant or the firm cannot complete in compliance with K.A.R. 74-5-202 and 74-5-203, when applicable. (Authorized by and implementing K.S.A. 1-202 and K.S.A. 75-1119(a); effective Jan. 1, 1966; amended Jan. 1, 1972; amended Jan. 1, 1974; amended May 1, 1978; amended May 1, 1985; amended May 27, 2005.)

74-5-202. Compliance with standards. (a) Each certified public accountant who performs auditing, attestation, review, compilation, management consulting, tax, or other professional services shall comply with the applicable professional standards promulgated by the following entities, which are adopted by reference in K.A.R. 74-4-1a, K.A.R. 74-5-2, and this regulation:

- (1) The federal accounting standards advisory board;
- (2) the financial accounting standards board;
- (3) the governmental accounting standards board;
- (4) the AICPA accounting and review services committee;
- (5) the AICPA auditing standards board;
- (6) the AICPA accounting standards executive committee;
- (7) the AICPA management consulting services executive committee;
- (8) the AICPA tax executive committee;
- (9) the PCAOB; and
- (10) the municipal accounting section of the division of accounts and reports, department of administration.

(b) Each licensed municipal public accountant shall comply with applicable, generally accepted auditing standards as adopted by reference in the 2004 revised "Kansas municipal audit guide," prescribed by the municipal accounting section of the division of accounts and reports, department of administration, and hereby adopted by reference. (Authorized by and implementing K.S.A. 1-202 and K.S.A. 75-1119; effective Jan. 1, 1966; amended Jan. 1, 1972; amended Jan. 1, 1974; amended May 1, 1978; amended, E-82-27, Dec. 22, 1981; amended May 1, 1982; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended May 22, 1989; amended Jan. 7, 1991; amended July 13, 1992; amended Aug. 23, 1993; amended Sept. 26, 1994; amended Jan. 12, 1996; amended Sept. 25, 1998; amended Sept. 10, 1999; amended Nov. 17, 2000; amended Nov. 2, 2001; amended Nov. 15, 2002; amended Nov. 14, 2003; amended May 27, 2005.)

74-5-203. Accounting principles. (a) A certified public accountant or a licensed municipal public accountant shall not express an opinion or state affirmatively that the financial statements or other financial data of any entity are presented in conformity with generally accepted accounting principles if the statements or data depart from generally accepted accounting principles and this departure has a material effect on the statements or data taken as a whole.

(b) A certified public accountant or a licensed municipal accountant shall not state that the accountant or firm is not aware of any material modifications that should be made to financial statements or data in order for the statements or data to be in conformity with generally accepted accounting principles if the statements or data depart from generally accepted accounting principles and this departure has a material effect on the statements or data taken as a whole.

(c) Any certified public accountant or licensed municipal public accountant may express an opinion described in subsection (a) if the accountant demonstrates that, due to unusual circumstances, the financial statement would otherwise be misleading. In such a case, the accountant's report shall describe the following:

(1) The departure;

(2) the approximate effects, if practicable; and

(3) the reasons why compliance with the principle would result in a misleading statement. (Authorized by and implementing K.S.A. 1-202 and K.S.A. 75-1119; effective Jan. 1, 1966; amended Jan. 1, 1974; amended May 1, 1978; amended, E-82-27, Dec. 22, 1981; amended May 1, 1982; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended May 22, 1989; amended Jan. 7, 1991; amended July 13, 1992; amended Aug. 23, 1993; amended Sept. 26, 1994; amended Jan. 12, 1996; amended Sept. 25, 1998; amended Sept. 10, 1999; amended Nov. 17, 2000; amended May 27, 2005.)

74-5-205. (Authorized by and implementing K.S.A. 2000 Supp. 1-202, as amended by 2001 HB 2343, § 7; effective Nov. 17, 2000; amended Nov. 2, 2001; revoked May 27, 2005.)

74-5-301. Confidential client information. (a) A certified public accountant shall not disclose any confidential client information without the consent of the client.

(b) Rule 301 of the code of professional conduct, including the definitions and interpretations, as contained in the "AICPA professional standards" adopted by reference in K.A.R. 74-5-2, shall be used by the board in determining compliance with subsection (a). (Authorized by and implementing K.S.A. 1-202; effective Jan. 1, 1966; amended Jan. 1, 1974; amended May 1, 1978; amended Sept. 25, 1998; amended May 27, 2005.)

74-5-401. Acts discreditable to the profession. (a) A certified public accountant shall not commit any act discreditable to the profession.

(b) Each certified public accountant shall comply with rule 501 of the code of professional conduct, including the definitions and interpretations, as contained in the

"AICPA professional standards" adopted by reference in K.A.R. 74-5-2. Rule 501, including the definitions and interpretations, may be used by the board in determining whether a certified public accountant has committed an act discreditable to the profession. (Authorized by and implementing K.S.A. 1-202; effective Jan. 1, 1966; amended Jan. 1, 1972; amended Jan. 1, 1974; amended May 1, 1978; amended Nov. 15, 2002; amended May 27, 2005.)

74-5-403. Advertising and other forms of solicitation. (a) A certified public accountant shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading, or deceptive. Solicitation by the use of coercion, overreaching, or harassing conduct shall be prohibited.

(b) Rule 502 of the code of professional conduct, including the definitions and interpretations, as contained in the "AICPA professional standards" adopted by reference in K.A.R. 74-5-2, shall be used by the board in determining whether a certified public accountant has violated subsection (a). (Authorized by and implementing K.S.A. 1-202; effective May 1, 1978; amended May 1, 1985; amended July 22, 1991; amended May 27, 2005.)

Article 11.—PEER REVIEW PROGRAM

74-11-6. Definitions. (a) "AICPA" means the American institute of certified public accountants.

(b) "AICPA professional standards" means the "AICPA professional standards," volumes 1 and 2, published by the American institute of certified public accountants, as in effect on July 1, 2004, which are adopted by reference in K.A.R. 74-5-2.

(c) "Firm" shall have the meaning specified in K.S.A. 1-308 and amendments thereto.

(d) "Peer review" means a review of a firm's accounting and auditing practice in accordance with the standards for performing and reporting on peer reviews.

(e) "Peer review team" means persons or organizations participating in the peer review program required by the regulations in article 11. This term shall specifically include the team captain, team members, the report acceptance committee, and the oversight body, but shall not include the board.

(f) "Standards for performing and reporting on peer reviews" means either of the following:

(1) The AICPA "standards for performing and reporting on peer review" contained in volume two of the AICPA professional standards, as adopted by reference in K.A.R. 74-5-2; or

(2) standards published by the center for public company audit firms in the "peer review program manual" and "reference manual," as in effect on July 1, 2004, which are hereby adopted by reference.

(g)(1) "Substantially similar program" means a peer review program that meets the following requirements:

(A) The peer review team shall be approved by a nationally recognized accounting organization as having the qualifications, training, and experience to perform the peer review function required by this regulation.

(continued)

(B)(i) The peer review shall be conducted pursuant to peer review standards as issued by a nationally recognized peer review program that has received prior approval by the board; or

(ii) the peer review shall be conducted pursuant to a written submission detailing the qualifications of the peer review team to conduct the peer review and providing a written plan for the peer review illustrating the means of compliance with this regulation with the prior specific approval of the board.

(2) Each inspection performed by the public company accounting oversight board of areas of a firm's practice related to audits of issuers, as defined by the public company oversight board, shall be deemed to satisfy the peer review requirements related to this element of the firm's practice. (Authorized by and implementing K.S.A. 1-202 and K.S.A. 1-501; effective Feb. 14, 1994; amended Sept. 25, 1998; amended Sept. 10, 1999; amended Nov. 17, 2000; amended Nov. 2, 2001; amended Nov. 15, 2002; amended Nov. 14, 2003; amended May 27, 2005.)

74-11-15. Peer review oversight. (a) A peer review oversight committee shall be appointed by the board to monitor the peer review process to determine whether peer reviews are conducted in accordance with the standards for performing and reporting on peer reviews.

(b) Up to three persons shall be appointed by the board to serve on the peer review oversight committee, each of whom shall meet the following qualifications:

(1) Holds a current permit to practice certified public accountancy;

(2) has extensive experience in accounting and auditing services, as determined by the board; and

(3) is not a current member of the board of accountancy.

(c) Peer review oversight committee members may be reimbursed only for travel, meals, lodging, and training expenses.

(d) The peer review oversight committee shall assess whether an organization that provides a peer review program endorsed or supported by the AICPA or another substantially similar program is conducting the program in accordance with the applicable standards for performing and reporting on peer reviews.

(e) The peer review committee shall report at least annually to the board concerning the qualifications of an organization to conduct peer review programs. However, information concerning specific firms and reviewers shall be confidential and shall not be reported to the board. (Authorized by and implementing K.S.A. 1-202 and K.S.A. 1-501; effective Nov. 2, 2001; amended May 27, 2005.)

Susan L. Somers
Executive Director

Doc. No. 031936

State of Kansas

Department of Revenue

Permanent Administrative Regulations

Article 14.—MANUFACTURERS; DISTRIBUTORS; NONBEVERAGE USERS; FARM WINERIES; MICROBREWERIES

14-14-12. (Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 1987 Supp. 41-402, 41-408, 41-701, 41-709, K.S.A. 41-211, 41-405, 41-708, 41-712; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988; revoked May 27, 2005.)

Article 19.—KANSAS RETAILERS' SALES TAX

92-19-49a. (Authorized by K.S.A. 79-3618; implementing K.S.A. 79-3609, K.S.A. 79-3650; effective June 26, 1998; revoked May 27, 2005.)

92-19-49b. Returned goods. (a)(1) Each retailer shall be entitled to a deduction or credit for taxes reported on the retailer's sales tax return if goods are later returned by the consumer and the retailer repays to the consumer the full selling price and all associated sales taxes that originally were collected and remitted on the sale of the goods. This repayment to the consumer may be made by credit or refund.

(2) If a retailer reduces the amount refunded to the consumer on returned goods to recover depreciation, consumer usage, or other costs, the amount of the reduction shall be considered a charge by the retailer to the consumer for the use of the goods and shall be subject to sales tax as if it were a rental. The amount of tax refunded to the consumer shall be reduced accordingly.

(3) If a retailer charges a restocking or reshelving fee after goods are returned, this fee shall not be taxable. A restocking or reshelving fee shall be defined as a fee charged by a retailer to cover the time and expense in returning goods to resale inventory if the consumer has not used the goods in a way that decreases their value.

(b) Any retailer that reported and remitted the tax to the department on returned goods may take the deduction during the reporting period in which the consumer is refunded the tax. The retailer shall maintain records that clearly reflect and support a claim for any such deduction or refund.

(c) Except for claims involving returned goods, a retailer shall not take a deduction or credit for a refund claim on the retailer's sales tax return but shall submit a written refund application to the department, in accordance with K.A.R. 92-19-49c.

(d) Returned goods shall not include goods accepted in trade or barter and goods repossessed or recaptured by legal process, abandonment of contract, or voluntary surrender. Repossessed goods shall be treated as specified in K.A.R. 92-19-10.

(e) Notwithstanding any other provision of this regulation, any motor vehicle manufacturer, manufacturer's agent, or authorized dealer may apply to the department for a refund or take a deduction during the reporting pe-

riod if a consumer returns a motor vehicle in accordance with K.S.A. 50-645, and amendments thereto, and is refunded the total amount that the consumer paid for the vehicle, including sales tax, less a reasonable allowance for the customer's use of the vehicle, which shall include the sales tax associated with that use. The manufacturer, agent, or dealer shall maintain records that clearly reflect the acceptance of the returned vehicle under K.S.A. 50-645 and amendments thereto, the amount of the refund, and the amount of taxes refunded. (Authorized by K.S.A. 2004 Supp. 75-5155 and K.S.A. 2004 Supp. 79-3618; implementing K.S.A. 2004 Supp. 79-3607 and K.S.A. 2004 Supp. 79-3609; effective May 27, 2005.)

92-19-49c. Refund applications; refund claims; required forms. (a) Definition.

(1) "Refund claim" shall mean an application for the refund of sales or compensating use tax, penalty, or interest submitted in writing on a form prescribed by the department that has been completed and is accompanied by all documentation needed to verify and process the claim. A refund application that is incomplete or is not documented as required by this regulation shall not be considered to be a refund claim. As used in these regulations, the term "refund claim" may include a claim for payment, a credit, or an entitlement to a deduction.

(2) Each refund application shall be submitted on the appropriate form prescribed by the department for the kind of refund being requested. The refund application may be required by the department to be filed electronically. Refund application forms may be obtained from the department.

(3) Each agent, representative, or other third party filing a refund application on behalf of another shall submit a power of attorney that authorizes the agent, representative, or other third party to act on behalf of the claimant.

(b) Retailer-filed refund applications.

(1) Any business or individual who is registered with the department as a retailer and who reported and remitted sales tax to the department that was not owed, was remitted in error, or was an overpayment may apply for a refund. Each registered retailer shall have a continuing duty to correct any errors in sales tax returns filed with the department and to enable purchasers to obtain refunds of taxes that were overpaid or paid in error.

(2) Each refund claim filed by an entity that files sales or compensating use tax returns shall be treated as an application to adjust or amend the return. The amended tax return shall be subject to verification by examination of the taxpayer's records.

(3) Refund applications shall be filed on the appropriate form and shall be completed in the manner prescribed by the form. Each refund application shall contain all the information requested and shall be accompanied by all additional documentation prescribed by the form and this regulation that is needed to determine the validity of the claim and verify and process the claim. Each refund application that contains insufficient information or documentation to verify and process the application shall be returned to the applicant with directions to file a new, complete application. If a refund application has been returned by the department, a refund claim shall not be

considered to have been filed until a new application is submitted that contains sufficient information and is supported by sufficient documentation to verify and process the claim.

(4) The information provided on each retailer-filed refund application form or accompanying the form shall include the following:

(A) An amended return for each period for which a refund is sought, which shall contain the retailer's current name, mailing address, employee identification number, and Kansas sales tax registration number;

(B) the name and telephone number of the person whom the department should contact if additional information is needed;

(C) an explanation of the reason why a refund is due, which may include an overpayment due to mathematical or clerical errors, the payment of tax on an exempt sale, or other explanation. If applicable, the explanation shall include a detailed, factual description of how the items sold were used by the consumer and an explanation of the legal theory that underlies the refund claim. A statement of such usage that only references Kansas statutes and Kansas administrative regulations shall be deemed an insufficient explanation of the factual basis for a refund;

(D) if tax has been refunded to the consumer, the amount, the name of the refund recipient, and an explanation of how the refund was made, whether by cash, check, credit, or other means;

(E) a schedule listing each invoice in chronological order that includes the name and address of the purchaser, a description of the items sold, the date of purchase, the invoice number, the amount subject to tax, the amount of tax collected, the reporting period and jurisdiction code for the tax, the location of the sale, the account codes, the department codes, and a detailed statement of usage of the item purchased. If the claimant or its agent maintains its records or prepares the schedule in an electronic, machine-sensible format, all schedules submitted to support the refund claim shall be provided in an electronic, machine-sensible format in addition to the paper document;

(F) the signature of the payee or the owner, a partner, or an officer of the business listed as payee, and the signature of the retailer or the owner, a partner, or an officer of the business listed as the retailer; and

(G) any additional information required by the application form that is needed to verify and process the specific refund application, including employment data for a refund pursuant to K.S.A. 79-3606(cc), and amendments thereto.

