

# KANSAS REGISTER

**JACK H. BRIER**  
**Secretary of State**

**State of Kansas**

**Vol. 5, No. 52**

**December 25, 1986**

**Pages 1649-1680**

## IN THIS ISSUE

	Page
<b>Department of Administration</b>	
Notice of Hearing on Proposed Administrative Regulations .....	1650
Notice of Commencement of Negotiations for Engineering Services .....	1650
Notice of Commencement of Negotiations for Technical Services .....	1651
<b>State Banking Board</b>	
Notice of Meeting .....	1651
<b>State Board of Mortuary Arts</b>	
Notice of Meeting and Examination .....	1651
<b>Social and Rehabilitation Services</b>	
Notice of Hearing on Proposed Administrative Regulations .....	1651
Notice of Meeting .....	1652
Notice of Proposed Medicaid Reimbursement Rate Changes .....	1652
<b>Department of Health and Environment</b>	
Public Notice .....	1653
<b>Department of Transportation</b>	
Notices to Contractors .....	1653
Special Notice to Contractors .....	1653
Notice to Bidders for State Purchases .....	1655
<b>Notice of Bond Sale</b>	
City of Bel Aire .....	1656
<b>Executive Appointments</b> .....	1659
<b>State Corporation Commission</b>	
Notice of Hearing .....	1659
<b>Notice of Bond Redemption</b>	
City of Hays .....	1659
City of St. John .....	1659
<b>Attorney General</b>	
Opinions No. 86-170 through 86-173 .....	1660
<b>Department of Economic Development</b>	
Notice of Hearing on the 1987 Kansas Small Cities CDBG Program .....	1660
<b>Court of Appeals Docket</b> .....	1665
<b>Temporary Administrative Regulations</b>	
Department of Health and Environment .....	1673

### NOTICE

Because of the New Year's holiday, deadline for submission of items to be published in the January 8 Register will be noon Wednesday, December 31.

State of Kansas  
**DEPARTMENT OF ADMINISTRATION**  
**DIVISION OF ARCHITECTURAL SERVICES**

**NOTICE OF COMMENCEMENT  
 OF NEGOTIATIONS  
 FOR ENGINEERING SERVICES**

Notice is hereby given of the commencement of negotiations for engineering services for the following projects at Larned State Hospital:

- Replace special interior electrically operated gate system, Dillon Building entrance;
- Replace inside air conditioning air handling units in Dillon Building;
- Replace smoke detector heads in the Dillon and hospital buildings.

Notice is also given of negotiations for engineering services to replace fan coil units and piping in the Kenney Building at Norton State Hospital.

It is the intent of the above agencies to hire the same firm for all of the above projects. The estimated construction cost of all projects is \$190,000.

Any questions or expressions of interest should be directed to Norman Moody, Division of Architectural Services, 625 Polk, Topeka 66603, (913) 233-9367, prior to January 9, 1987.

JOHN B. HIPPI, AIA  
 Director, Division of  
 Architectural Services

Doc. No. 004910

State of Kansas  
**DEPARTMENT OF ADMINISTRATION**  
**NOTICE OF HEARING  
 ON PROPOSED  
 ADMINISTRATIVE REGULATIONS**

A public hearing will be held at 9 a.m. Friday, January 9, in the Old Supreme Court Room, third floor, State Capitol, Topeka, to consider for adoption on a temporary basis K.A.R. 1-14-11 (Furlough Leave Without Pay).

This regulation defines "furlough" and the procedure which an appointing authority must follow in order to implement a furlough, and clarifies that except for an employee's social security and retirement contributions, employee benefits will remain at pre-furlough levels.

All interested parties may submit written comments prior to the hearing to the Secretary of Administration, Room 263-E, State Capitol, Topeka 66612. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit oral presentation to five minutes.

Copies of the regulation and its fiscal impact statement can be obtained from the Division of Personnel Services, Room 123-S, Docking State Office Building, Topeka 66612, (913) 296-2140, (KANS-A-N 561-2140).

ARTHUR GRIGGS  
 Acting Secretary of Administration

Doc. No. 004901

The *Kansas Register* is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The *Kansas Register* is published weekly by the Kansas Secretary of State, State Capitol, Topeka, KS 66612. One-year subscriptions are \$47.50. Single copies may be purchased, if available, for \$2.00 each. Second class postage paid at Topeka, KS. ISSN No. 0744-2254.

*Postmaster*. Send change of address form to Kansas Register, Secretary of State, State Capitol, Topeka, KS 66612.

© Secretary of State of the State of Kansas 1985. Reproduction of this publication in its entirety or for commercial purposes is prohibited without prior permission. Official enactments of the Kansas Legislature and proposed and adopted administrative regulations of state agencies may be reproduced in any form without permission.

PUBLISHED BY  
 JACK H. BRIER  
 Secretary of State  
 State Capitol  
 Topeka, KS 66612



PHONE: 913/296-3489

State of Kansas

**STATE BANK COMMISSIONER  
STATE BANKING BOARD**

**NOTICE OF MEETING**

The State Banking Board will meet at 10 a.m. Tuesday, January 20, in the conference room of the State Banking Department, 700 Jackson, Suite 300, Topeka. The board reviews matters relating to its supervisory authority set forth in K.S.A. 9-1801 *et seq.*

EUGENE T. BARRETT, JR.  
State Bank Commissioner

Doc. No. 004899

State of Kansas

**DEPARTMENT OF ADMINISTRATION  
DIVISION OF ARCHITECTURAL SERVICES**

**NOTICE OF COMMENCEMENT  
OF NEGOTIATIONS  
FOR TECHNICAL SERVICES**

Notice is hereby given of the commencement of negotiations for contracts for air and water balancing of the mechanical systems and an infrared scan for the Weber Hall renovation and addition and the Bramlage Coliseum, Kansas State University, Manhattan.