(5) The documentation provided with a retailer-filed refund application form shall include a copy of each of the following:

(A) A properly completed exemption certificate from the consumer, if the consumer is seeking a refund based on an exemption claim;

(B) if the retailer has refunded taxes to the consumer, a cancelled check or irrevocable credit memo issued by the retailer showing that the retailer has credited or refunded the tax previously collected from the consumer, a written agreement that the refund shall be jointly issued

(continued)

to the retailer and the consumer, or other proof of repayment; and

(C) all invoices pertaining to the schedule required to be submitted under paragraph(b)(4)(E) and any other documentation needed to verify and process the specific refund claim being made in the schedule, which may include credit memos, contracts, job cost records, tax accrual worksheets with refund items identified, charts of account, and any other documentation, including employment data for claims related to K.S.A. 79-3606(cc), and amendments thereto.

(6) Each business that files consumers' compensating use tax returns with the department shall comply with the requirements of this subsection when filing a refund claim for consumers' compensating use tax that the business accrued, reported, and paid to the department.

(c) Consumer-filed refund applications.

(1) Except as authorized by K.S.A. 79-3650 and amendments thereto and as provided by paragraph (b)(6) of this regulation, a consumer seeking a refund of retailers' sales or compensating use tax shall request the refund from the retailer that collected the tax on the sale.

(2)(A) A consumer that paid tax to a retailer may apply directly to the department for a refund if the consumer submits an application and supporting documentation together with an affidavit that verifies any of the following:

(i) The retailer that collected the tax is no longer in business.

(ii) The retailer has moved and cannot be located.

(iii) The retailer is insolvent and is financially unable to make the refund.

(iv) The consumer has attempted in good faith to obtain the refund from the retailer and can document that the retailer refuses or is unavailable to refund the tax or has refused to act in a timely manner on the consumer's refund application.

(B) The documentation required to demonstrate that a retailer refused to refund the tax under paragraph (c)(2)(A)(iv) shall include a written denial of the consumer's refund request issued by the retailer. The documentation required to demonstrate that a retailer did not act on the refund request in a timely manner under paragraph (c)(2)(A)(iv) shall include a copy of the refund request sent to the retailer by certified mail at least 60 days before the consumer filed the refund application with the department. This documentation shall include the consumer's refund application, a copy of the certified mail receipt, and the consumer's affidavit stating that it acted in good faith in attempting to obtain the refund from the retailer.

(C) The consumer's affidavit shall state the date that the refund request was submitted to the retailer and shall identify the information and documentation included with the request. A copy of each piece of documentation shall be submitted to the department with the consumer's affidavit.

(D) The retailer may be contacted by the department to confirm that the consumer has acted in good faith in attempting to obtain the refund from the retailer. As used in this regulation, "good faith" shall mean that the consumer has provided the retailer with all of the informa-

tion and documentation needed to validate and process the refund request, has complied with the requirements specified in K.S.A. 79-3650(a) and amendments thereto, and has otherwise made a reasonable attempt to obtain the refund from the retailer. The mere fact that a retailer agrees to allow the consumer to file a refund application directly with the department shall not satisfy the requirements of K.S.A. 79-3650(a), and amendments thereto, and shall not constitute a good faith attempt to obtain the refund from the retailer.

(E) For purposes of refund claims filed with the department pursuant to K.S.A. 79-3650 and amendments thereto, if the director of taxation finds that the retailer failed to act on the consumer's refund request in a timely manner, the period of limitations applicable to the filing of the consumer's refund claim may be extended by the director by not more than 90 days. As used in K.S.A. 79-3650 and amendments thereto and in this regulation, "timely manner" shall mean within 60 days after the retailer received written notice of the consumer's refund request. As used in K.S.A. 79-3650 and amendments thereto, "proper showing" shall mean the submission to the director of the consumer's affidavit, the completed refund application, and all supporting information and documentation that is needed to verify and process the refund.

(F) If the director finds that a refund application, information, and documentation submitted by a consumer to a retailer are insufficient to verify and process the refund claim, the limitations period for filing the consumer's refund claim with the department shall not be extended, and the refund application shall not be reviewed by the department but shall instead be returned to the consumer.

(3) The information provided on each consumer-filed refund application form or accompanying the form shall include the following:

(A) The consumer's name, current mailing address, and telephone number;

(B) the name and telephone number of the person whom the department should contact if additional information is needed;

(C) the retailer's name, current mailing address, and telephone number;

(D) a description of the items purchased, the date of purchase, the location of the purchase, the invoice number, the amount subject to tax, and the amount of tax paid;

(E) if applicable, a properly completed exemption certificate. The exemption certificate shall include a detailed factual description of how the items sold were used by the consumer. A statement of usage on an exemption certificate that only references Kansas statutes and Kansas administrative regulations shall be deemed an insufficient explanation of the factual basis for a refund;

(F) an explanation of the reason why a refund is due. If applicable, this explanation shall include a detailed, factual description of how the items sold were used by the consumer. A statement of usage that only references Kansas statutes and regulations shall be deemed an insufficient explanation of the factual basis for a refund;

(G) a schedule listing each invoice in chronological order that includes the name and address of the retailer, a

description of the items sold, the date of purchase, the invoice number, the amount subject to tax, the amount of tax paid, the reporting period and jurisdiction code for the tax, the account codes, the department codes, the location of the purchase, and a detailed statement of usage for the purchase. If the claimant or the claimant's agent maintains its records or prepares the schedule in an electronic, machine-sensible format, all schedules submitted to support the refund claim shall be provided in an electronic, machine-sensible format in addition to the paper document;

(H) the signature of either the consumer or a business owner, partner, or officer of the business; and

(I) any additional information required by the form that is needed to verify and process the refund, including employment data for a refund pursuant to K.S.A. 79-3606(cc), and amendments thereto.

(4) The documentation provided with each consumer-filed refund application form shall include a copy of each of the following:

(A) A properly completed exemption certificate from the consumer, if the consumer is claiming refund entitlement based on an exemption;

(B) all original invoices pertaining to the refund claim placed in chronological order, with monthly subtotals, credit memos, contracts, cancelled checks, tax accrual worksheets, charts of accounts, and any other documentation required to verify the specific refund claim being made; and

(C) a written statement signed by the consumer stating that the consumer has not and will not seek a duplicate refund from the retailer. (Authorized by K.S.A. 2004 Supp. 75-5155 and K.S.A. 2004 Supp. 79-3618; implementing K.S.A. 2004 Supp. 79-3607, K.S.A. 2004 Supp. 79-3609, and K.S.A. 2004 Supp. 79-3650; effective May 27, 2005.)

92-19-49d. Review of refund applications; processing of refund claims. (a) Statute of limitations.

(1) Whenever a retailer or consumer that has filed a sales or compensating use tax return seeks a refund for the erroneous payment of the tax, penalty, or interest, the refund claim shall be filed within three years from the due date of the return for the reporting period as specified in K.S.A. 79-3607, and amendments thereto, unless the director of taxation has extended the time for filing the refund request pursuant to K.S.A. 79-3650(b), and amendments thereto.

(2) A written agreement may be entered into by the secretary and the taxpayer to extend the period within which the taxpayer may file a refund application, and an assessment may be made by the secretary. If such a mutual agreement is entered into, any additional interest due on an assessment that is in excess of 48 months shall be waived. This agreement shall be entered into before the expiration of the three-year statute of limitations.

(3) The provisions of K.S.A. 60-206, and amendments thereto, for the computation of time shall apply to determine the timeliness of the filing of a refund claim. Each refund claim shall be presumed to have been filed with the department on its postmark date.

(4) A person against whom an assessment or administrative decision has become final shall not be entitled to

pay the amount of the assessment and then file a refund claim for the amount paid.

(b) Incomplete refund applications.

(1) A refund application that is incomplete, not supported by the required documentation, or otherwise fails to meet the requirements specified in K.A.R. 92-19-49c, whether submitted to the department or to a retailer, shall not be considered to be a refund claim or refund request for the purpose of any of the following:

(A) Tolling the statute of limitations provisions of K.S.A. 79-3609, and amendments thereto;

(B) commencing the running of the 60-day provision of K.S.A. 79-3609(d), and amendments thereto, for payment of refunds without interest; or

(C) extending the time for filing the refund application or refund request beyond the three-year statute of limitations under the provisions of K.S.A. 79-3650(b), and amendments thereto.

(2)(A) If a refund application is incomplete, not supported by the required documentation, or otherwise fails to meet the requirements specified in K.A.R. 92-19-49c, the substance or merits of the incomplete refund application shall not be reviewed by the department, and the incomplete application shall be returned to the applicant. At that time, the applicant shall be notified in writing of the actions, corrections, information, or additional documentation that is needed to complete a new refund application. The applicant also shall be provided with a written description of the method by which an informal conference may be requested pursuant to K.S.A. 79-3226, and amendments thereto, to request a review of the determination that the refund application is incomplete.

(B) Each review of the department's determination that the taxpayer submitted a refund application that was incomplete, not supported by the required documentation, or otherwise failed to meet the requirements specified in K.A.R. 92-19-49c shall be limited to determining whether the refund application, as originally submitted, complied with the requirements of K.A.R. 92-19-49c by providing sufficient information and documentation to allow the refund application to be verified and processed. If, upon review at the informal conference, it is determined that the refund application failed to meet the requirements specified in K.A.R. 92-19-49c when submitted so that the refund application could not be verified and processed, the applicant shall be required to file a new refund application for the refund being claimed.

(c) Review of refund claims.

(1) Each refund application that meets the requirements specified in K.A.R. 92-19-49c so that it can be verified and processed shall be reviewed by the department as a refund claim and its validity determined. Each claimant shall be notified in writing of the department's determination and, if the refund claim is denied in whole or in part, shall be provided with a written description of the method by which an informal conference pursuant to K.S.A. 79-3226, and amendments thereto, may be requested. Each denial of a refund claim by the department shall be final, unless the claimant timely requests an informal conference pursuant to K.S.A. 79-3226, and amendments thereto.

(continued)

(2) Once an informal conference is requested, an informal conference shall be held by the secretary or designee, and a written final determination shall be issued by the secretary or designee, in accordance with K.S.A. 79-3226, and amendments thereto. The written final determination shall constitute a final agency action subject to administrative review by the Kansas board of tax appeals, as provided in K.S.A. 74-2438 and amendments thereto.

(d) Offsetting overpayments against deficiencies.

(1) If the department determines that a refund is due, the refund may first be set off against any outstanding tax liability for a tax that is administered by the department and owed by the person to whom the refund is ultimately due. Any refund amount that remains may be set off against any other outstanding state liabilities or shall be refunded. A retailer shall be considered to be the person to whom the refund is ultimately due under this subsection if the retailer previously credited or refunded the tax to the consumer. This person shall be provided with written notice of the setoff and informed of the right to seek administrative review of the setoff pursuant to K.S.A. 79-3226, and amendments thereto.

(2) If the department determines, upon review of a tax return, that there has been an overpayment of tax for the taxable period to which the return relates, either of the following actions may be taken by the department:

(A) Crediting the overpayment amount to the taxpayer without requiring the taxpayer to file a refund claim; or

(B) setting off the overpayment in accordance with subsection (c).

(e) Audits.

(1) If an audit by the department discovers that both underpayments and overpayments of a tax have been made in different reporting periods, the tax overpayments shall be credited against the tax underpayments if the taxpayer submits an affidavit that meets the requirements of paragraph (e)(2).

(2) To be entitled to the provision specified in paragraph (e)(1), the taxpayer shall provide the department with an affidavit signed by the taxpayer's owner, partner, or corporate officer that attests that the taxpayer has not claimed a duplicate refund or taken a credit on a return and will not claim a duplicate refund or credit for those taxes in the future. A retailer shall not be allowed to utilize the provisions of this subsection or any other setoff provisions for taxes that the taxpayer collected from its customers and has not credited or refunded to the customer.

(3) Once an audit engagement letter is issued by the department to a taxpayer, the taxpayer shall submit all refund claims for any tax overpayment that is alleged to have occurred during the audit period to the department to be considered as part of the audit review.

(f) Audits based on sampling.

(1) After a business pays a liability or accepts a refund that was determined under an audit assessment that applied a sampling technique to an established population, the population that served as the base for the sampling portion of the assessment shall be closed to all additional assessments and refunds.

(2) Refund applications based on sampling techniques shall not be allowed.

(g) Erroneous refunds. If the department erroneously refunds or credits any sales or compensating tax to a retailer or consumer, a notice of tax assessment for the erroneous refund or credit may be issued by the department in either of the following periods:

(1) Within three years from the date the refund was made; or

(2) if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact, within two years from the date of discovery of the fraud or misrepresentation.

The amount of the assessment shall be limited to the amount of the erroneous refund including interest, unless fraud is involved. (Authorized by K.S.A. 2004 Supp. 75-5155 and K.S.A. 2004 Supp. 79-3618; implementing K.S.A. 2004 Supp. 79-3233j, K.S.A. 2004 Supp. 79-3607, K.S.A. 2004 Supp. 79-3609, and K.S.A. 2004 Supp. 79-3650; effective May 27, 2005.)

92-19-81. Abatement of final tax liabilities. The requirements and procedures for abatement of final sales and compensating tax liabilities shall be those requirements and procedures specified in K.A.R. 92-19-66a. (Authorized by and implementing K.S.A. 2004 Supp. 75-5155 and K.S.A. 2004 Supp. 79-3618; effective Dec. 13, 2002; amended May 27, 2005.)

Joan Wagon
Secretary of Revenue

Doc. No. 031947

State of Kansas

Social and Rehabilitation Services

Permanent Administrative Regulations

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

30-5-64. Prior authorization. (a) Any medical service may be placed by the secretary on the published list of services requiring prior authorization or precertification for any of the following reasons:

(1) To ensure that provision of the service is medically necessary;

(2) to ensure that services that may be subject to overuse are monitored for appropriateness in each case; and

(3) to ensure that services are delivered in a cost-effective manner.

(b) Administration of covered pharmaceuticals in the following classes shall require prior authorization. A cross-reference of generic and brand names shall be made available upon request:

(1) Ace inhibitors:

(A) Fosinopril;

(B) moexipril;

(C) perindopril;

(D) quinapril;

(E) ramipril; and

(F) trandolopril;

(2) acne and skin lesion products:

- (A) Tretinoin; and
 (B) alitretinoin;
 (3) angiotensin II receptor antagonists:
 (A) Candesartan;
 (B) cardesartan-HCTZ;
 (C) eprosartan;
 (D) eprosartan-HCTZ;
 (E) olmesartan; and
 (F) olmesartan-HCTZ;
 (4) anticholinergic urinary incontinence drugs:
 (A) Flavoxate;
 (B) oxybutynin XL;
 (C) tolterodine;
 (D) oxybutynin patches; and
 (E) trospium chloride;
 (5) antipsoriatics: alefacept;
 (6) antiretroviral drugs: enfuvirtide;
 (7) antirheumatics:
 (A) Leflunomide;
 (B) infliximab;
 (C) anakinra;
 (D) adalimumab; and
 (E) etanercept;
 (8) cervical dystonias: botulinum toxins A and B;
 (9) drugs for the treatment of osteoporosis: teripar-
 tide;
 (10) antituberculosis products:
 (A) Aminosalicylate sodium;
 (B) capreomycin;
 (C) ethambutol;
 (D) ethionamide;
 (E) isoniazid;
 (F) pyrazinamide; and
 (G) rifampin and rifampin-isoniazid combinations;
 (11) all decubitus and wound care products;
 (12) all intravenous and oral dietary and nutritional
 products, including the following:
 (A) Amino acids, injectable;
 (B) l-cysteine;
 (C) lipids, injectable; and
 (D) sodium phenylbutyrate;
 (13) beta-blockers:
 (A) Betaxolol;
 (B) bisoprolol;
 (C) carteolol;
 (D) nadolol;
 (E) penbutolol;
 (F) timolol; and
 (G) propranolol XL;
 (14) calcium channel blockers:
 (A) Diltiazem extended release, with the following
 brand names:
 (i) Cardizem SR®;
 (ii) Cardizem CD®;
 (iii) Cartia XT®;
 (iv) Dilacor XR®;
 (v) Taztia XT®; and
 (vi) Cardizem LA®;
 (B) verapamil sustained release, with the following
 brand names:
 (i) Covera HS®; and
 (ii) Verelan PM®;
 (C) nifedipine sustained release, with the following
 brand names:
 (i) Nifedical XL®; and
 (ii) Procardia XL® and all generic equivalents;
 (D) nimodipine;
 (E) nisoldipine;
 (F) felodipine;
 (G) isradipine;
 (H) nicardipine SR; and
 (I) nifedipine immediate release, with the following
 brand names:
 (i) Adalat® and all generic equivalents; and
 (ii) Procardia® and all generic equivalents;
 (15) all cyclooxygenase 2 (cox 2) inhibitors:
 (A) Celecoxib; and
 (B) valdecoxib;
 (16) all growth hormones and growth hormone stim-
 ulating factor, including the following:
 (A) Somatrem;
 (B) somatropin; and
 (C) sermorelin;
 (17) modafinil;
 (18) intranasal corticosteroids:
 (A) Budesonide;
 (B) Bausch & Lomb's flunisolide;
 (C) beclomethasone; and
 (D) triamcinolone;
 (19) inhaled corticosteroids:
 (A) Flunisolide-menthol;
 (B) beclomethasone;
 (C) QVAR®;
 (D) triamcinolone;
 (E) budesonide inhalation powder;
 (F) budesonide inhaled suspension;
 (20) proton pump inhibitors:
 (A) Omeprazole;
 (B) pantoprazole; and
 (C) rabeprazole;
 (21) drugs for the treatment of impotence: alprostadil;
 (22) monoclonal antibody for respiratory syncytial vi-
 rus (RSV), including palivizumab;
 (23) muscle relaxants:
 (A) Tizanidine;
 (B) orphenadrine;
 (C) methocarbamol;
 (D) carisprodol;
 (E) carisprodol compound;
 (F) cyclobenzaprine (5 mg); and
 (G) metaxolone;
 (24) nonsteroidal, anti-inflammatory drugs:
 (A) Meloxicam;
 (B) diclofenac-misoprostol;
 (C) indomethacin;
 (D) nabumetone; and
 (E) piroxicam;
 (25) drugs for the treatment of obesity:
 (A) Orlistat; and
 (B) sibutramine;
 (26) oxazolidinones, including linezolid;
 (27) HMG-CoA reductase inhibitors:
 (A) Pravastatin;

(continued)

- (B) fluvastatin;
 (C) lovastatin; and
 (D) rosuvastatin;
 (28) nonsedating antihistamines:
 (A) Desloratidine;
 (B) fexofenadine; and
 (C) cetirizine;
 (29) H₂ antagonists: nizatidine;
 (30) triptans:
 (A) Naratriptan;
 (B) zolmitriptan;
 (C) frovatriptan; and
 (D) eletriptan HBr;
 (31) oral antidiabetic drugs:
 (A) Amaryl®;
 (B) Glucotrol XL®;
 (C) Prandin®;
 (D) Precose®;
 (E) Glucophage XR®;
 (F) Glucovance®; and
 (G) Metaglip®;
 (32) all 3.0 ml syringes and 3.0 ml cartridges of insulin, including the following:
 (A) Humalog®;
 (B) Humalog Mix®;
 (C) Novolog®; and
 (D) Novolog Mix®;
 (33) serotonin 5-HT₃ receptor antagonist antiemetics:
 (A) Kytril®; and
 (B) Anzemet®;
 (34) influenza vaccines: Flumist®;
 (35) the following drugs if specifically required by the physician, which shall require prior authorization to override maximum allowable cost (MAC) or federal upper limit (FUL) pricing:
 (A) Clozaril;
 (B) depakene;
 (C) tegretol; and
 (D) coumadin; and
 (36) monoclonal antibody for asthma: omalizumab.
 (c) Failure to obtain prior authorization, if required, shall negate reimbursement for the service and any other service resulting from the unauthorized or noncertified treatment. The prior authorization shall affect reimbursement to all providers associated with the service.
 (d) The only exceptions to prior authorization shall be the following:
 (1) Emergencies. If certain surgeries and procedures that require prior authorization are performed in an emergency situation, the request for authorization shall be made within two working days after the service is provided.
 (2) Situations in which services requiring prior authorization are provided and retroactive eligibility is later established. When an emergency occurs or when retroactive eligibility is established, prior authorization for that service shall be waived, and if medical necessity is documented, payment shall be made.
 (e) Services requiring prior authorization shall be considered covered services within the scope of the program unless the request for prior authorization is denied. (Authorized by K.S.A. 39-708c(b) and K.S.A. 2004 Supp.

39-7,120; implementing K.S.A. 2004 Supp. 39-7,120 and 39-7,121a; effective May 1, 1981; amended May 1, 1983; amended May 1, 1986; amended May 1, 1992; amended July 1, 1994; amended March 1, 1995; amended March 1, 1996; amended July 1, 1996; amended July 1, 1997; amended Jan. 1, 1999; amended April 1, 2000; amended Oct. 1, 2000; amended Oct. 1, 2001; amended Dec. 6, 2002; amended Feb. 21, 2003; amended May 9, 2003; amended July 11, 2003; amended Aug. 8, 2003; amended Nov. 14, 2003; amended Dec. 29, 2003; amended May 28, 2004; amended Oct. 29, 2004; amended Jan. 7, 2005; amended April 1, 2005; amended May 27, 2005.)

Gary J. Daniels
 Acting Secretary of Social
 and Rehabilitation Services

Doc. No. 031963

State of Kansas

Secretary of State

Certification of New State Laws

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

Ron Thornburgh
 Secretary of State

(Published in the Kansas Register May 12, 2005.)

HOUSE BILL No. 2109

AN ACT concerning motor vehicles; relating to the child passenger safety act and the safety belt use act; amending K.S.A. 8-1343a and 8-2502 and repealing the existing sections.

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

Section 1. K.S.A. 8-1343a is hereby amended to read as follows: 8-1343a. As used in K.S.A. 8-1343 through 8-1347, and amendments thereto, "passenger car" means a motor vehicle, *manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts*, with motive power designed for carrying 10 passengers or fewer, including vans, but does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis registered for a gross weight of more than 12,000 pounds or a farm truck registered for a gross weight of more than 16,000 pounds.

Sec. 2. K.S.A. 8-2502 is hereby amended to read as follows: 8-2502. As used in this act, "passenger car" means a motor vehicle, *manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts*, with motive power designed for carrying 10 passengers or fewer, including vans, but does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis registered for a gross weight of more than 12,000 pounds or a farm truck registered for a gross weight of more than 16,000 pounds or a vehicle constructed with special features for occasional off-road operation.

Sec. 3. K.S.A. 8-1343a and 8-2502 are hereby repealed.

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

(Published in the Kansas Register May 12, 2005.)

HOUSE BILL No. 2116

AN ACT concerning wildlife and parks; concerning the disposition of certain federal moneys.

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

Section 1. All federal moneys received pursuant to federal assistance, federal-aid funds or federal-aid grant reimbursements related to boating or boating programs under the control, authorities and duties of the department of wildlife and parks shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the boating fund-federal, which is hereby created, to be dedicated and used for the purposes authorized in K.S.A. 32-1173, and amendments thereto.

Sec. 2. (a) All federal moneys received pursuant to federal assistance, federal-aid funds and federal-aid grant reimbursements related to the wildlife conservation fund under the control, authorities and duties of the department of wildlife and parks, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the wildlife conservation fund-federal, which is hereby created.

(b) No moneys derived from sources described in subsection (a) or (c) shall be used for any purpose other than the administration of matters which relate to purposes authorized in K.S.A. 32-992, and amendments thereto, and which are under the control, authorities and duties of the secretary of wildlife and parks and the department of wildlife and parks as provided by law.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the wildlife conservation fund-federal interest earnings based on:

(1) The average daily balance of moneys in the wildlife conservation fund-federal, for the preceding month; and

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

(d) All expenditures from the wildlife conservation fund-federal, shall be made in accordance with the appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife and parks.

Sec. 3. (a) All federal moneys received pursuant to federal assistance, federal-aid funds and federal-aid grant reimbursements related to the wildlife fee fund, under the control, authorities and duties of the department of wildlife and parks shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the wildlife fund-federal, which is hereby created.

(b) No moneys derived from sources described in subsection (a) or (c) shall be used for any purpose other than the administration of matters which relate to purposes authorized under K.S.A. 32-990, and amendments thereto, and which are under the control, authorities and duties of the secretary of wildlife and parks and the department of wildlife and parks as provided by law.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the wildlife fee fund - federal interest earnings based on:

(1) The average daily balance of moneys in the wildlife fund-federal, for the preceding month; and

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

(d) All expenditures from the wildlife fund-federal, shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife and parks.

Sec. 4. (a) All federal moneys received pursuant to federal assistance, federal-aid funds and federal-aid grant reimbursements related to the nongame wildlife improvement fund under the control, authorities and duties of the department of wildlife and parks, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the nongame wildlife improvement fund-federal, which is hereby created.

(b) No moneys derived from sources described in subsection (a) shall be used for any purpose other than the administration of matters which relate to purposes authorized under K.S.A. 79-3221e, and amendments thereto, and which are under the control, authorities and duties of the secretary of wildlife and parks and the department of wildlife and parks as provided by law.

(c) All expenditures from the nongame wildlife improvement fund-federal, shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife and parks.

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 May 12, 2005.)

HOUSE BILL No. 2537

AN ACT reconciling amendments to certain statutes; amending K.S.A. 2004 Supp. 19-101a, 44-661, 44-820, 65-5703, 74-2622, 74-32,151, 8-135, as amended by section 1 of 2005 Senate Bill No. 23, 12-187, as amended by section 1 of 2005 Senate Bill No. 58, 12-189, as amended by section 2 of 2005 Senate Bill No. 58, 12-189, as amended by section 3 of this act; 12-192, as amended by section 3 of 2005 Senate Bill No. 58, K.S.A. 12-520, as amended by section 11 of 2005 House Bill No. 2083, K.S.A. 2004 Supp. 12-1770a, as amended by section 1 of 2005 Senate Substitute for House Bill No. 2144, 21-4619, as amended by section 2 of 2005 House Bill No. 2128, 21-4619, as amended by section 9 of this act, K.S.A. 40-3641, as amended by section 5 of 2005 House Bill No. 2326, K.S.A. 2004 Supp. 44-706, as amended by section 5 of 2005 Senate Bill No. 108, 60-1103b, as amended by section 15 of 2005 Senate Bill No. 258, 65-5603, as amended by section 1 of 2005 House Bill No. 2130, 74-50,115, as amended by section 1 of 2005 House Bill No. 2102 and 79-32,117, as amended by section 10 of 2005 House Bill No. 2222, and repealing the existing sections; also repealing K.S.A. 2004 Supp. 19-101k, 44-661a, 44-820a, 65-688a, 65-5703a, 74-567a, 74-2622a, 74-32,151a, 74-4911h, 82a-714a, 8-135, as amended by section 1 of 2005 House Bill No. 2124, 12-187, as amended by section 1 of 2005 Senate Bill No. 105, 12-187, as amended by section 1 of 2005 Senate Bill No. 295, 12-189, as amended by section 1 of 2005 Senate Bill No. 13, 12-189, as amended by section 2 of 2005 Senate Bill No. 295, 12-192, as amended by section 3 of 2005 Senate Bill No. 295, 12-520, as amended by section 1 of 2005 House Substitute for Senate Bill No. 24, 12-1770a, as amended by section 1 of 2005 House Bill No. 2140, K.S.A. 2003 Supp. 21-4619, as amended by section 59 of chapter 154 of the 2004 Session Laws of Kansas, K.S.A. 2004 Supp. 21-4619, as amended by section 1 of 2005 House Bill No. 2466, K.S.A. 40-3641, as amended by section 3 of 2005 House Bill No. 2325, K.S.A. 2004 Supp. 44-706, as amended by section 1 of 2005 House Bill No. 2157, 60-1103b, as amended by section 2 of 2005 Senate Bill No. 112, 65-5603, as amended by section 2 of 2005 Senate Bill No. 116, 74-50,115, as amended by section 1 of 2005 House Bill No. 2164 and 79-32,117, as amended by section 1 of 2005 Senate Bill No. 256.

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

Section 1. On and after July 1, 2005, K.S.A. 2004 Supp. 8-135, as amended by section 1 of 2005 Senate Bill No. 23, is hereby amended to read as follows: 8-135. (a) Upon the transfer of ownership of any vehicle registered under this act, the registration of the vehicle and the right to use any license plate thereon shall expire and thereafter there shall be no transfer of any registration, and the license plate shall be removed by the owner thereof. Except as provided in K.S.A. 8-172, and amendments thereto, and 8-1,147, and

(continued)

amendments thereto, it shall be unlawful for any person, other than the person to whom the license plate was originally issued, to have possession thereof. When the ownership of a registered vehicle is transferred, the original owner of the license plate may register another vehicle under the same number, upon application and payment of a fee of \$1.50, if such other vehicle does not require a higher license fee. If a higher license fee is required, then the transfer may be made upon the payment of the transfer fee of \$1.50 and the difference between the fee originally paid and that due for the new vehicle.

(b) Subject to the provisions of subsection (a) of K.S.A. 8-198, and amendments thereto, upon the transfer or sale of any vehicle by any person or dealer, or upon any transfer in accordance with K.S.A. 2004 Supp. 59-3511, and amendments thereto, the new owner thereof, within 30 days, inclusive of weekends and holidays, from date of such transfer shall make application to the division for registration or reregistration of the vehicle, but no person shall operate the vehicle on any highway in this state during the thirty-day period without having applied for and obtained temporary registration from the county treasurer or from a dealer. After the expiration of the thirty-day period, it shall be unlawful for the owner or any other person to operate such vehicle upon the highways of this state unless the vehicle has been registered as provided in this act. For failure to make application for registration as provided in this section, a penalty of \$2 shall be added to other fees. When a person has a current motorcycle or passenger vehicle registration and license plate, including any registration decal affixed thereto, for a vehicle and has sold or otherwise disposed of the vehicle and has acquired another motorcycle or passenger vehicle and intends to transfer the registration and the license plate to the motorcycle or passenger vehicle acquired, but has not yet had the registration transferred in the office of the county treasurer, such person may operate the motorcycle or passenger vehicle acquired for a period of not to exceed 30 days by displaying the license plate on the rear of the vehicle acquired. If the acquired vehicle is a new vehicle such person also must carry the assigned certificate of title or manufacturer's statement of origin when operating the acquired vehicle, except that a dealer may operate such vehicle by displaying such dealer's dealer license plate.