Interested individuals or firms in the balancing field must be certified by the National Environmental Balancing Bureau or the Associated Air Balance Council. Said individuals or firms must be engaged in balancing work on a full-time basis. Balance agencies which are of the same parent company as the designers or contractors of a particular project will not be considered for that project. Submit qualifications with letter of interest.

Interested individuals or firms in the infrared scan field must be an independent testing company using trained personnel who work full time on infrared testing projects. Personnel shall be familiar with the operation of the infrared camera and capable of analyzing the results. The infrared survey shall be done with a Model No. 750 infrared camera as manufactured by AGA Corporation of Secaucus, New Jersey, or equal. Submit qualifications with letter of interest.

Any additional information, questions or expressions of interest should be directed to Myron Reed, Division of Architectural Services, 625 Polk, Topeka 66603, (913) 233-9367, prior to January 9, 1987.

JOHN B. HIPPI, AIA  
Director, Division of  
Architectural Services

Doc. No. 004911

State of Kansas

**BOARD OF MORTUARY ARTS**

**NOTICE OF MEETING**

The Kansas State Board of Mortuary Arts will meet Thursday and Friday, January 8-9.

The January 8 meeting will begin at 8:45 a.m. at the board's office, 214 W. 6th, Suite 203, Topeka. The January 9 meeting will be held at the Downtown Holiday Inn (City Centre), Topeka, beginning with the administering of examinations at 9 a.m.

DOUGLAS "MACK" SMITH  
Executive Secretary

Doc. No. 004900

State of Kansas

**SOCIAL AND REHABILITATION SERVICES**

**NOTICE OF HEARING  
ON PROPOSED  
ADMINISTRATIVE REGULATIONS**

The Department of Social and Rehabilitation Services will meet at 9 a.m. Friday, January 9, in the SRS board room, sixth floor, Docking State Office Building, Topeka.

The scheduled agenda includes:

- Public hearing concerning proposed temporary administrative regulations. A summary of the proposed regulations is set forth below. The proposed changes are scheduled to become effective February 1, 1987.
- Adoption of proposed temporary administrative regulations.

**A. Public Assistance Program.**

1. 30-4-101. Standards for persons in own home, other family home, specialized living, commercial board and room, or commercial room-only living arrangements. This regulation is being amended to reduce the energy supplement contained in the basic standard from \$10 to \$5 per person. This reduction represents a 3.8 percent decrease in cash assistance.

**B. Medicaid/Medikan Program—Client Eligibility.**

1. 30-6-103. Determined eligibles; protected income levels. This regulation is being amended to decrease the protected income level for two persons in independent living from \$450 to \$433.

The public is invited to this meeting.

ROBERT C. HARDER  
Secretary of Social and  
Rehabilitation Services

Doc. No. 004907

**State of Kansas**  
**SOCIAL AND REHABILITATION SERVICES**

**NOTICE OF MEETING**

The Department of Social and Rehabilitation Services will meet at 9 a.m. Tuesday, January 6, in the SRS Staff Development Training Center, 2700 W. 6th, Topeka.

The scheduled agenda includes:

—Review of possible 1987 legislation.

—Review of budget.

The public is invited to this meeting. Telephone hook-ups are provided at the following locations of Social and Rehabilitation Services offices: Chanute, Emporia, Garden City, Hays, Hiawatha, Hutchinson, Junction City, Kansas City, Lawrence, Olathe, Osawatomie, Parsons, Pittsburg, Pratt, Salina, Topeka (area office and State Office Building), Wichita and Winfield.

**ROBERT C. HARDER**  
 Secretary of Social and  
 Rehabilitation Services

Doc. No. 004902

**State of Kansas**  
**SOCIAL AND REHABILITATION SERVICES**

**NOTICE OF PROPOSED MEDICAID RATE  
 REIMBURSEMENT CHANGES**

The Department of Social and Rehabilitation Services is making changes in medicaid rate reimbursement to Medicaid/Medikan providers. These changes are in part based on the projected revenues shortfalls for the state for fiscal year 1987 and for the most part projected to be temporary. All changes are effective January 1, 1987 and are subject to legislative review and approval.

**Hospital Incentive Premium Payment**—Beginning with the payment in the quarter starting January 1, 1987 and quarters following, the incentive premium payment for the first inpatient hospital day will be eliminated. Elimination of the incentive premium payment will have no effect on hospital per diem reimbursement rates for services covered under the Kansas State Medicaid Plan.

Under this proposed change, reimbursement rates are still to be within 10 percent of hospital fixed costs of treating medicaid patients. Those hospitals whose costs exceed 10 percent of their rates will still be able to seek rate adjustments.

The elimination of incentive premium payment is expected to be temporary and will produce an annual expected decrease in medicaid expenditures of \$1,050,000.

**Hospital Outpatient Services**—Beginning January 1, 1987, all outpatient hospital services that are paid on the basis of the lesser of costs or charges shall be reimbursed on a prospective fee-for-service basis. These services are the only category of covered services still paid at the lesser of cost or charges. These outpatient hospital services are separate from inpa-

tient hospital services and are not affected by federal regulations dealing with institutional reimbursements.

This change will apply the same reimbursement methods as applied to all the other comparable outpatient services and will have no effect on hospital inpatient per diem reimbursement. The department has determined that this change will improve the monitoring of service delivery. This change is expected to be permanent and will result in an annual expected decrease in medicaid reimbursements of at least \$960,524.

**Adult Care Homes Fifth Cost Center**—Beginning January 1, 1987, the elimination of the 75th percentile limitation on the total cost center for adult care homes will be suspended. The suspension of the 75th percentile will still produce rates that are reasonable and adequate to reimburse adult care homes that are efficiently and economically operated.

This change is expected to be temporary and will result in an expected decrease through fiscal year 1987 in medicaid reimbursements of \$300,000.

**Adult Care Homes**—Beginning January 1, 1987, four of the five cost centers for adult care homes will be reduced as follows:

Administrative—60th percentile  
 Room and board—60th percentile  
 Plant and operations—60th percentile  
 Total—65th percentile

Reimbursements made to adult care homes will remain reasonable and adequate to compensate those facilities that are efficiently and economically operated. This change is expected to be temporary and will result in an expected decrease through fiscal year 1987 in medicaid expenditures of \$803,000.

**Medical Fees**—Beginning January 1, 1987, the maximum rate payable for all categories of service except inpatient hospitals, adult care homes and community mental health centers will be reduced by 10 percent. This change is in the nature of an emergency regulation designed to address serious budget shortfalls projected for the remainder of fiscal year 1987. The change will result in an expected annual decrease in medicaid expenditures of \$5,967,779.

The above proposed changes are set out in a state commissioner's letter and copies are available for public review and inspection at each local county SRS office.

The secretary invited all provider groups to attend a meeting held in SRS board room on November 27, 1986 and public hearings concerning these changes were held at the December 2 and December 19 SRS open meetings. Public comments should be sent to and may be reviewed at the Division of Medical Programs, Department of Social and Rehabilitation Services, Docking State Office Building, Room 628-S, Topeka 66612.

**ROBERT C. HARDER**  
 Secretary of Social and  
 Rehabilitation Services

Doc. No. 004908

## State of Kansas

**DEPARTMENT OF HEALTH  
AND ENVIRONMENT****PUBLIC NOTICE**

Effective immediately, the address of the southeast district office of the Department of Health and Environment will be P. O. Box 88, 1500 W. 7th, Chanute 66720. The phone number will remain the same: (316) 431-2390.

BARBARA J. SABOL  
Secretary of Health  
and Environment

Doc. No. 004909

## State of Kansas

**DEPARTMENT OF TRANSPORTATION****NOTICE TO CONTRACTORS**

Sealed proposals for the construction of road and bridge work in the following Kansas county will be received at the office of the Chief of Construction and Maintenance, Kansas Department of Transportation, Topeka, until 10 a.m. C.D.T. January 15, 1987, and then publicly opened:

**DISTRICT THREE—Northwest**

Ellis—70-26 M-1463-01—I-70, U.S. 183 east to the Ellis/Russell county line, 15.6 miles, slurry seal. (State Funds)

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

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of the affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid-approval package will make the bid nonresponsive and not eligible for award consideration.

Plans and specifications for the project may be examined at the office of the respective county clerk or at the K.D.O.T. district office responsible for the work.

JOHN B. KEMP  
Secretary of Transportation

Doc. No. 004905

## State of Kansas

**DEPARTMENT OF TRANSPORTATION****SPECIAL NOTICE TO CONTRACTORS**

A pre-bid conference for Project 166-10 K-0171-01, Chautauqua County, is scheduled for 10 a.m. Friday, January 16, at the Kansas Department of Transportation District 4 conference room, 411 W. 14th, Chanute. The project begins at the east junction of U.S. 166 and K-99 then east on U.S. 166 approximately 9.556 miles, grading, concrete pavement, two bridges and seeding.

Contractors wishing to bid on this project are required to attend the pre-bid conference in accordance with the provisions of 80 P-207-R1, dated January 31, 1985. The project is tentatively scheduled to be let for bid on January 29 at a special construction bid letting at the K.D.O.T. District 4 conference room, 411 W. 14th, Chanute.

JOHN B. KEMP  
Secretary of Transportation

Doc. No. 004906

## State of Kansas

**DEPARTMENT OF TRANSPORTATION****NOTICE TO CONTRACTORS**

Sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, until 10 a.m., C.D.T., January 15, 1987, and then publicly opened:

**DISTRICT ONE—Northeast**

Chase/Lyon—50-106 K-3094-01—U.S. 50 in Chase and Lyon counties, 8.7 miles, overlay. (State Funds)

Douglas—56-23 K-2719-01—U.S. 56, from the junction of U.S. 56 and U.S. 59 east to Douglas-Johnson county line, through Baldwin City, 11.8 miles, overlay. (State Funds)

Johnson—46 K-2670-01—Firearm range west of weigh station south of Olathe, firearm range. (State Funds)

Johnson—435-46 K-2699-01—I-435, west of I-435 and U.S. 69 intersection east to Kansas-Missouri state line, 5.7 miles, signing. (Federal Funds)

Johnson/Wyandotte—106 K-3078-01—K-12 in Johnson County and K-32 in Wyandotte County, 5.8 miles, overlay. (State Funds)

Leavenworth—24-52 K-2125-01—U.S. 24, Douglas-Leavenworth county line northeast to the west junction of U.S. 24 and K-16, 9.4 miles, overlay. (State Funds)

Leavenworth—24-52 K-2713-01—U.S. 24, west junction of K-16 north and east to 0.7 mile west of Leavenworth-Wyandotte county line, 9.6 miles, overlay. (State Funds)

Lyon—130-56 K-2715-01—K-130, north city limits of Hartford north to north of Neosho Rapids, 5.5 miles, recycling. (State Funds)

Osage—70 K-3084-01—K-31, K-276 and K-368 in Osage County, 5.2 miles, overlay. (State Funds)

(continued)

**Shawnee**—75A-89 K-2892-01—U.S. 75 Alternate, 9th Street south to 11th Street in Topeka, 0.4 mile, intersection improvement. (State Funds)

**Wyandotte**—35-105 K-2909-01—I-35, 0.3 mile south of the Johnson-Wyandotte county line northeast to K-12, lighting. (Federal Funds)

**Wyandotte**—105 U-0979-01—Roe Lane bridge over Turkey Creek in Kansas City, 0.1 mile, bridge replacement. (Federal Funds)

**Wyandotte**—70-105 M-1434-01—I-70, bridges 96, 167 and 189 at the junction of I-70 and K-32, bridge repair. (State Funds)