(c) Certificate of title: No vehicle required to be registered shall be registered or any license plate or registration decal issued therefor, unless the applicant for registration shall present satisfactory evidence of ownership and apply for an original certificate of title for such vehicle. The following paragraphs of this subsection shall apply to the issuance of a certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt salvage vehicle, as defined in K.S.A. 8-197, and amendments thereto, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 8-198, and amendments thereto, and to any electronic certificate of title, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 2004 Supp. 8-135d, and amendments thereto, or with rules and regulations adopted pursuant to K.S.A. 2004 Supp. 8-135d, and amendments thereto.

The provisions of paragraphs (1) through (14) shall apply to any certificate of title issued prior to January 1, 2003, which indicates that there is a lien or encumbrance on such vehicle.

(1) An application for certificate of title shall be made by the owner or the owner's agent upon a form furnished by the division and shall state all liens or encumbrances thereon, and such other information as the division may require. Notwithstanding any other provision of this section, no certificate of title shall be issued for a vehicle having any unreleased lien or encumbrance thereon, unless the transfer of such vehicle has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the division. In the case of members of the armed forces of the United States while the United States is engaged at war with any foreign nation and for a period of six months next following the cessation of hostilities, such application may be signed by the owner's spouse, parents, brother or sister. The county treasurer shall use

reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of such vehicle, or otherwise entitled to have the same registered in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title. The certificate of title shall be in a form approved by the division, and shall contain a statement of any liens or encumbrances which the application shows, and such other information as the division determines.

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. This assignment shall contain a statement of all liens or encumbrances on the vehicle at the time of assignment. The certificate of title shall also contain on the reverse side blank spaces so that an abstract of mileage as to each owner will be available. The seller at the time of each sale shall insert and certify the mileage and the purchase price on the form filed for application or reassignment of title, and the division shall insert such mileage on the certificate of title when issued to purchaser or assignee. The signature of the purchaser or assignee is required on the form filed for application or reassignment of title, acknowledging the odometer and purchase price certification made by the seller, except that vehicles which are 10 model years or older and trucks with a gross vehicle weight of more than 16,000 pounds shall be exempt from the mileage acknowledgment requirement of the purchaser or assignee. Such title shall indicate whether the vehicle for which it is issued has been titled previously as a non-highway vehicle or salvage vehicle. In addition, the reverse side shall contain two forms for reassignment by a dealer, stating the liens or encumbrances thereon. The first form of reassignment shall be used only when a dealer sells the vehicle to another dealer. The second form of reassignment shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle. The reassignment by a dealer shall be used only where the dealer resells the vehicle, and during the time that the vehicle remains in the dealer's possession for resale, the certificate of title shall be dormant. When the ownership of any vehicle passes by operation of law, or repossession upon default of a lease, security agreement, or executory sales contract, the person owning such vehicle, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the vehicle. When a vehicle is registered in another state and is repossessed in another state, the owner of such vehicle shall not be entitled to obtain a valid Kansas title or registration, except that when a vehicle is registered in another state, but is financed originally by a financial institution chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration. In addition to any other fee required for the issuance of a certificate of title, any applicant obtaining a certificate of title for a repossessed vehicle shall pay a fee of \$3.

(3) Dealers shall execute, upon delivery to the purchaser of every new vehicle, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the division. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the division. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new vehicle, sold in this state, a certificate of title shall be issued if there is also an application for registration, except that no application for registration shall be re-

quired for a travel trailer used for living quarters and not operated on the highways.

(4) The fee for each original certificate of title shall be \$10 in addition to the fee for registration of such vehicle, trailer or semitrailer. The certificate of title shall be good for the life of the vehicle, trailer or semitrailer while owned or held by the original holder of the certificate of title.

(5) *Except for a vehicle registered by a federally recognized Indian tribe, as provided in paragraph (16)*, upon sale and delivery to the purchaser of every vehicle subject to a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and when so completed, the purchaser shall execute the notice, in a form prescribed by the division, describing the vehicle and showing the name and address of the secured party and of the debtor and other information the division requires. The dealer or secured party, within 20 days of the sale and delivery, may mail or deliver the notice of security interest, together with a fee of \$2.50, to the division. The notice of security interest shall be retained by the division until it receives an application for a certificate of title to the vehicle and a certificate of title is issued. The certificate of title shall indicate any security interest in the vehicle. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the vehicle described on the date of such mailing or delivery. The county treasurers shall mail a copy of the title application to the Kansas lienholder. Each county treasurer shall charge the Kansas lienholder a \$1.50 service fee for processing and mailing a copy of the title application to the Kansas lienholder.

(6) It shall be unlawful for any person to operate in this state a vehicle required to be registered under this act, or to transfer the title to any such vehicle to any person or dealer, unless a certificate of title has been issued as herein provided. In the event of a sale or transfer of ownership of a vehicle for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the vehicle, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the division and printed thereon and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery. The agreement of the parties shall be executed on a form provided by the division. The requirements of this paragraph concerning delivery of an assigned title are satisfied if the transferor mails to the transferee by restricted mail the assigned certificate of title within the 30 days, and if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title if the transferor has made application therefor to the division. The buyer shall then present such assigned certificate of title to the division at the time of making application for registration of such vehicle. A new certificate of title shall be issued to the buyer, upon payment of the fee of \$10. If such vehicle is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. When a person acquires a security agreement on a vehicle subsequent to the issuance of the original title on such vehicle, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in form prescribed by the division. Upon such surrender such person shall immediately deliver the certificate of title, application, and a fee of \$10 to the division. Upon receipt thereof, the division shall issue a new certificate of title show-

ing the liens or encumbrances so created, but not more than two liens or encumbrances may be shown upon a title. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder within 10 days after written demand by restricted mail, shall furnish to the holder of the title a release of lien or execute such a release in the space provided on the title. For failure to comply with such a demand the lienholder shall be liable to the holder of the title for \$100 and also shall be liable for any loss caused to the holder by such failure. When the indebtedness to a lienholder, whose name is shown upon a title, is collected in full, such lienholder, within 30 days, shall furnish notice to the holder of title that such indebtedness has been paid in full and that such title may be presented to the lienholder at any time for release of lien.

(7) It shall be unlawful for any person to buy or sell in this state any vehicle required to be registered, unless, at the time of delivery thereof or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery, there shall pass between the parties a certificate of title with an assignment thereof. The sale of a vehicle required to be registered under the laws of this state, without assignment of the certificate of title, is fraudulent and void, unless the parties shall agree that the certificate of title with assignment thereof shall pass between them at a time other than the time of delivery, but within 30 days thereof. The requirements of this paragraph concerning delivery of an assigned title shall be satisfied if (A) the seller mails to the purchaser by restricted mail the assigned certificate of title within 30 days, or (B) if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such seller shall be deemed to have possession of the certificate of title if such seller has made application therefor to the division, or (C) if the transferor is a dealer and has assigned a title pursuant to paragraph (9) of this subsection (c).

(8) In cases of sales under the order of a court of a vehicle required to be registered under this act, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such motor vehicle and for registering the same. Any such purchaser shall be allowed 30 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title and for the registering of such motor vehicle.

(9) Any dealer who has acquired a vehicle, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to obtain a Kansas certificate of title therefor during the time such vehicle remains in such dealer's possession and at such dealer's place of business for the purpose of sale. The purchaser or transferee shall present the assigned title to the division of vehicles when making application for a certificate of title as provided in subsection (c)(1).

(10) Motor vehicles may be held and titled in transfer-on-death form.

(11) Notwithstanding the provisions of this act with respect to time requirements for delivery of a certificate of title, or manufacturer's statement of origin, as applicable, any person who chooses to reaffirm the sale in writing on a form approved by the division which advises them of their rights pursuant to paragraph (7) of subsection (c) and who has received and accepted assignment of the certificate of title or manufacturer's statement of origin for the vehicle in issue may not thereafter void or set aside the transaction with respect to the vehicle for the reason that a certificate of title or manufacturer's statement of origin was not timely delivered, and in such instances the sale of a vehicle shall not be deemed to be fraudulent and void for that reason alone.

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(12) The owner of any vehicle assigning a certificate of title in accordance with the provisions of this section may file with the division a form indicating that such owner has assigned such certificate of title. Such forms shall be furnished by the division and shall contain such information as the division may require. Any owner filing a form as provided in this paragraph shall pay a fee of \$10. The filing of such form shall be prima facie evidence that such certificate of title was assigned and shall create a rebuttable presumption. If the assignee of a certificate of title fails to make application for registration, an owner assigning such title and filing the form in accordance with the provisions of this paragraph shall not be held liable for damages resulting from the operation of such vehicle.

(13) Application for a certificate of title on a boat trailer with a gross weight over 2,000 pounds shall be made by the owner or the owner's agent upon a form to be furnished by the division and shall contain such information as the division shall determine necessary. The division may waive any information requested on the form if it is not available. The application together with a bill of sale for the boat trailer shall be accepted as prima facie evidence that the applicant is the owner of the boat trailer, provided that a Kansas title for such trailer has not previously been issued. If the application and bill of sale are used to obtain a certificate of title for a boat trailer under this paragraph, the certificate of title shall not be issued until an inspection in accordance with subsection (a) of K.S.A. 8-116a, and amendments thereto, has been completed.

(14) In addition to the two forms for reassignment under paragraph (2) of subsection (c), a dealer may attach one additional reassignment form to a certificate of title. The director of vehicles shall prescribe and furnish such reassignment forms. The reassignment form shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle only when the two reassignment forms under paragraph (2) of subsection (c) have already been used. The fee for a reassignment form shall be \$6.50. A dealer may purchase reassignment forms in multiples of five upon making proper application and the payment of required fees.

(15) A first stage manufacturer, as defined in K.S.A. 8-2401, and amendments thereto, who manufactures a motor vehicle in this state, and who sells such motor vehicles to dealers located in a foreign country, may execute a manufacturers statement of origin to the division of vehicles for the purpose of obtaining an export certificate of title. The motor vehicle issued an export certificate of title shall not be required to be registered in this state. An export certificate of title shall not be used to register such vehicle in the United States.

(16) *A security interest in a vehicle registered by a federally recognized Indian tribe shall be deemed valid under Kansas law if validly perfected under the applicable tribal law and the lien is noted on the face of the tribal certificate of title.*

Sec. 2. K.S.A. 2004 Supp. 12-187, as amended by section 1 of 2005 Senate Bill No. 58, is hereby amended to read as follows: 12-187. (a) (1) No city shall impose a retailers' sales tax under the provisions of this act without the governing body of such city having first submitted such proposition to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. The governing body of any city may submit the question of imposing a retailers' sales tax and the governing body shall be required to submit the question upon submission of a petition signed by electors of such city equal in number to not less than 10% of the electors of such city.

(2) The governing body of any class B city located in any county which does not impose a countywide retailers' sales tax pursuant to paragraph (5) of subsection (b) may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include

but not be limited to the following: Local health departments, city, county or district hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home health care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(b) (1) The board of county commissioners of any county may submit the question of imposing a countywide retailers' sales tax to the electors at an election called and held thereon, and any such board shall be required to submit the question upon submission of a petition signed by electors of such county equal in number to not less than 10% of the electors of such county who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than $\frac{2}{3}$ of the membership of the governing body of each of one or more cities within such county which contains a population of not less than 25% of the entire population of the county, or upon receiving resolutions requesting such an election passed by $\frac{2}{3}$ of the membership of the governing body of each of one or more taxing subdivisions within such county which levy not less than 25% of the property taxes levied by all taxing subdivisions within the county.

(2) The board of county commissioners of Anderson, Atchison, Barton, Butler, Chase, Cowley, Cherokee, Crawford, Ford, Jefferson, Lyon, Montgomery, Neosho, Osage, Ottawa, Riley, Saline, Seward, Sumner, Wabaunsee, Wilson and Wyandotte counties may submit the question of imposing a countywide retailers' sales tax and pledging the revenue received therefrom for the purpose of financing the construction or remodeling of a courthouse, jail, law enforcement center facility or other county administrative facility, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire when sales tax sufficient to pay all of the costs incurred in the financing of such facility has been collected by retailers as determined by the secretary of revenue. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Butler, Chase, Cowley, Lyon, Montgomery, Neosho, Riley, Sumner or Wilson county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189, and amendments thereto.

(3) (A) Except as otherwise provided in this paragraph, the result of the election held on November 8, 1988, on the question submitted by the board of county commissioners of Jackson county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the Banner Creek reservoir project. The tax imposed pursuant to this paragraph shall take effect on the effective date of this act and shall expire not later than five years after such date.

(B) The result of the election held on November 8, 1994, on the question submitted by the board of county commissioners of Ottawa county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the erection, construction and furnishing of a law enforcement center and jail facility.

(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 fi-

ancing 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 result of the election held on November 2, 2004, on the question submitted by the board of county commissioners of Miami county for the purpose of extending for an additional five-year period the countywide retailers' sales tax imposed pursuant to this subsection in Miami county is hereby declared valid.* The countywide retailers' sales tax imposed pursuant to this subsection in Clay and Miami county may be extended or reenacted for additional five-year periods upon the board of county commissioners of Clay and Miami 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.

(14) *The board of county commissioners of Neosho 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 roadway construction and improvement 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 pursuant to this paragraph in the financing of such project.*

(continued)

(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. 3. K.S.A. 2004 Supp. 12-189, as amended by section 2 of 2005 Senate Bill No. 58, 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 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%;

(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%; or

(l) the board of county commissioners of Neosho county, for the purposes of paragraph (14) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.0% or 1.5%.

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 revenue 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. 4. On and after July 1, 2005, K.S.A. 2004 Supp. 12-189, as amended by section 3 of this act, 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 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%;

(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%;

(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%; or

(l) the board of county commissioners of Neosho county, for the purposes of paragraph (14) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.0% or 1.5%.

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 nec-

(continued)

essary 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 revenue 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 or *finance officer* of any city or county levying a local retailers' sales tax, monthly reports identifying each retailer ~~having a place of doing business in such city or county or making taxable sales sourced to 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 and such retailer's sales or use tax registration or account number~~. Such report shall be made available to the clerk or treasurer or *finance officer* 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~~ A misdemeanor, and such officer or employee shall be dismissed from office. *Reports of violations of this paragraph shall be investigated by the attorney general. The district attorney or county attorney and the attorney general shall have authority to prosecute violations of this paragraph.*

Sec. 5. K.S.A. 2004 Supp. 12-192, as amended by section 3 of 2005 Senate Bill No. 58, 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) or (14) 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. 6. On and after July 1, 2005, K.S.A. 12-520, as amended by section 11 of 2005 House Bill No. 2083, is hereby amended to read as follows: 12-520. (a) Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:

(1) The land is platted, and some part of the land adjoins the city.

(2) The land is owned by or held in trust for the city or any agency thereof.

(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city, except that no city may annex land owned by a county which has primary use as a county-owned and operated airport, or other aviation related activity or which has primary use as a county owned and operated zoological facility, recreation park or exhibition and sports facility without the express permission of the board of county commissioners of the county.

(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.

(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.

(6) The tract is so situated that $\frac{2}{3}$ of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

(b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.

(c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A. 19-2753 et seq., and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.

(d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.