#### DISTRICT TWO—Northcentral

**Republic**—81-79 M-1461-01—U.S. 81, Rose Creek bridge 24, 10.5 miles north of U.S. 36, bridge repair. (State Funds)

**Washington**—15W-101 K-2680-01—K-15W, Ash Creek bridge 23, 4.8 miles north of K-9, bridge repair. (Federal Funds)

#### DISTRICT THREE—Northwest

**Cheyenne**—27-12 K-2730-01—K-27, from the west junction of U.S. 36 north to the Kansas-Nebraska state line, 21.1 miles, overlay. (State Funds)

**Decatur/Norton/Sheridan**—106 K-3049-01—various locations on K-9, K-123 and K-223 in Decatur County; K-9 in Norton County; K-9, K-123, and K-223 in Sheridan County, 37.9 miles, conventional seal. (State Funds)

**Sheridan**—23-90 K-2736-01—K-23, from U.S. 24 in Hoxie north and west to U.S. 83, 18.5 miles, recycling. (State Funds)

**Sherman**—91 K-3051-01—K-27 and U.S. 24B in Sherman County, 12.7 miles, surfacing. (State Funds)

#### DISTRICT FOUR—Southeast

**Allen**—1 K-3075-01—U.S. 54 and U.S. 169 in Allen County, 14.1 miles, recycling. (State Funds)

**Allen**—1 M-1460-01—U.S. 169, bridge 33 and U.S. 54 bridges 2, 3, 4, 5 and 6, milling. (State Funds)

**Allen**—54-1 K-2762-01—U.S. 54, concrete pavement east of LaHarpe east to U.S. 59, 6.5 miles, overlay. (State Funds)

**Anderson**—2 K-3076-01—U.S. 59, U.S. 169 and U.S. 169B in Anderson County, 22.1 miles, recycling. (State Funds)

**Coffey**—57-16 M-1399-01—K-57, Neosho River bridge 42, 0.8 mile west of LeRoy, bridge repair. (State Funds)

**Coffey/Greenwood**—106 K-3077-01—K-57 in Coffey County; K-57 and K-249 in Greenwood County, 20.5 miles, overlay. (State Funds)

**Greenwood**—54-37 K-2681-01—U.S. 54, Bachelor Creek bridge 6, 2.8 miles east of the west junction of K-99, bridge repair. (Federal Funds)

**Greenwood**—99-37 K-2752-01—K-99, east junction of U.S. 54 north to the south junction of K-57, 21.3 miles, overlay. (State Funds)

#### DISTRICT FIVE—Southcentral

**Sedgwick**—2-87 K-2590-01—K-2, Spring Creek bridge 168, 5.4 miles northeast of K-49, bridge replacement. (Federal Funds)

**Sedgwick**—81-87 K-2841-01—U.S. 81, from the junction of U.S. 81 and FAS 602 south of Haysville, intersection improvement. (State Funds)

**Stafford**—93 C-1234-01—County road, 10.0 miles north of St. John and U.S. 281, then east, 2.0 miles, surfacing. (Federal Funds)

#### DISTRICT SIX—Southwest

**Morton**—51-65 K-3055-01—K-51, Colorado-Kansas state line east to the south junction of K-27, and from the north junction of K-27 east and south to U.S. 56, 25.4 miles, conventional seal. (State Funds)

**Morton**—56-65 K-3024-01—U.S. 56, 4.9 miles east of FAS 1488 north and east to Morton-Stevens county line, 8.0 miles, overlay. (State Funds)

**Seward**—83-88 K-2953-01—U.S. 83, 0.9 mile north of the junction of K-51 northeast to the south junction of U.S. 160, 8.0 miles, recycling. (State Funds)

**Seward**—83-88 K-2954-01—U.S. 83, Kansas-Oklahoma state line northwest to the south city limits of Liberal, 2.4 miles, overlay. (State Funds)

**Stanton**—160-94 K-2798-01—U.S. 160, Kansas-Colorado state line east to the south junction of K-27, 16.8 miles, overlay. (State Funds)

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

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of the affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid-approval package will make the bid nonresponsive and not eligible for award consideration.

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

JOHN B. KEMP  
Secretary of Transportation

Doc. No. 004894

## State of Kansas

DEPARTMENT OF ADMINISTRATION  
DIVISION OF PURCHASES

## NOTICE TO BIDDERS

Sealed bids for the following items will be received by the Director of Purchases, Landon State Office Building, 900 Jackson, Room 102, Topeka, until 2 p.m. C.S.T., and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information.

MONDAY, JANUARY 5, 1987

#27489  
Statewide—DESKTOP COMPUTER SYSTEMS—AT  
COMPATIBLE

#27492  
University of Kansas Medical Center—SMAC  
REAGENTS AND SUPPLIES

#67847  
University of Kansas Medical Center—PULSE  
OXIMETERS

#67853  
Department of Transportation—REPAIR PARTS,  
MOWER, various locations

#67854  
Department of Transportation—MRA-AGGREGATE,  
various locations

#67855  
Kansas Public Employees Retirement  
System—MICROFILM READER PRINTER

#67856  
Department of Revenue—PRINTER

#67857  
Kansas State Industrial Reformatory—  
MISCELLANEOUS MEATS (FEBRUARY 1987)

#67858  
Department of Transportation—MOWER REPAIR  
PARTS, Garden City

#67859  
Department of Transportation—CRANE

TUESDAY, JANUARY 6, 1987

#27469  
Statewide—FEBRUARY (1987) MEAT PRODUCTS

#27480  
University of Kansas Medical Center and other state  
agencies—ANTIMICROBIAL HAND CLEANERS

#27482  
University of Kansas—AGGREGATE AND  
ASPHALT

#27487  
University of Kansas—FIRE EXTINGUISHER  
SERVICE CONTRACT

#27488  
Various Shawnee County state agencies—FIRE  
EXTINGUISHER SERVICE, Shawnee County

#27491  
Kansas State University—MOTION PICTURE  
FILM SERVICES

#67860  
Kansas Fish and Game Commission—VEHICLES

#67861  
Department of Social and Rehabilitation  
Services—FORKLIFT, Kansas City