(e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority

of this section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding. The board of county commissioners may notify the city of the existence of any highway which has not become part of the city by annexation and which has a common boundary with the city. The notification shall include a legal description and a map identifying the location of the highway. The governing body of the city shall certify by ordinance that the certification is correct and declare the highway, or portion of the highway extending to the center line where another city boundary line abuts the opposing side of the highway, annexed to the city as of the date of the publication of the ordinance.

(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

~~(h) Any owner of land annexed by a city under the authority of this section, within 30 days next following the publication of the ordinance annexing the land, may maintain an action in the district court of the county in which the land is located challenging the authority of the city to annex the land and the regularity of the proceedings had in connection therewith.~~

Sec. 7. On and after July 1, 2005, K.S.A. 2004 Supp. 12-1770a, as amended by section 1 of 2005 Senate Substitute for House Bill No. 2144, is hereby amended to read as follows: 12-1770a. As used in this act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

(a) "Auto race track facility" means: (1) An auto race track facility and facilities directly related and necessary to the operation of an auto race track facility, including, but not limited to, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding (2) hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility.

(b) "Base year assessed valuation" means the assessed valuation of all real property within the boundaries of a redevelopment district on the date the redevelopment district was established.

(c) "Blighted area" means an area which:

(1) Because of the presence of a majority of the following factors, substantially impairs or arrests the development and growth of the municipality or constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use:

(A) A substantial number of deteriorated or deteriorating structures;

(B) predominance of defective or inadequate street layout;

(C) unsanitary or unsafe conditions;

(D) deterioration of site improvements;

(E) tax or special assessment delinquency exceeding the fair market value of the real property;

(F) defective or unusual conditions of title including but not limited to cloudy or defective titles, multiple or unknown ownership interests to the property;

(G) improper subdivision or obsolete platting or land uses;

(H) the existence of conditions which endanger life or property by fire or other causes; or

(I) conditions which create economic obsolescence; or

(continued)

(2) has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation; feasibility study and remediation or other similar state or federal action; or

(3) a majority of the property is a 100-year floodplain area; or

(4) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 et seq., and amendments thereto.

(d) "Conservation area" means any improved area comprising 15% or less of the land area within the corporate limits of a city in which 50% or more of the structures in the area have an age of 35 years or more, which area is not yet blighted, but may become a blighted area due to the existence of a combination of two or more of the following factors:

- (1) Dilapidation, obsolescence or deterioration of the structures;
- (2) illegal use of individual structures;
- (3) the presence of structures below minimum code standards;
- (4) building abandonment;
- (5) excessive vacancies;
- (6) overcrowding of structures and community facilities; or
- (7) inadequate utilities and infrastructure.

(e) "De minimus" means an amount less than 15% of the land area within a redevelopment district.

(f) "Developer" means any person, firm, corporation, partnership or limited liability company, other than a city and other than an agency, political subdivision or instrumentality of the state or a county when relating to a bioscience development district.

(g) "Eligible area" means a blighted area, conservation area, enterprise zone, historic theater, major tourism area or a major commercial entertainment and tourism area or bioscience development area as determined by the secretary.

(h) "Enterprise zone" means an area within a city that was designated as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107 through 12-17,113, and amendments thereto, prior to its repeal and the conservation, development or redevelopment of the area is necessary to promote the general and economic welfare of such city.

(i) "Environmental increment" means the increment determined pursuant to subsection (b) of K.S.A. 12-1771a, and amendments thereto.

(j) "Environmentally contaminated area" means an area of land having contaminated groundwater or soil which is deemed environmentally contaminated by the department of health and environment or the United States environmental protection agency.

(k) (1) "Feasibility study" means:

(A) A study which shows whether a redevelopment project's, special bond project's or bioscience development project's benefits and tax increment revenue and other available revenues under subsection (a)(1) of K.S.A. 12-1774, and amendments thereto, are expected to exceed or be sufficient to pay for the redevelopment, special bond or bioscience development project costs; and

(B) the effect, if any, the redevelopment project costs, special bond project or bioscience development project will have on any outstanding special obligation bonds payable from the revenues described in subsections(a)(1)(D) and (a)(1)(G) of K.S.A. 12-1774, and amendments thereto.

(2) For a redevelopment project, special bond project or bioscience project financed by bonds payable from revenues described in subsections (a)(1)(D) and (a)(1)(G) of K.S.A. 12-1774, and amendments thereto, the feasibility study must also include:

(A) A description of any project submitted under K.S.A. 12-1771d, and amendments thereto, to satisfy the requirements of paragraph (i) of this section;

(B) a statement of how the jobs and taxes obtained from the project will contribute significantly to the economic development of the state and region;

(C) a statement concerning whether a portion of the local sales and use taxes are pledged to other uses and are unavailable as revenue for the redevelopment project. If a portion of local sales and use taxes is so committed, the applicant shall describe the following:

(i) The percentage of sales and use taxes collected that are so committed; and

(ii) the date or dates on which the local sales and use taxes pledged to other uses can be pledged for repayment of special obligation bonds;

(D) an anticipated principal and interest payment schedule on the bonds; and

(E) following approval of the redevelopment plan, the feasibility study will be supplemented to include a copy of the minutes of the governing body meeting or meetings of any city whose bonding authority will be utilized in the project, evidencing that a redevelopment plan has been created, discussed, and adopted by the city in a regularly scheduled open public meeting.

(3) For a proposed major commercial entertainment and tourism area, the feasibility study must also include:

(A) Visitation expectations;

(B) economic impact;

(C) the unique quality of the project;

(D) the ability of the project to gain sufficient market share to:

(i) Remain profitable past the term of repayment; and

(ii) maintain status as a significant factor for travel decisions;

(E) integration and collaboration with other resources or businesses;

(F) the quality of service and experience provided, as measured against national consumer standards for the specific target market;

(G) project accountability, measured according to best industry practices; and

(H) the expected return on state and local investment that the project is anticipated to produce.

(4) The failure to include all information enumerated in this subsection in the feasibility study for a redevelopment, special bond or bioscience project shall not affect the validity of bonds issued pursuant to this act.

(l) "Historic theater" means a building constructed prior to 1940 which was constructed for the purpose of staging entertainment, including motion pictures, vaudeville shows or operas, that is operated by a nonprofit corporation and is designated by the state historic preservation officer as eligible to be on the Kansas register of historic places or is a member of the Kansas historic theatre association.

(m) "Historic theater sales tax increment" means the amount of state and local sales tax revenue imposed pursuant to K.S.A. 12-187 et seq., 79-3601 et seq. and 79-3701 et seq., and amendments thereto, collected from taxpayers doing business within the historic theater that is in excess of the amount of such taxes collected prior to the designation of the building as a historic theater for purposes of this act.

(n) "Major tourism area" means an area for which the secretary has made a finding the capital improvements costing not less than \$100,000,000 will be built in the state to construct an auto race track facility.

(o) "Real property taxes" means all taxes levied on an ad valorem basis upon land and improvements thereon, except that when relating to a bioscience development district, as defined in this section, "real property taxes" does not include property taxes levied for schools, pursuant to K.S.A. 72-6431, and amendments thereto.

(p) "Redevelopment project area" means an area designated by a city within a redevelopment district.

(q) "Redevelopment project costs" means those costs necessary to implement a redevelopment project plan or a bioscience development project plan, including costs incurred for:

(1) Acquisition of property within the redevelopment project area;

(2) payment of relocation assistance pursuant to a relocation assistance plan as provided in K.S.A. 12-1777, and amendments thereto;

(3) site preparation including utility relocations;

- (4) sanitary and storm sewers and lift stations;
- (5) drainage conduits, channels, levees and river walk canal facilities;
- (6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
- (7) street light fixtures, connection and facilities;
- (8) underground gas, water, heating and electrical services and connections located within the public right-of-way;
- (9) sidewalks and pedestrian underpasses or overpasses;
- (10) drives and driveway approaches located within the public right-of-way;
- (11) water mains and extensions;
- (12) plazas and arcades;
- (13) parking facilities;
- (14) landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
- (15) related expenses to redevelop and finance the redevelopment project, except that for a redevelopment project financed with special obligation bonds payable from the revenues described in subsections (a)(1)(D) and (a)(1)(G) of K.S.A. 12-1774, and amendments thereto, such expenses shall require prior approval by the secretary of commerce.

Redevelopment project costs shall not include costs incurred in connection with the construction of buildings or other structures to be owned by or leased to a developer, however, the "redevelopment project costs" shall include costs incurred in connection with the construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility. In addition, for a redevelopment project financed with special obligation bonds payable from the revenues described in subsections (a)(1)(D) and (a)(1)(G) of K.S.A. 12-1774, and amendments thereto, redevelopment project costs shall not include:

- (1) Fees and commissions paid to real estate agents, financial advisors or any other consultants who represent the businesses considering locating in a redevelopment district;
 - (2) salaries for local government employees;
 - (3) moving expenses for employees of the businesses locating within the redevelopment district;
 - (4) property taxes for businesses that locate in the redevelopment district;
 - (5) lobbying costs; and
 - (6) a bond origination fee charged by the city pursuant to K.S.A. 12-1742, and amendments thereto.
- (r) "Redevelopment district" means the specific area declared to be an eligible area in which the city may develop one or more redevelopment projects.
- (s) "Redevelopment district plan" or "district plan" means the preliminary plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings, facilities and improvements in each that are proposed to be constructed or improved in each redevelopment project area.
- (t) "Redevelopment project" means the approved project to implement a project plan for the development of the established redevelopment district.
- (u) "Redevelopment project plan" means the plan adopted by a municipality for the development of a redevelopment project or projects which conforms with K.S.A. 12-1772, and amendments thereto, in a redevelopment district.
- (v) "Secretary" means the secretary of commerce.
- (w) "Substantial change" means, as applicable, a change wherein the proposed plan or plans differ substantially from the intended purpose for which the district plan or project plan was approved.
- (x) "Tax increment" means that amount of real property taxes collected from real property located within the redevelopment district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.
- (y) "Taxing subdivision" means the county, city, unified school district and any other taxing subdivision levying real property taxes,

the territory or jurisdiction of which includes any currently existing or subsequently created redevelopment district including a bioscience development district.

- (z) "Special bond project" means a redevelopment project with:
 - (1) At least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales revenues; or
 - (2) for areas outside of metropolitan statistical areas, as defined by the federal office of management and budget, the secretary finds:
 - (A) The project meets the requirements of subsection (g); and
 - (B) would be of regional or statewide importance. A "special bond project" shall not include a project for a gambling casino.
 - (aa) "Marketing study" means a study conducted to examine the impact of the redevelopment project or special bond project upon similar businesses in the projected market area.
 - (bb) "Projected market area" means any area within the state in which the redevelopment project or special bond project is projected to have a substantial fiscal or market impact upon businesses in such area.
 - (cc) "River walk canal facilities" means a canal and related water features located adjacent to a river which flows through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited to pedestrian walkways and promenades, landscaping and parking facilities.
 - (dd) "Commence work" means the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.
 - (ee) "Major commercial entertainment and tourism area" may include, but not be limited to, a major multi-sport athletic complex.
 - (ff) "Major multi-sport athletic complex" means an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other developments.
 - (gg) "Bioscience" means the use of compositions, methods and organisms in cellular and molecular research, development and manufacturing processes for such diverse areas as pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, plant biology, agriculture, industrial environmental and homeland security applications of bioscience and future developments in the biosciences. Bioscience includes biotechnology and life sciences.
 - (hh) "Bioscience development area" means an area that:
 - (1) Is or shall be owned, operated, or leased by, or otherwise under the control of the Kansas bioscience authority;
 - (2) is or shall be used and maintained by a bioscience company; or
 - (3) includes a bioscience facility.
 - (ii) "Bioscience development district" means the specific area, created under K.S.A. 12-1771, and amendments thereto, where one or more bioscience development projects may be undertaken.
 - (jj) "Bioscience development project" means an approved project to implement a project plan in a bioscience development district.
 - (kk) "Bioscience development project plan" means the plan adopted by the authority for a bioscience development project pursuant to K.S.A. 12-1772, and amendments thereto, in a bioscience development district.
 - (ll) "Bioscience facility" means real property and all improvements thereof used to conduct bioscience research, including, without limitation, laboratory space, incubator space, office space and any and all facilities directly related and necessary to the operation of a bioscience facility.
 - (mm) "Bioscience project area" means an area designated by the authority within a bioscience development district.

(continued)

(nn) "Biotechnology" means those fields focusing on technological developments in such area as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing, bioinformatics and future developments associated with biotechnology.

(oo) "Board" means the board of directors of the Kansas bioscience authority.

(pp) "Life sciences" means the areas of medical sciences, pharmaceutical sciences, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry, physiology and any future advances associated with life sciences.

(qq) "Revenue increase" means that amount of real property taxes collected from real property located within the bioscience development district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

(rr) "Taxpayer" means a person, corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto.

(ss) "Floodplain increment" means the increment determined pursuant to subsection (b) of K.S.A. 2004 Supp. 12-1771e, and amendments thereto.

(tt) "100-year floodplain area" means an area of land existing in a 100-year floodplain as determined by either an engineering study of a Kansas certified engineer or by the United States federal emergency management agency.

(uu) "Major motorsports complex" means a complex in Shawnee county that is utilized for the hosting of competitions involving motor vehicles, including, but not limited to, automobiles, motorcycles or other self-propelled vehicles other than a motorized bicycle or motorized wheelchair. Such project may include racetracks, all facilities directly related and necessary to the operation of a motorsports complex, including, but not limited to, parking lots, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to or necessary to the operation of such facility.

Sec. 8. K.S.A. 2004 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-

171d, 65-1,178 through 65-1,199 or K.S.A. 1998 Supp. 17-5009, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2004 Supp. 80-121, and amendments thereto.

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

(33) Counties may not exempt from or effect changes in the wireless enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308, and amendments thereto.

(34) Counties may not exempt from or effect changes in K.S.A. 2004 Supp. 26-601, and amendments thereto.

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

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

Sec. 9. On and after July 1, 2005, K.S.A. 2004 Supp. 21-4619, as amended by section 2 of 2005 House Bill No. 2128, is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, non-drug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b) and (c), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Except as provided in subsection (c), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) a violation of K.S.A. 8-1567, and amendments thereto, or a violation of any law of another state, which declares to be unlawful the acts prohibited by that statute;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(4) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(5) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

(8) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(9) a violation of K.S.A. 21-3405b, prior to its repeal.

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in the first degree as defined in K.S.A. 21-3401, and amendments thereto; (14) murder in the second degree as defined in K.S.A. 21-3402, and amendments thereto; (15) voluntary manslaughter as defined in K.S.A. 21-3403, and amendments thereto; (16) involuntary manslaughter as defined in K.S.A. 21-3404, and amendments thereto; (17) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 2004 Supp. 21-3442, and amendments thereto; (18) sexual battery as defined in K.S.A. 21-3517, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed; (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amendments thereto; or (20) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

(d) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. The petition shall state: (1) The defendant's full name;

(2) the full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(3) the defendant's sex, race and date of birth;

(4) the crime for which the defendant was arrested, convicted or diverted;

(5) the date of the defendant's arrest, conviction or diversion; and

(6) the identity of the convicting court, arresting law enforcement authority or diverting authority. There shall be no docket fee for filing a petition pursuant to this section. All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

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(e) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(f) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2004 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(F) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(G) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(H) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. ~~17-1252~~ 2004 Supp. 17-12a102, and amendments thereto; or

(I) in any application for a commercial guide permit or associate guide permit under K.S.A. 32-964, and amendments thereto; or

(J) in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(h) Subject to the disclosures required pursuant to subsection (f), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime, but the expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

(i) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas sentencing commission;

(11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining

qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(12) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(13) the department of wildlife and parks and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a permit as a commercial guide or associate guide under K.S.A. 32-964, and amendments thereto;

(14) the Kansas law enforcement training commission and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto.