#67868  
Kansas Correctional Industries—POLE BARN

#67869  
University of Kansas Medical Center—HPLC  
COMPONENTS

#67870  
Kansas State University—AUTOMATIC PRESENCE  
SENSING LIGHTING CONTROL

#67871  
Kansas State University—PICKUP

#67872  
Department of Corrections—FLOOR TILE

#67876  
Kansas Fish and Game Commission—NATIVE  
GRASS SEED, various locations

#67877  
Kansas State University—INSTRUMENT MODULE

WEDNESDAY, JANUARY 7, 1987

#A-5160(d)  
Department of Administration, Division of  
Architectural Services—INTERIOR SIGNAGE

#67881  
Department of Revenue—CONTINUOUS  
PROCESSABLE TAB CARDS

#67882  
Department of Transportation—TRACTOR  
MOWERS, various locations

#67887  
Department of Transportation—HERBICIDES,  
Chanute

#67888  
University of Kansas—VEHICLES

#67889  
Department of Transportation—FURNISH AND  
INSTALL OVERHEAD DOORS, various locations

#67890  
Department of Transportation—WOOD AND  
STEEL POSTS, Garden City

THURSDAY, JANUARY 8, 1987

#A-5254  
Department of Corrections—PROVIDE  
EMERGENCY GENERATORS INSTALLATION,  
Hutchinson

#27476  
Statewide—BAKERY PRODUCTS

#27477  
Statewide—CONSUMER GRADE AA EGGS

#67896  
Kansas State University—DISK DRIVE—IBM  
COMPATIBLE

#67897  
University of Kansas Medical Center—  
PHOTOGRAPHIC, VIDEO AND AUDIO VISUAL  
EQUIPMENT

FRIDAY, JANUARY 9, 1987

#A-5614  
Kansas State Penitentiary—REROOF INSIDE  
SERVICE BUILDING

#67902  
Department of Corrections—FLOOR TILE, Toronto

#67903  
Department of Administration, Division of General  
Services—LOCAL AREA NETWORK

#67904  
Department of Transportation—HERBICIDES,  
Garden City

#67905  
Kansas State University—VACUUM EQUIPMENT

(continued)

**TUESDAY, JANUARY 20, 1987**

#67886

Various state agencies—MOVING SERVICES

**THURSDAY, JANUARY 22, 1987**

#A-6003

Public Building Commission of Ellsworth—  
CONSTRUCT BUILDINGS 1, 2, 3 and 4, Ellsworth  
Correctional Work Facility

**MONDAY, JANUARY 26, 1987**

#27484

Youth Center at Topeka—LEASE OF FARMLAND

NICHOLAS B. ROACH  
Director of Purchases

Doc. No. 004904

(Published in the KANSAS REGISTER, December 25, 1986.)

**NOTICE OF BOND SALE**

**\$527,545.80**

**GENERAL OBLIGATION**

**INTERNAL IMPROVEMENT BONDS**

**SERIES A, 1987**

**OF THE**

**CITY OF BEL AIRE, KANSAS**

**Sealed Bids**

Sealed bids will be received at the office of the City Clerk, City Hall, 4343 N. Woodlawn, Wichita, Kansas, until 7 p.m. C.S.T. on Tuesday, January 6, 1987, for the purchase of \$527,545.80 principal amount of general obligation internal improvement bonds, Series A, 1987, of the city hereinafter described. All bids will be publicly opened and read at said time and place and will be acted upon by the governing body at 7 p.m. January 6, 1987. No oral or auction bids will be considered.

**Bond Details**

The bonds will consist of fully registered bonds in denominations of \$5,000 or any integral multiple thereof, except one bond in the amount of \$2,545.80, dated January 1, 1987, and become due serially on March 1 in the years as follows:

Year	Principal Amount
1988	\$32,545.80
1989	35,000.00
1990	35,000.00
1991	35,000.00
1992	35,000.00
1993	35,000.00
1994	35,000.00
1995	35,000.00
1996	35,000.00
1997	35,000.00
1998	35,000.00
1999	35,000.00
2000	35,000.00
2001	35,000.00
2002	40,000.00

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable

semiannually on March 1 and September 1 in each year, beginning on September 1, 1987.

**Place of Payment and Bond Registration**

The principal of and interest on the bonds will be payable in lawful money of the United States of America by check or draft of the Treasurer of the State of Kansas, Topeka, Kansas (the paying agent and bond registrar), to the registered owners thereof whose names are on the registration books of the bond registrar as of the 15th day of the month preceding each interest payment date. The bonds will be registered pursuant to a plan of registration approved by the city and the Attorney General of the State of Kansas.

The city will pay for the fees of the bond registrar for registration and transfer of the bonds and will also pay for printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the bond registrar, will be the responsibility of the bondowners.

The number and denominations of the bonds and the names, addresses, and social security or taxpayer identification numbers of the registered owners shall be submitted in writing by the successful bidder to the city and bond registrar at least two weeks prior to the closing date. In the absence of such information, the city will deliver one bond per maturity registered in the name of the manager of the successful bidder. The initial reoffering price to the public by the original purchaser shall be furnished to the city at least one week prior to the closing date. A certificate setting forth such initial reoffering price to the public shall be furnished to the city by the original purchaser at closing.

**Redemption of Bonds Prior to Maturity**

Bonds maturing in the years 1988 to 1991, inclusive, shall become due without option of prior payment. At the option of the city, bonds maturing in the years 1992 and thereafter may be called for redemption and payment prior to maturity in whole or in part in inverse order of maturity (selection of bonds within the same maturity to be by lot by the city in such equitable manner as it may determine) on March 1, 1991, or on any interest payment date thereafter at the redemption price of 102 percent (expressed as a percentage of the principal amount), plus accrued interest to the redemption date.

Whenever the city is to select the bonds for the purpose of redemption, it shall, in the case of bonds in denominations greater than \$5,000, if less than all of the bonds then outstanding are to be called for redemption, treat each \$5,000 of face value of each such fully registered bond as though it were a separate bond of the denomination of \$5,000.