Sec. 10. On and after January 1, 2006, K.S.A. 2004 Supp. 21-4619, as amended by section 8 of this act, is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b) and (c), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Except as provided in subsection (c), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) a violation of K.S.A. 8-1567, and amendments thereto, or a violation of any law of another state, which declares to be unlawful the acts prohibited by that statute;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(4) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(5) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

(8) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(9) a violation of K.S.A. 21-3405b, prior to its repeal.

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in the first degree as defined in K.S.A. 21-3401, and amendments thereto; (14) murder in the second degree as defined in K.S.A. 21-3402, and amendments thereto; (15) voluntary manslaughter as defined in K.S.A. 21-3403, and amendments thereto; (16) involuntary manslaughter as defined in K.S.A. 21-3404, and amendments thereto; (17) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 2004 Supp. 21-3442, and amendments thereto; (18) sexual battery as defined in K.S.A. 21-3517, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed; (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amendments thereto; or (20) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

(d) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. The petition shall state: (1) The defendant's full name;

(2) the full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(3) the defendant's sex, race and date of birth;

(4) the crime for which the defendant was arrested, convicted or diverted;

(5) the date of the defendant's arrest, conviction or diversion; and

(6) the identity of the convicting court, arresting law enforcement authority or diverting authority. There shall be no docket fee for filing a petition pursuant to this section. All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

(e) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(continued)

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(f) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2004 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(F) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(G) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(H) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 2004 Supp. 17-12a102, and amendments thereto; or

(I) in any application for a commercial guide permit or associate guide permit under K.S.A. 32-964, and amendments thereto, or

~~(J)~~ in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services pro-

gram, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(h) Subject to the disclosures required pursuant to subsection (f), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime, but the expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

(i) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas sentencing commission;

(11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(12) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or invest-

ment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

~~(13) the department of wildlife and parks and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a permit as a commercial guide or associate guide under K.S.A. 32-964, and amendments thereto;~~

~~(14) the Kansas law enforcement training commission and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or~~

~~(15)~~ (14) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto.

Sec. 11. On and after July 1, 2005, K.S.A. 40-3641, as amended by section 5 of 2005 House Bill No. 2326, 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 in handling claims.

(b) Class 2. 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 policies, funding agreements, guaranteed investment contracts, synthetic guaranteed investment contracts 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.

(e) Class 5. Claims of general creditors including claims of ceasing and assuming companies in their capacity as such.

(f) Class 6. Claims of any state or local government except those under Class 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 (i).

(g) Class 7. Claims filed late or any other claims other than claims under subsections (h) and (i).

(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.

(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. 12. K.S.A. 2004 Supp. 44-661 is hereby amended to read as follows: 44-661. (a) There is hereby established the Kansas apprenticeship council within the department of commerce. The Kansas apprenticeship council shall be composed of nine members as follows:

- (1) Four members representative of management appointed by the secretary of commerce;
- (2) four members representative of labor appointed by the secretary of commerce; and
- (3) the secretary of commerce or the secretary's designee.

In making such appointments, the secretary of commerce shall consider all persons nominated for membership on the council by statewide trade associations, employer groups and state labor organizations. All members appointed or designated by the secretary of commerce shall possess considerable knowledge of apprenticeship and apprenticeship programs.

(b) For terms beginning March 1, 2004, the secretary of human resources shall appoint one representative of management and one representative of labor to terms of one year, one representative of management and one representative of labor to terms of two years, one representative of management and one representative of labor to terms of three years and one representative of management and one representative of labor to terms of four years. Thereafter members appointed by the secretary of commerce shall be appointed to four-year terms and shall serve until their successors are appointed and qualified. A quorum shall consist of any five members other than the secretary or the secretary's designee. Each member shall have one vote on all matters before the council, except that the secretary or the secretary's designee may cast a vote only in cases of tie votes. Any vacancy shall be filled by appointment for the remainder of the unexpired term.

(c) The Kansas apprenticeship council shall organize annually by electing a chairperson and a vice-chairperson from among the members appointed by the secretary of commerce as representative of management or labor. When a member representative of labor is chairperson of the council, a member representative of management shall be vice-chairperson. When a member representative of management is chairperson of the council, a member representative of labor shall be vice-chairperson. In the absence of the chairperson, the vice-chairperson shall exercise all powers of the chairperson. The council may adopt such rules of procedure as it may deem to be required for operation.

(d) The Kansas apprenticeship council shall meet regularly on a bimonthly basis and at such other times as determined by the council. Meetings may be held at locations within the state which will best promote the purposes of the council and apprenticeship and as may be required in the performance of the powers, duties and functions of the council. Members of the Kansas apprenticeship council at-

(continued)

tending meetings thereof, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto. Such amounts shall be paid pursuant to vouchers approved by the chairperson of the Kansas apprenticeship council and by the secretary of commerce or a person or persons designated therefor by the secretary.

(e) The secretary of commerce shall provide to the Kansas apprenticeship council such clerical, secretarial and other staff assistance as may be requested by the council for the performance of the powers, duties and functions of the council.

Sec. 13. K.S.A. 2004 Supp. 44-820 is hereby amended to read as follows: 44-820. (a) There is hereby created the agricultural labor relations board, which shall consist of three members and which shall be activated only when a complaint is filed with the secretary of the state board of agriculture alleging the existence of a controversy under this act. The secretary of the state board of agriculture shall:

(1) Forthwith request the secretary of labor to submit to the governor, within 15 days, a list containing the names of at least three persons, representative of agricultural labor;

(2) forthwith request the secretary of administration to submit to the governor, within 15 days, a list containing the names of at least three persons, representative of the general public and not identified with either agricultural labor or employers; and

(3) submit to the governor, within 15 days, a list containing the names of at least three persons, representative of agricultural employers.

From each of such lists the governor, within 10 days after receiving the same, shall appoint one member to serve on the board. The member representing the public at large shall serve as the chairperson of the board. Not more than two members of the board shall belong to the same political party. Every member of the board shall serve until a successor is appointed and qualified. Any vacancy in the membership of the board occurring prior to the time the board is deactivated shall be filled by the appointment of a new member in the same manner as provided for original appointment of the member being replaced.

(b) Members of the agricultural labor relations board attending meetings of the board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto. Members' compensation shall be paid by the department of labor from funds appropriated thereto by the legislature. The secretary of labor shall provide office space and such clerical and other staff assistance as necessary to enable the board to carry out the provisions of this act.

(c) In addition to other authority provided in this act the board shall:

(1) Establish procedures for the prevention of prohibited agricultural employer and employee organization practices as provided in K.S.A. 44-828, and amendments thereto, except that the board shall provide only for the entering of an order directing the agricultural employer or employee organization to meet and confer in good faith in the case of a claimed violation of subsection (b)(5) or (c)(5) of that section. The pendency of proceedings under this paragraph shall not be used as the basis to delay or interfere with determination of representation status pursuant to K.S.A. 44-823, and amendments thereto, or with meeting and conferring.

(2) Hold such hearings and make such inquiries as it deems necessary to carry out properly its functions and powers. For the purpose of such hearings and inquiries, the board may administer oaths and affirmations, examine witnesses and documents, take testimony, receive evidence and compel attendance of witnesses and the production of documents by the issuance of subpoenas. Such subpoenas shall be regulated and enforced in the same manner as provided for the secretary of labor under the provisions of K.S.A. 44-611 and amendments thereto.

(3) To exercise such other powers, as appropriate to carry out the purposes and provisions of this act.

(d) The board shall be deactivated when the secretary of the state board of agriculture determines there is no pending nor threatened controversy under this act.

Sec. 14. On and after July 1, 2005, K.S.A. 2004 Supp. 44-706, as amended by section 5 of 2005 Senate Bill No. 108, is hereby amended to read as follows: 44-706. An individual shall be disqualified for benefits:

(a) If the individual left work voluntarily without good cause attributable to the work or the employer, subject to the other provisions of this subsection (a). Failure to return to work after expiration of approved personal or medical leave, or both, shall be considered a voluntary resignation. After a temporary job assignment, failure of an individual to affirmatively request an additional assignment on the next succeeding workday, if required by the employment agreement, after completion of a given work assignment, shall constitute leaving work voluntarily. The disqualification shall begin the day following the separation and shall continue until after the individual has become reemployed and has had earnings from insured work of at least three times the individual's weekly benefit amount. An individual shall not be disqualified under this subsection (a) if:

(1) The individual was forced to leave work because of illness or injury upon the advice of a licensed and practicing health care provider and, upon learning of the necessity for absence, immediately notified the employer thereof, or the employer consented to the absence, and after recovery from the illness or injury, when recovery was certified by a practicing health care provider, the individual returned to the employer and offered to perform services and the individual's regular work or comparable and suitable work was not available; as used in this paragraph (1) "health care provider" means any person licensed by the proper licensing authority of any state to engage in the practice of medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

(2) the individual left temporary work to return to the regular employer;

(3) the individual left work to enlist in the armed forces of the United States, but was rejected or delayed from entry;

(4) the individual left work because of the voluntary or involuntary transfer of the individual's spouse from one job to another job, which is for the same employer or for a different employer, at a geographic location which makes it unreasonable for the individual to continue work at the individual's job;

(5) the individual left work because of hazardous working conditions; in determining whether or not working conditions are hazardous for an individual, the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness and prior training and the working conditions of workers engaged in the same or similar work for the same and other employers in the locality shall be considered; as used in this paragraph (5), "hazardous working conditions" means working conditions that could result in a danger to the physical or mental well-being of the individual; each determination as to whether hazardous working conditions exist shall include, but shall not be limited to, a consideration of (A) the safety measures used or the lack thereof, and (B) the condition of equipment or lack of proper equipment; no work shall be considered hazardous if the working conditions surrounding the individual's work are the same or substantially the same as the working conditions generally prevailing among individuals performing the same or similar work for other employers engaged in the same or similar type of activity;

(6) the individual left work to enter training approved under section 236(a)(1) of the federal trade act of 1974, provided the work left is not of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the federal trade act of 1974), and wages for such work are not less than 80% of the individual's average weekly wage as determined for the purposes of the federal trade act of 1974;

(7) the individual left work because of unwelcome harassment of the individual by the employer or another employee of which the employing unit had knowledge;

(8) the individual left work to accept better work; each determination as to whether or not the work accepted is better work shall include, but shall not be limited to, consideration of (A) the rate of pay, the hours of work and the probable permanency of the work left as compared to the work accepted, (B) the cost to the individual of getting to the work left in comparison to the cost of getting to the work accepted, and (C) the distance from the individual's place of residence to the work accepted in comparison to the distance from the individual's residence to the work left;

(9) the individual left work as a result of being instructed or requested by the employer, a supervisor or a fellow employee to perform a service or commit an act in the scope of official job duties which is in violation of an ordinance or statute;

(10) the individual left work because of a violation of the work agreement by the employing unit and, before the individual left, the individual had exhausted all remedies provided in such agreement for the settlement of disputes before terminating;

(11) after making reasonable efforts to preserve the work, the individual left work due to a personal emergency of such nature and compelling urgency that it would be contrary to good conscience to impose a disqualification; or

(12) (A) the individual left work due to circumstances resulting from domestic violence, including:

(i) The individual's reasonable fear of future domestic violence at or en route to or from the individual's place of employment; or

(ii) the individual's need to relocate to another geographic area in order to avoid future domestic violence; or

(iii) the individual's need to address the physical, psychological and legal impacts of domestic violence; or

(iv) the individual's need to leave employment as a condition of receiving services or shelter from an agency which provides support services or shelter to victims of domestic violence; or

(v) the individual's reasonable belief that termination of employment is necessary to avoid other situations which may cause domestic violence and to provide for the future safety of the individual or the individual's family.

(B) An individual may prove the existence of domestic violence by providing one of the following:

(i) A restraining order or other documentation of equitable relief by a court of competent jurisdiction; or

(ii) a police record documenting the abuse; or

(iii) documentation that the abuser has been convicted of one or more of the offenses enumerated in articles 34 and 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, where the victim was a family or household member; or

(iv) medical documentation of the abuse; or

(v) a statement provided by a counselor, social worker, health care provider, clergy, shelter worker, legal advocate, domestic violence or sexual assault advocate or other professional who has assisted the individual in dealing with the effects of abuse on the individual or the individual's family; or

(vi) a sworn statement from the individual attesting to the abuse.

(C) No evidence of domestic violence experienced by an individual, including the individual's statement and corroborating evidence, shall be disclosed by the department of labor unless consent for disclosure is given by the individual.

(b) If the individual has been discharged for misconduct connected with the individual's work. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and has had earnings from insured work of at least three times the individual's determined weekly benefit amount, except that if an individual is discharged for gross misconduct connected with the individual's work, such individual shall be disqualified for benefits until such individual again becomes employed and has had earnings from insured work of at least eight times such individual's determined weekly benefit amount. In addition, all wage credits attributable to the employment from which the individual was discharged for gross misconduct connected with the individ-

ual's work shall be canceled. No such cancellation of wage credits shall affect prior payments made as a result of a prior separation.

(1) For the purposes of this subsection (b), "misconduct" is defined as a violation of a duty or obligation reasonably owed the employer as a condition of employment. The term "gross misconduct" as used in this subsection (b) shall be construed to mean conduct evincing extreme, willful or wanton misconduct as defined by this subsection (b). Failure of the employee to notify the employer of an absence shall be considered prima facie evidence of a violation of a duty or obligation reasonably owed the employer as a condition of employment.