If the city shall elect to call any bonds for redemption and payment prior to the maturity thereof, the city shall give written notice of its intention to call and pay said bonds on a specified date, said notice to be mailed by United States registered or certified mail addressed to the registered owners of said bonds, to the Treasurer of the State of Kansas, Topeka, Kansas,

and to the manager or managers of the underwriting account making the successful bid, each of said notice to be mailed not less than 30 days prior to the date fixed for redemption. If any bond be called for redemption and payment as aforesaid, all interest on such bond shall cease from and after the date for which such call is made, provided funds are available for its payment at the price hereinbefore specified.

#### Conditions of Bids

Proposals will be received on the bonds bearing such rate or rates of interest, as may be specified by the bidders, subject to the following conditions: The same rate shall apply to all bonds of the same maturity. Each interest rate specified shall be a multiple of 1/8 or 1/20 of 1 percent. No interest rate shall exceed a rate equal to the 20 bond index of tax exempt municipal bonds published by Credit Markets in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus 2 percent. The difference between the highest rate specified and the lowest rate specified shall not exceed 3 percent. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered and no supplemental interest payments will be authorized. Each bid shall specify the total interest cost to the city during the life of the bonds on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the city on the basis of such bid, all certified by the bidder to be correct, and the city will be entitled to rely on the certificate of correctness of the bidder. Each bid shall also specify the average annual net interest rate to the city on the basis of such bid.

#### Basis of Award

The award of the bonds will be made on the basis of the lowest net interest cost to the city, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the city. If there is any discrepancy between the net interest cost and the average annual net interest rate specified, the specified net interest cost shall govern and the interest rates specified in the bid shall be adjusted accordingly. If two or more proper bids providing for identical amounts of the lowest net interest cost are received, the governing body shall determine which bid, if any, shall be accepted, and its determination shall be final. The city reserves the right to reject any and all bids and to waive any irregularities in a submitted bid.

#### Authority, Purpose and Security

The bonds are being issued pursuant to K.S.A. 12-6a01 *et seq.*, as amended and supplemented, for the purpose of paying the cost of certain internal improvements within the city. The bonds and the interest thereon will constitute general obligations of the city, payable from special assessments levied upon the property benefitted by the construction of said improvements and, if not so paid, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the city.

#### Legal Opinion and Tax Exemption

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

On October 22, 1986, the President of the United States signed into law H.R. 3838, the Tax Reform Act of 1986, which redesignates the Internal Revenue Code of 1954 as the Internal Revenue Code of 1986. The 1986 code imposes certain additional requirements and restrictions which must be met subsequent to the issuance of state and local government obligations in order to maintain the exemption from federal income taxation of the interest on such obligations. The city will covenant in the bond ordinance to comply with the provisions of the Act and to take all action as may be necessary to comply with the Act and all applicable future law to preserve the tax-exempt status of the bonds, to the extent such actions can be taken by the governing body of the city.

In the opinion of Gaar & Bell, Wichita, Kansas, bond counsel, under existing law, statutes, regulations, rulings, and judicial decisions, assuming continued compliance by the city with the terms of the bond ordinance, the bonds are exempt from intangible personal property taxes levied by Kansas counties, cities or townships, and the interest on the bonds is exempt from federal income taxation except as follows:

(a) For taxable years beginning in the years 1987, 1988, and 1989, the interest on the bonds will be included in the adjusted net book income of corporations. For purposes of computing the corporate alternative minimum tax, a corporation's alternative minimum taxable income must be increased by 50 percent of the amount by which such corporation's adjusted net book income exceeds such corporation's alternative minimum taxable income (determined without regard to this adjustment or the alternative tax net operating loss deduction). For taxable years beginning after 1989, the use of "book income" will be replaced by "adjusted current earnings," and "50%" will be replaced by "75%."

(b) For taxable years beginning after December 31, 1986, property and casualty insurance companies will be required to reduce their deduction for losses incurred on insurance contracts by 15 percent of the amount of interest received or accrued on tax-exempt obligations acquired after August 7, 1986, including the bonds.

H.R. 2005, the Superfund Amendments and Reauthorization Act of 1986, which was enacted on October 17, 1986, includes among its provisions the imposition of a new environmental tax. Calculation of the tax is to be based generally on a percentage of the corporate alternative minimum taxable income as defined in the 1986 code which would include interest on tax-exempt obligations, including the bonds. The amount of tax is equal to 0.12 percent of excess of the alternative minimum taxable income (without regard to net operating losses and the deduction for the

(continued)

environmental tax) over \$2 million. The environmental tax is imposed whether or not the taxpayer is subject to the alternative minimum tax, but is deductible from gross income. The environmental tax is effective for taxable years beginning after 1991. The imposition of this environmental tax could result in additional taxation of interest on the bonds for certain bondowners.

A form of bond counsel's opinion is contained in the official statement of the city with respect to the bonds as Appendix A.

#### Qualified Tax Exempt Obligations

The Tax Reform Act of 1986, H.R. 3838, was signed into law by the President of the United States on October 22, 1986. The Act provides that banks and thrift institutions would be unable to deduct any portion of the interest cost of purchasing or carrying tax-exempt obligations (with certain exceptions) if such interest costs are incurred in taxable years ending after December 31, 1986 with respect to bonds acquired after August 7, 1986. The Act provides that certain "qualified tax-exempt obligations" as defined in Section 902(b)(3) will be treated as having been acquired on August 7, 1986. The city will covenant to take such actions as are necessary to designate the bonds as "qualified tax-exempt obligations" described above.

#### Delivery and Payment

The city will pay for printing the bonds and will deliver the same properly prepared, executed, and registered without cost to the successful bidder on or before January 29, 1987 at such bank or trust company in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder. The successful bidder will also be furnished with a certified transcript of proceedings evidencing the authorization and issuance of the bonds and the usual closing proofs, which will include a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity. Payment for the bonds shall be made in federal reserve funds, immediately subject to use by the city.

#### Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America equal to 2 percent of the total amount of the bonds payable to the order of the city. If a bid is accepted, said check or the proceeds thereof will be held by the city until the bidder shall have complied with all of the terms and conditions of this notice, at which time the check or the proceeds thereof will be returned to the successful bidder or paid to his order at the option of the city. If a bid is accepted but the city shall fail to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check or the proceed thereof will be returned to the bidder. If a bid is accepted but the bidder defaults in the performance of any of the terms and conditions of this notice, the proceeds of such check will be retained by the city as and for liquidated damages. No interest will be paid upon the successful bidder's good faith check.

#### CUSIP Numbers

It is anticipated that CUSIP identification numbers will be printed on certificated bonds or assigned to uncertificated bonds, but neither the failure to print such number on or assign such number to any bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the bonds in accordance with the terms of the purchase contract. All expenses in relation to the assignment and printing of CUSIP numbers on the bonds will be paid by the city.

#### Bid Forms

All bids must be made on forms which may be procured from the city clerk or the financial advisers. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid. The city reserves the right to waive irregularities and to reject any and all bids.

#### Submission of Bids

Bids must be submitted in sealed envelopes addressed to the city at the City of Bel Aire, City Hall, 4343 N. Woodlawn, Wichita, KS 67220, Attention: Sherryl Cutter, City Clerk, and marked "Bond Bid." Bids may be submitted by mail or delivered in person at City Hall and must be received prior to 7 p.m. C.S.T. on January 6, 1987.

#### Official Statement

The city has prepared an official statement dated as of December 16, 1986, copies of which may be obtained from the city clerk or the financial adviser. Upon the sale of the bonds, the city will furnish the successful bidder with a reasonable number of copies thereof without additional cost upon request. Additional copies may be ordered by the successful bidder at his expense.

#### Assessed Valuation and Indebtedness

The total assessed valuation of the taxable tangible property within the city, for the year 1985, is as follows:

Equalized assessed valuation of taxable tangible property .....	\$6,378,010
Tangible valuation of motor vehicles .....	\$2,171,564
Equalized assessed tangible valuation for computation of bonded debt limitations ...	\$8,549,574

The total general obligation indebtedness of the city as of the date of the bonds, including the bonds being sold, is \$2,797,545.80. Temporary notes in the principal amount of \$529,000 will be retired out of proceeds of the bonds and other available funds.

#### Additional Information

Additional information regarding the bonds may be obtained from the city clerk, Sherryl Cutter, or from the financial adviser, First Securities Company of Kansas, Inc., Suite 200, One Main Place, Wichita, KS 67202, Attention: Allen Bell, (316) 262-4411.

Dated December 16, 1986.

CITY OF BEL AIRE, KANSAS  
By Sherryl Cutter, City Clerk  
City Hall  
4343 N. Woodlawn  
Wichita, KS 67220

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.

Complete listings of state agencies, boards and commissions are included in the Kansas Directory. County officials are listed in the Directory of County Officers. Both directories are published by the Secretary of State's office and are available free of charge.

The following appointments were filed December 2 through December 16:

**Greeley County Sheriff**

**Loyal A. McCammond**, Route 1, Tribune 67879. Effective December 12, 1986. Expires when a successor is elected and qualifies according to law. Succeeds John M. Peterson, resigned.

**Labette County Attorney**

**John R. Bullard**, 112 W. 22nd, Pittsburg 66762. Effective December 16, 1986. Expires when a successor is elected and qualifies according to law. Succeeds Sharon E. Stice, resigned.

**JACK H. BRIER**  
Secretary of State

(Published in the KANSAS REGISTER, December 25, 1986.)

**NOTICE OF REDEMPTION  
CITY OF HAYS, KANSAS  
INDUSTRIAL REVENUE BONDS  
SERIES A, 1978  
(CANTERBURY VILLA, INC.)**

Notice is hereby given that pursuant to Section 4 of Ordinance No. 2670 of the city of Hays, Kansas, passed and approved on February 10, 1978, there will be redeemed on February 1, 1987 all bonds maturing after February 1, 1987 at a redemption price equal to the principal amount thereof, plus accrued interest thereon to said redemption date, together with a premium equal to 3 percent of the principal amount of the bonds so called for redemption. Such bonds are numbered 24 to 174, inclusive.

On February 1, 1987, all bonds will be due and payable at the principal office of Farmers State Bank and Trust Company, Hays, Kansas. All coupons maturing subsequent to February 1, 1987 must be attached and surrendered with said bonds. From and after February 1, 1987, interest on the aforesaid bonds will cease to accrue.

Dated December 15, 1987.

**FARMERS STATE BANK  
AND TRUST COMPANY**  
Fiscal Agent and Trustee  
P.O. Box 10  
Hays, KS 67601

Doc. No. 004897

State of Kansas

**STATE CORPORATION COMMISSION****NOTICE OF HEARING**

The State Corporation Commission has issued an order which penalized the O.R.M. Exploration Co. for failure to renew its operator or contractor license as required by K.S.A. 55-155 and K.A.R. 82-3-120.

Pursuant to K.S.A. 55-164, the matter is set for hearing at 10 a.m. Tuesday, January 6, in the conference room of the Conservation Division, 200 Colorado Derby Building, 202 W. 1st, Wichita.

**ANN T. RIDER**  
Assistant General Counsel

Doc. No. 004886

(Published in the KANSAS REGISTER, December 25, 1986.)

**NOTICE OF CALL FOR REDEMPTION  
TO THE HOLDERS OF  
CITY OF ST. JOHN, KANSAS  
ELECTRIC LIGHT AND WATERWORKS  
UTILITY SYSTEM REVENUE BONDS  
SERIES A, 1981**

Notice is hereby given that pursuant to the provisions of Section 3 of Ordinance No. 788 of the city of St. John, Kansas, the above mentioned term bonds numbered 53 through 180 have been called for redemption and payment on February 1, 1987 at the office of the State Treasurer, Topeka, Kansas, Attention: Bond Clerk.