(2) For the purposes of this subsection (b), the use of or impairment caused by alcoholic liquor, a cereal malt beverage or a nonprescribed controlled substance by an individual while working shall be conclusive evidence of misconduct and the possession of alcoholic liquor, a cereal malt beverage or a nonprescribed controlled substance by an individual while working shall be prima facie evidence of conduct which is a violation of a duty or obligation reasonably owed to the employer as a condition of employment. Alcoholic liquor shall be defined as provided in K.S.A. 41-102 and amendments thereto. Cereal malt beverage shall be defined as provided in K.S.A. 41-2701 and amendments thereto. Controlled substance shall be defined as provided in K.S.A. 65-4101 and amendments thereto of the uniform controlled substances act. As used in this subsection (b)(2), "required by law" means required by a federal or state law, a federal or state rule or regulation having the force and effect of law, a county resolution or municipal ordinance, or a policy relating to public safety adopted in open meeting by the governing body of any special district or other local governmental entity. Chemical test shall include, but is not limited to, tests of urine, blood or saliva. A positive chemical test shall mean a chemical result showing a concentration at or above the levels listed in K.S.A. 44-501, and amendments thereto, for the drugs or abuse listed therein. A positive breath test shall mean a test result showing an alcohol concentration of .04 or greater. Alcohol concentration means the number of grams of alcohol per 210 liters of breath. An individual's refusal to submit to a chemical test or breath alcohol test shall be conclusive evidence of misconduct if the test meets the standards of the drug free workplace act, 41 U.S.C. 701 et seq.; the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment; the test was otherwise required by law and the test constituted a required condition of employment for the individual's job; the test was requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment; or there was probable cause to believe that the individual used, possessed or was impaired by alcoholic liquor, a cereal malt beverage or a controlled substance while working. A positive breath alcohol test or a positive chemical test shall be conclusive evidence to prove misconduct if the following conditions are met:

(A) Either (i) the test was required by law and was administered pursuant to the drug free workplace act, 41 U.S.C. 701 et seq., (ii) the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment, (iii) the test was requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment, (iv) the test was required by law and the test constituted a required condition of employment for the individual's job, or (v) there was probable cause to believe that the individual used, had possession of, or was impaired by alcoholic liquor, the cereal malt beverage or the controlled substance while working;

(B) the test sample was collected either (i) as prescribed by the drug free workplace act, 41 U.S.C. 701 et seq., (ii) as prescribed by an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment, (iii) as prescribed by the written

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policy of the employer of which the employee had knowledge and which constituted a required condition of employment, (iv) as prescribed by a test which was required by law and which constituted a required condition of employment for the individual's job, or (v) at a time contemporaneous with the events establishing probable cause;

(C) the collecting and labeling of a chemical test sample was performed by a licensed health care professional or any other individual certified pursuant to paragraph (b)(2)(F) or authorized to collect or label test samples by federal or state law, or a federal or state rule or regulation having the force or effect of law, including law enforcement personnel;

(D) the chemical test was performed by a laboratory approved by the United States department of health and human services or licensed by the department of health and environment, except that a blood sample may be tested for alcohol content by a laboratory commonly used for that purpose by state law enforcement agencies;

(E) the chemical test was confirmed by gas chromatography, gas chromatography-mass spectroscopy or other comparably reliable analytical method, except that no such confirmation is required for a blood alcohol sample or a breath alcohol test;

(F) the breath alcohol test was administered by an individual trained to perform breath tests, the breath testing instrument used was certified and operated strictly according to description provided by the manufacturers and the reliability of the instrument performance was assured by testing with alcohol standards; and

(G) the foundation evidence must establish, beyond a reasonable doubt, that the test results were from the sample taken from the individual.

(3) (A) For the purposes of this subsection (b), misconduct shall include, but not be limited to repeated absence, including incarceration, resulting in absence from work of three days or longer, excluding Saturdays, Sundays and legal holidays, and lateness, from scheduled work if the facts show:

- (i) The individual was absent without good cause;
- (ii) the absence was in violation of the employer's written absenteeism policy;
- (iii) the employer gave or sent written notice to the individual, at the individual's last known address, that future absence may or will result in discharge; and
- (iv) the employee had knowledge of the employer's written absenteeism policy.

(B) For the purposes of this subsection (b), if an employee disputes being absent without good cause, the employee shall present evidence that a majority of the employee's absences were for good cause. If the employee alleges that the employee's repeated absences were the result of health related issues, such evidence shall include documentation from a licensed and practicing health care provider as defined in subsection (a)(1).

(4) An individual shall not be disqualified under this subsection ~~(d)~~ if the individual is discharged under the following circumstances:

(A) The employer discharged the individual after learning the individual was seeking other work or when the individual gave notice of future intent to quit;

(B) the individual was making a good-faith effort to do the assigned work but was discharged due to: (i) Inefficiency, (ii) unsatisfactory performance due to inability, incapacity or lack of training or experience, (iii) isolated instances of ordinary negligence or inadvertence, (iv) good-faith errors in judgment or discretion, or (v) unsatisfactory work or conduct due to circumstances beyond the individual's control; or

(C) the individual's refusal to perform work in excess of the contract of hire.

(c) If the individual has failed, without good cause, to either apply for suitable work when so directed by the employment office of the secretary of labor, or to accept suitable work when offered to the individual by the employment office, the secretary of labor, or an employer, such disqualification shall begin with the week in which such failure occurred and shall continue until the individual becomes

reemployed and has had earnings from insured work of at least three times such individual's determined weekly benefit amount. In determining whether or not any work is suitable for an individual, the secretary of labor, or a person or persons designated by the secretary, shall consider the degree of risk involved to health, safety and morals, physical fitness and prior training, experience and prior earnings, length of unemployment and prospects for securing local work in the individual's customary occupation or work for which the individual is reasonably fitted by training or experience, and the distance of the available work from the individual's residence. Notwithstanding any other provisions of this act, an otherwise eligible individual shall not be disqualified for refusing an offer of suitable employment, or failing to apply for suitable employment when notified by an employment office, or for leaving the individual's most recent work accepted during approved training, including training approved under section 236(a)(1) of the trade act of 1974, if the acceptance of or applying for suitable employment or continuing such work would require the individual to terminate approved training and no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (1) If the position offered is vacant due directly to a strike, lockout or other labor dispute; (2) if the remuneration, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (3) if as a condition of being employed, the individual would be required to join or to resign from or refrain from joining any labor organization; (4) if the individual left employment as a result of domestic violence, and the position offered does not reasonably accommodate the individual's physical, psychological, safety, and/or legal needs relating to such domestic violence.

(d) For any week with respect to which the secretary of labor, or a person or persons designated by the secretary, finds that the individual's unemployment is due to a stoppage of work which exists because of a labor dispute or there would have been a work stoppage had normal operations not been maintained with other personnel previously and currently employed by the same employer at the factory, establishment or other premises at which the individual is or was last employed, except that this subsection (d) shall not apply if it is shown to the satisfaction of the secretary of labor, or a person or persons designated by the secretary, that: (1) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and (2) the individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs any of whom are participating in or financing or directly interested in the dispute. If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection (d) be deemed to be a separate factory, establishment or other premises. For the purposes of this subsection (d), failure or refusal to cross a picket line or refusal for any reason during the continuance of such labor dispute to accept the individual's available and customary work at the factory, establishment or other premises where the individual is or was last employed shall be considered as participation and interest in the labor dispute.

(e) For any week with respect to which or a part of which the individual has received or is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such unemployment benefits, this disqualification shall not apply.

(f) For any week with respect to which the individual is entitled to receive any unemployment allowance or compensation granted by the United States under an act of congress to ex-service men and women in recognition of former service with the military or naval services of the United States.

(g) For the period of one year beginning with the first day following the last week of unemployment for which the individual received benefits, or for one year from the date the act was committed, whichever is the later, if the individual, or another in such individual's behalf with the knowledge of the individual, has knowingly made a false statement or representation, or has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor.

(h) For any week with respect to which the individual is receiving compensation for temporary total disability or permanent total disability under the workmen's compensation law of any state or under a similar law of the United States.

(i) For any week of unemployment on the basis of service in an instructional, research or principal administrative capacity for an educational institution as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms during such period or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs such services in the first of such academic years or terms and there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.

(j) For any week of unemployment on the basis of service in any capacity other than service in an instructional, research, or administrative capacity in an educational institution, as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during the period between two successive academic years or terms if the individual performs such services in the first of such academic years or terms and there is a reasonable assurance that the individual will perform such services in the second of such academic years or terms, except that if benefits are denied to the individual under this subsection (j) and the individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subsection (j).

(k) For any week of unemployment on the basis of service in any capacity for an educational institution as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during an established and customary vacation period or holiday recess, if the individual performs services in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(l) For any week of unemployment on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, if such week begins during the period between two successive sport seasons or similar period if such individual performed services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.

(m) For any week on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the federal immigration and nationality act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application

for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.

(n) For any week in which an individual is receiving a governmental or other pension, retirement or retired pay, annuity or other similar periodic payment under a plan maintained by a base period employer and to which the entire contributions were provided by such employer, except that: (1) If the entire contributions to such plan were provided by the base period employer but such individual's weekly benefit amount exceeds such governmental or other pension, retirement or retired pay, annuity or other similar periodic payment attributable to such week, the weekly benefit amount payable to the individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity or other similar periodic payment which is attributable to such week; or (2) if only a portion of contributions to such plan were provided by the base period employer, the weekly benefit amount payable to such individual for such week shall be reduced (but not below zero) by the prorated weekly amount of the pension, retirement or retired pay, annuity or other similar periodic payment after deduction of that portion of the pension, retirement or retired pay, annuity or other similar periodic payment that is directly attributable to the percentage of the contributions made to the plan by such individual; or (3) if the entire contributions to the plan were provided by such individual, or by the individual and an employer (or any person or organization) who is not a base period employer, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection (n); or (4) whatever portion of contributions to such plan were provided by the base period employer, if the services performed for the employer by such individual during the base period, or remuneration received for the services, did not affect the individual's eligibility for, or increased the amount of, such pension, retirement or retired pay, annuity or other similar periodic payment, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection (n). No reduction shall be made for payments made under the social security act or railroad retirement act of 1974.

(o) For any week of unemployment on the basis of services performed in any capacity and under any of the circumstances described in subsection (i), (j) or (k) which an individual performed in an educational institution while in the employ of an educational service agency. For the purposes of this subsection (o), the term "educational service agency" means a governmental agency or entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(p) For any week of unemployment on the basis of service as a school bus or other motor vehicle driver employed by a private contractor to transport pupils, students and school personnel to or from school-related functions or activities for an educational institution, as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, if the individual has a contract or contracts, or a reasonable assurance thereof, to perform services in any such capacity with a private contractor for any educational institution for both such academic years or both such terms. An individual shall not be disqualified for benefits as provided in this subsection (p) for any week of unemployment on the basis of service as a bus or other motor vehicle driver employed by a private contractor to transport persons to or from nonschool-related functions or activities.

(q) For any week of unemployment on the basis of services performed by the individual in any capacity and under any of the circumstances described in subsection (i), (j), (k) or (o) which are provided to or on behalf of an educational institution, as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, while the individual is in the employ of an employer which is a governmental

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entity, Indian tribe or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income under section 501(a) of the code.

(r) For any week in which an individual is registered at and attending an established school, training facility or other educational institution, or is on vacation during or between two successive academic years or terms. An individual shall not be disqualified for benefits as provided in this subsection (r) provided:

(1) The individual was engaged in full-time employment concurrent with the individual's school attendance; or

(2) the individual is attending approved training as defined in subsection (s) of K.S.A. 44-703 and amendments thereto; or

(3) the individual is attending evening, weekend or limited day time classes, which would not affect availability for work, and is otherwise eligible under subsection (c) of K.S.A. 44-705 and amendments thereto.

(s) For any week with respect to which an individual is receiving or has received remuneration in the form of a back pay award or settlement. The remuneration shall be allocated to the week or weeks in the manner as specified in the award or agreement, or in the absence of such specificity in the award or agreement, such remuneration shall be allocated to the week or weeks in which such remuneration, in the judgment of the secretary, would have been paid.

(1) For any such weeks that an individual receives remuneration in the form of a back pay award or settlement, an overpayment will be established in the amount of unemployment benefits paid and shall be collected from the claimant.

(2) If an employer chooses to withhold from a back pay award or settlement, amounts paid to a claimant while they claimed unemployment benefits, such employer shall pay the department the amount withheld. With respect to such amount, the secretary shall have available all of the collection remedies authorized or provided in K.S.A. 44-717 and amendments thereto.

(t) If the individual has been discharged for failing a preemployment drug screen required by the employer and if such discharge occurs not later than seven days after the employer is notified of the results of such drug screen. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and has had earnings from insured work of at least three times the individual's determined weekly benefit amount.

(u) *If the individual was found not to have a disqualifying adjudication or conviction under K.S.A. 39-970, and amendments thereto, or K.S.A. 65-5117, and amendments thereto, was hired and then was subsequently convicted of a disqualifying felony under K.S.A. 39-970, and amendments thereto, or K.S.A. 65-5117, and amendments thereto, and discharged pursuant to K.S.A. 39-970, and amendments thereto, or K.S.A. 65-5117, and amendments thereto. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and has had earnings from insured work of at least three times the individual's determined weekly benefit amount.*

Sec. 15. On and after July 1, 2005, K.S.A. 2004 Supp. 60-1103b, as amended by section 15 of 2005 Senate Bill No. 258, is hereby amended to read as follows: 60-1103b. (a) As used in this section, "new residential property" means a new structure which is constructed for use as a residence and which is not used or intended for use as a residence for more than two families or for commercial purposes. "New residential property" does not include any improvement of a preexisting structure or construction of any addition, garage or outbuilding appurtenant to a preexisting structure.

(b) A lien for the furnishing of labor, equipment, materials or supplies for the construction of new residential property may be claimed pursuant to K.S.A. 60-1101 or 60-1103 and amendments thereto after the passage of title to such new residential property to a good faith purchaser for value only if the claimant has filed a notice of intent to perform prior to the recording of the deed effecting passage of title to such new residential property. Such notice shall

be filed in the office of the clerk of the district court of the county where the property is located.

(c) The notice of intent to perform and release thereof provided for in this section, to be effective, shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

(d) When any claimant who has set a notice of intent to perform has been paid in full or otherwise discharged, such claimant shall be required to file in the office in which the notice of intent to perform was filed, and to pay any requisite filing fee, a release of such notice and waiver of lien which shall be executed by the claimant, shall identify the property as set forth in the notice of intent to perform, and state that it is the intention of the claimant to waive or relinquish any statutory right to a lien for the furnishing of labor or material to the property. Upon such filing, the notice of intent to perform previously filed by such claimant shall be of no further force or effect, and such claimant's right to a lien under K.S.A. 60-1101 and 60-1103, and amendments thereto, shall be extinguished.

(e) Any owner of the real estate upon which a notice of intent to perform has been filed, or any owner's heirs or assigns, or anyone acting for such owner, heirs or assigns, and after payment in full to the claimant, may make demand upon the claimant filing the notice of intent to perform, for the filing of a release of the notice and waiver of lien as provided for in subsection (d), unless the same has expired by virtue of the provisions set forth in subsection (f).

(f) Notwithstanding the requirements of subsections (d) and (e), a notice of intent to perform shall be of no further force or effect after the expiration of 18 months from the date of filing the same, unless within such time the claimant has filed a lien pursuant to K.S.A. 60-1101 and 60-1103, and amendments thereto.

Sec. 16. On and after July 1, 2005, K.S.A. 2004 Supp. 65-5603, as amended by section 1 of 2005 House Bill No. 2130, is hereby amended to read as follows: 65-5603. (a) The privilege established by K.S.A. 65-5602 and amendments thereto shall not extend to:

(1) Any communication relevant to an issue in proceedings to involuntarily commit to treatment a patient for mental illness, alcoholism or drug dependency if the treatment personnel in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;

(2) an order for examination of the mental, alcoholic, drug dependency or emotional condition of the patient which is entered by a judge, with respect to the particular purpose for which the examination is ordered;

(3) any proceeding in which the patient relies upon any of the aforementioned conditions as an element of the patient's claim or defense, or, after the patient's death, in any proceeding in which any party relies upon any of the patient's conditions as an element of a claim or defense;

(4) any communication which forms the substance of information which the treatment personnel or the patient is required by law to report to a public official or to be recorded in a public office, unless the statute requiring the report or record specifically provides that the information shall not be disclosed;

(5) any information necessary for the emergency treatment of a patient or former patient if the head of the treatment facility at which the patient is being treated or was treated states in writing the reasons for disclosure of the communication and makes such statement a part of the treatment or medical record of the patient;

(6) information relevant to protect a person who has been threatened with substantial physical harm by a patient during the course of treatment, when such person has been specifically identified by the patient, the treatment personnel believes there is substantial likelihood that the patient will act on such threat in the reasonable foreseeable future and the head of the treatment facility has concluded that notification should be given. The patient shall be notified that such information has been communicated;

(7) any information from a state psychiatric hospital to appropriate administrative staff of the department of corrections whenever patients have been administratively transferred to a state psychiatric

hospital pursuant to the provisions of K.S.A. 75-5209 and amendments thereto;

(8) any information to the patient or former patient, except that the head of the treatment facility at which the patient is being treated or was treated may refuse to disclose portions of such records if the head of the treatment facility states in writing that such disclosure will be injurious to the welfare of the patient or former patient;

(9) any information to any state or national accreditation, certification or licensing authority, or scholarly investigator, but the head of the treatment facility shall require, before such disclosure is made, a pledge that the name of any patient or former patient shall not be disclosed to any person not otherwise authorized by law to receive such information;

(10) any information to ~~Kansas advocacy and protective services; in the state protection and advocacy system~~ which concerns individuals who reside in a treatment facility and which is required by federal law and federal rules and regulations to be available pursuant to a federal grant-in-aid program;

(11) any information relevant to the collection of a bill for professional services rendered by a treatment facility; or

(12) any information sought by a coroner serving under the laws of Kansas when such information is material to an investigation or proceeding conducted by the coroner in the performance of such coroner's official duties. Information obtained by a coroner under this provision shall be used for official purposes only and shall not be made public unless admitted as evidence by a court or for purposes of performing the coroner's statutory duties;

(13) any communication and information by and between or among treatment facilities, correctional institutions, jails, juvenile detention facilities or juvenile correctional facilities regarding a proposed patient, patient or former patient for purposes of promoting continuity of care by and between treatment facilities, correctional institutions, jails, juvenile detention facilities or juvenile correctional facilities; the proposed patient, patient, or former patient's consent shall not be necessary to share evaluation and treatment records by and between or among treatment facilities, correctional institutions, jails, juvenile detention facilities or juvenile correctional facilities regarding a proposed patient, patient or former patient;

(14) the name, date of birth, date of death, name of any next of kin and place of residence of a deceased former patient when that information is sought as part of a genealogical study; or

(15) any information concerning a patient or former patient who is a juvenile offender in the custody of the juvenile justice authority when the commissioner of juvenile justice, or the commissioner's designee, requests such information.

(b) The treatment personnel shall not disclose any information subject to subsection (a)(3) unless a judge has entered an order finding that the patient has made such patient's condition an issue of the patient's claim or defense. The order shall indicate the parties to whom otherwise confidential information must be disclosed.

Sec. 17. K.S.A. 2004 Supp. 65-5703 is hereby amended to read as follows: 65-5703. (a) There is hereby created the state emergency response commission for the purpose of carrying out all requirements of the federal act and for the purpose of providing assistance in the coordination of state agency activities relating to: (1) Chemical emergency training, preparedness, and response; and (2) chemical release reporting and prevention, transportation, manufacture, storage, handling, and use.

(b) The commission shall consist of: (1) The following state officers or their appointed designees: The lieutenant governor, the secretary of wildlife and parks, the secretary of labor, the secretary of ~~the state board of~~ agriculture, the secretary of health and environment, the adjutant general, the superintendent of the Kansas highway patrol, the state fire marshal, the secretary of transportation, the attorney general, the chairperson of the state corporation commission, and the governor; (2) three members appointed by the governor to represent the general public; and (3) two members appointed by

the governor to represent owners and operators of facilities regulated pursuant to this act.

(c) Members of the commission appointed by the governor shall serve for terms of two years. Any vacancy in the office of an appointed member of the commission shall be filled for the unexpired term by appointment by the governor.

(d) A chairperson shall be elected annually by the members of the commission. A vice-chairperson shall be designated by the chairperson to serve in the absence of the chairperson.

(e) Members of the commission attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

(f) The commission shall perform such duties as are specified in the federal act to be performed by such commissions and, in addition thereto, such duties as are specified in the laws of this state or as are deemed necessary and appropriate by the commission to achieving its purposes. In accordance with the requirements of the federal act, the commission shall establish local planning districts, subject to approval by the secretary of health and environment and the adjutant general, and shall appoint a local planning committee for each such district. Local planning committees shall perform such duties as are specified in the federal act to be performed by such committees, and in addition thereto, such duties as are assigned by the commission or by any member of the commission acting on behalf of or at the direction of the commission, or as are deemed necessary and appropriate by each such committee to achieving its purposes. The duties of the commission and the local planning committees shall be performed in accordance with rules and regulations adopted pursuant to this act.

Sec. 18. K.S.A. 2004 Supp. 74-2622 is hereby amended to read as follows: 74-2622. (a) There is hereby established within and as a part of the Kansas water office the Kansas water authority. The authority shall be composed of ~~23~~ 24 members of whom 13 shall be appointed as follows: (1) One member shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, such person shall not exercise any power, duty or function as a member or chairperson of the water authority until confirmed by the senate. Such member shall serve at the pleasure of the governor and shall be the chairperson of the authority; (2) except as provided by subsection (b), 10 members shall be appointed by the governor for terms of four years. Of the members appointed under this provision one shall be a representative of large municipal water users, one shall be representative of small municipal water users, one shall be a board member of a western Kansas groundwater management district, one shall be a board member of a central Kansas groundwater management district, one shall be a member of the Kansas association of conservation districts, one shall be representative of industrial water users, one shall be a member of the state association of watershed districts, one shall have a demonstrated background and interest in water use conservation and environmental issues, and two shall be representative of the general public. The member who is representative of large municipal water users shall be appointed from three nominations submitted by the league of Kansas municipalities. The member who is representative of small municipal water users shall be appointed from three nominations submitted by the Kansas rural water district's association. The member who is representative of a western Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 1, 3 and 4. The member who is representative of a central Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 2 and 5. The member who is representative of industrial water users shall be appointed from three nomi-

(continued)

nations submitted by the Kansas association of commerce and industry. The member who is representative of the state association of watershed districts shall be appointed from three nominations submitted by the state association of watershed districts. The member who is representative of the Kansas association of conservation districts shall be appointed from three nominations submitted by the state association of conservation districts. If the governor cannot make an appointment from the original nominations, the nominating authority shall be so advised and, within 30 days thereafter, shall submit three new nominations. Members appointed by the governor shall be selected with special reference to training and experience with respect to the functions of the Kansas water authority, and no more than six of such members shall belong to the same political party; (3) one member shall be appointed by the president of the senate for a term of two years; and (4) one member shall be appointed by the speaker of the house of representatives for a term of two years. The state geologist, *the state biologist*, the chief engineer of the division of water resources of the Kansas department of agriculture, the director of the division of environment of the department of health and environment, the chairperson of the state corporation commission, the secretary of commerce, the director of the Kansas water office, the secretary of wildlife and parks, the administrative officer of the state conservation commission, the secretary of agriculture and the director of the agricultural experiment stations of Kansas state university of agriculture and applied science shall be nonvoting members ex officio of the authority. The director of the Kansas water office shall serve as the secretary of the authority.

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

(c) In the case of a vacancy in the appointed membership of the Kansas water authority, the vacancy shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Appointed members of the authority attending regular or special meetings thereof shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(d) The Kansas water authority shall:

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

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

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

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

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

(6) Approve, prior to submission to the legislature by the Kansas water office or its director, (A) any contract entered into pursuant to the state water plan storage act, (B) any amendments to the state

water plan or the state water planning act and (C) any other legislation concerning water resources of the state.

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

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

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

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

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

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

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

Sec. 19. K.S.A. 2004 Supp. 74-32,151 is hereby amended to read as follows: 74-32,151. (a) This section and K.S.A. 74-32,152 through 74-32,159, and amendments thereto, shall be known and may be cited as the workforce development loan program act.

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

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

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

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

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

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

Sec. 20. K.S.A. 2004 Supp. 74-50,115, as amended by section 1 of 2005 House Bill No. 2102, 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~~ 2010, 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. 21. K.S.A. 2004 Supp. 79-32,117, as amended by section 10 of 2005 House Bill No. 2222, is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

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

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

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

(iii) The federal net operating loss deduction.

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

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

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

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

(continued)

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2004 Supp. 79-32,204 and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203 and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2004 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2004 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of section 4 of 2005 House Bill No. 2222, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or if such amounts are not already included in the federal adjusted gross income.

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

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

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

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

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

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

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

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

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

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

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

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

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

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under section 1, et seq., of 2005 House Bill No. 2222, and amendments thereto.

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

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

(xvi) For the tax year beginning after December 31, 2004, an amount not exceeding \$500; for the tax year beginning after December 31, 2005, an amount not exceeding \$600; for the tax year beginning after December 31, 2006, an amount not exceeding \$700; for the tax year beginning after December 31, 2007, an amount not exceeding \$800; for the tax year beginning December 31, 2008, an amount not exceeding \$900; and for all taxable years commencing after December 31, 2009, an amount not exceeding \$1,000 of the premium costs for qualified long-term care insurance contracts, as defined by subsection (b) of section 7702B of public law 104-191.

(xvii) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are or were members of the armed forces of the United States, including service in the Kansas army and air national guard, as a recruitment, sign up or retention bonus received by such taxpayer as an incentive to join, enlist or remain in the armed services of the United States, including service in the Kansas army and air national guard, and amounts received

for repayment of educational or student loans incurred by or obligated to such taxpayer and received by such taxpayer as a result of such taxpayer's service in the armed forces of the United States, including service in the Kansas army and air national guard.

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

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

Sec. 22. K.S.A. 2004 Supp. 19-101a, 19-101k, 44-661, 44-661a, 44-820, 44-820a, 65-688a, 65-5703, 65-5703a, 74-567a, 74-2622, 74-2622a, 74-32,151, 74-32,151a, 74-4911h, 82a-714a, K.S.A. 2004 Supp. 12-187, as amended by section 1 of 2005 Senate Bill No. 58, 12-187, as amended by section 1 of 2005 Senate Bill No. 105, 12-187, as amended by section 1 of 2005 Senate Bill No. 295, 12-189, as amended by section 2 of 2005 Senate Bill No. 58, 12-189, as amended by section 2 of 2005 Senate Bill No. 295, 12-192, as amended by section 3 of 2005 Senate Bill No. 58, 12-192, as amended by section 3 of 2005 Senate Bill No. 295, 74-50,115, as amended by section 1 of 2005 House Bill No. 2102, 74-50,115, as amended by section 1 of 2005 House Bill No. 2164, 79-32,117, as amended by section 10 of 2005 House Bill No. 2222 and 79-32,117,

as amended by section 1 of 2005 House Bill No. 256 are hereby repealed.

Sec. 23. On and after July 1, 2005, K.S.A. 2004 Supp. 8-135, as amended by section 1 of 2005 Senate Bill No. 23, 8-135, as amended by section 1 of 2005 House Bill No. 2124, 12-189, as amended by section 3 of this act, 12-189, as amended by section 1 of 2005 Senate Bill No. 13, K.S.A. 12-520, as amended by section 11 of 2005 House Bill No. 2083, 12-520, as amended by section 1 of 2005 House Substitute for Senate Bill No. 24, K.S.A. 2004 Supp. 12-1770a, as amended by section 1 of 2005 Senate Substitute for House Bill No. 2144, 12-1770a, as amended by section 1 of 2005 House Bill No. 2140, K.S.A. 2003 Supp. 21-4619, as amended by section 59 of chapter 154 of the 2004 Session Laws of Kansas, K.S.A. 2004 Supp. 21-4619, as amended by section 2 of 2005 House Bill No. 2128, K.S.A. 40-3641, as amended by section 3 of 2005 House Bill No. 2325, 40-3641, as amended by section 5 of 2005 House Bill No. 2326, K.S.A. 2004 Supp. 44-706, as amended by section 5 of 2005 Senate Bill No. 108, 44-706, as amended by section 1 of 2005 House Bill No. 2157, 60-1103b, as amended by section 15 of 2005 Senate Bill No. 258, 60-1103b, as amended by section 2 of 2005 Senate Bill No. 112, 65-5603, as amended by section 1 of 2005 House Bill No. 2130, 65-5603, as amended by section 2 of 2005 Senate Bill No. 116, are hereby repealed.

Sec. 24. On and after January 1, 2006, K.S.A. 2004 Supp. 21-4619, as amended by section 9 of this act and 21-4619, as amended by section 1 of 2005 House Bill No. 2466, are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the Kansas register.

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the 2003 Volumes 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
4-15-7	Amended	V. 24, p. 550
4-15-8	Amended	V. 24, p. 550
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
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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

(continued)

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
28-4-700		
through		
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	Amended	V. 24, p. 753
28-16-58	Amended	V. 24, p. 52
28-16-160		
through		
28-16-174	New	V. 24, p. 754-764
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

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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
30-10-1a	Amended	V. 24, p. 489
30-10-1b	Amended	V. 24, p. 491
30-10-1d	Amended	V. 24, p. 492
30-10-11	Amended	V. 24, p. 492
30-10-17	Amended	V. 24, p. 494
30-10-18	Amended (T)	V. 24, p. 23
30-10-18	Amended	V. 24, p. 334
30-10-19	Amended	V. 24, p. 495
30-10-20	Amended	V. 24, p. 496
30-10-23a	Amended	V. 24, p. 496
30-10-23b	Amended	V. 24, p. 497
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
40-2-14a	New	V. 24, p. 751
40-2-14b	New	V. 24, p. 751
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
40-3-53	New	V. 24, p. 615

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
82-3-710 through 82-3-1005	New	V. 23, p. 541-544
82-4-3	Amended (T)	V. 23, p. 1743
82-4-3	Amended	V. 24, p. 97
82-4-3a through 82-4-3m	New (T)	V. 24, p. 97-122
82-4-3a through 82-4-3m	New	V. 24, p. 463-488

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
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
111-2-173	New	V. 24, p. 460
111-2-174	New	V. 24, p. 460
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

(continued)

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		
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111-11-1	Amended	V. 23, p. 1077
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AGENCY 112: RACING AND GAMING COMMISSION

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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
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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
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115-4-4a	New	V. 24, p. 422
115-4-6	Amended	V. 24, p. 148
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115-4-14	New	V. 23, p. 1583
115-5-1	Amended	V. 24, p. 152
115-5-4	New	V. 24, p. 752
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115-7-2	Amended	V. 24, p. 153
115-9-4	Amended	V. 24, p. 153
115-11-1	Amended	V. 24, p. 752
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115-15-1	Amended	V. 24, p. 154
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115-18-1	Amended	V. 24, p. 156
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115-18-14	Amended	V. 23, p. 1585
115-20-1	Amended	V. 24, p. 159
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AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
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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

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123-2-110	New	V. 24, p. 338
123-5-101	New	V. 24, p. 339
123-5-106	New	V. 24, p. 339
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123-5-112	New	V. 24, p. 340
123-5-505	New	V. 24, p. 340
123-12-101		
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123-12-107	New	V. 24, p. 301, 302
123-12-201		
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123-12-210	New	V. 24, p. 302, 303
123-12-301		
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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
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123-12-321		
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123-12-325	New	V. 24, p. 306

123-12-327	New	V. 24, p. 306
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123-12-401	New	V. 24, p. 307
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123-12-505	New	V. 24, p. 307, 308
123-12-505b	New	V. 24, p. 308
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