On such redemption date, there shall become due and payable on each of the above mentioned bonds the redemption price thereof equal to 101.5 percent of the principal amount of each bond, together with interest accrued to the redemption date (upon the presentation and surrender of each such bond and all appertenant coupons). Interest shall cease to accrue on the bonds from and after February 1, 1987, and interest coupons maturing after February 1, 1987 shall be void.

**THE SOUTHWEST NATIONAL BANK  
OF WICHITA, KANSAS**  
As Escrow Trustee for the  
City of St. John, Kansas  
By **E. Gordon Johnson**  
Senior Vice President and Trust Officer

Doc. No. 004895

## State of Kansas

**ATTORNEY GENERAL****Opinion No. 86-170**

State Departments; Public Officers and Employees—Department of Administration—Competitive Bids. Representative William W. Bunten, 54th District, Topeka, December 15, 1986.

State contracts subject to K.S.A. 75-3739 may not be awarded on the basis of a proposal. For sales or purchases with an estimated value of over \$2,000, the use of competitive sealed bids is specifically required. Contracts and purchases which have an estimated value of \$2,000 or less may be made either upon competitive bidding or in the open market. In order to evaluate the actual cost of a product, bid specifications may include criteria such as cost, compatibility/capabilities, growth and contractor support to the extent that these factors represent demonstrable future costs to the state. As this is not mandatory, the fixing of bids in such a manner is to be left to the sound discretion of the director of purchases. Cited herein: K.S.A. 75-3739; K.S.A. 75-3740, as amended by L. 1986, ch. 328, § 1; K.S.A. 75-3741b. JLM

**Opinion No. 86-171**

Cities and Municipalities—Cemeteries; Cities, Townships and Corporations—Acquisition of Property. Senator Don Montgomery, 21st District, Sabetha, December 15, 1986.

A township is given authority of condemnation for the purpose of acquiring cemetery property. However, condemnation is not a condition precedent to purchasing additional land. Cited herein: K.S.A. 12-1401; K.S.A. 80-101. JLM

**Opinion No. 86-172**

Automobiles and Other Vehicles—Uniform Act Regulating Traffic; Rules of the Road; Serious Traffic Offenses—Restrictions on Plea Bargaining in Prosecutions for Driving Under the Influence of Alcohol or Drugs. Timothy J. Chambers, Reno County Attorney, Hutchinson, December 15, 1986.

K.S.A. 1985 Supp. 8-1567(o) provides that no plea bargaining agreement may be entered into "for the purpose of permitting a person charged with a violation of" K.S.A. 8-1567 and amendments, or any parallel city ordinance, "to avoid the mandatory penalties established by [that] section." A plea negotiation agreement to reduce the charge from driving under the influence (K.S.A. 1985 Supp. 8-1567) to reckless driving (K.S.A. 1985 Supp. 8-1566) in exchange for a guilty plea would be in violation of this section if the purpose of the agreement is to allow avoidance of the mandatory penalties established for a DUI conviction. The conviction for a violation of K.S.A. 1985 Supp. 8-1567 is itself part of the mandatory penalties imposed under that section because of the effect such a conviction has on enhancing the sentence of a subsequent DUI conviction. Cited herein: K.S.A. 1985 Supp. 8-1566; 8-1567; 12-4415, as amended by L.

1986, ch. 185, § 1; 22-2908, as amended by L. 1986, ch. 185, § 2. JLM

**Opinion No. 86-173**

Agriculture—Weeds—Noxious Weeds; Control and Eradication; Duty of Counties to Provide or Sell Chemicals; Liability for Damages.

Procedure Civil—Actions Relating to Commercial Activity; Kansas Product Liability Act—Liability of Counties for Providing or Selling Certain Chemicals.

State Departments; Public Officers and Employees—Kansas Tort Claims Act—Liability of Counties for Providing or Selling Certain Chemicals. Constance M. Achterberg, Saline County Counselor, Salina, December 17, 1986.

There is no exception under the Kansas Tort Claims Act which would exempt a county from liability for claims arising from the sale of chemicals as required by the noxious weeds laws. Cited herein: K.S.A. 2-1314; 2-1322; 2-1323; 60-3301; 60-3302; 60-3305; 60-3306; 75-6101; 75-6103; 75-6104; 75-6105. RLN

ROBERT T. STEPHAN  
Attorney General

Doc. No. 004903

## State of Kansas

**DEPARTMENT OF ECONOMIC DEVELOPMENT****NOTICE OF HEARING ON  
THE 1987 KANSAS SMALL CITIES  
CDBG PROGRAM**

A public hearing on the proposed final statement of community development objectives and use of funds for the Kansas Small Cities Community Development Block Grant (CDBG) Program for 1987 will be held at 10 a.m. Thursday, January 8, in Room 514-S, State Capitol, Topeka.

Copies of the following proposed final statement are available during working hours at the KDOC Small Cities CDBG Program offices, 400 W. 8th, Suite 500, Topeka 66603. Written comments on the proposed final statement will be received for consideration in preparation of the final statement by the Kansas Small Cities CDBG Program through January 8.

**Proposed Final Statement of  
Community Development Objectives  
and Projected Use of Funds****Kansas Small Cities Community Development  
Block Grant Program 1987****I. Purpose**

This proposed final statement of community development objectives and projected use of funds concerns the 1987 distribution of approximately \$14 million in Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban-Rural Recovery Act of 1984 (amended 1974 HUD Act). As the designated state administering

agency in Kansas, the Kansas Department of Commerce (KDOC) will distribute the CDBG funds to units of general local government (cities and counties) in the non-entitled areas of Kansas. Until the final amount is known, the state will, for planning purposes, use the figure of \$14 million for federal allocation estimation. This figure may change depending on congressional action and U.S. Department of Housing and Urban Development allocation.

**II. Historical Use of Funds**

In 1984, the first year Kansas administered the CDBG program, a total of 435 grant applications were received with approximately \$16.5 million being distributed among 82 grants.

The State allocated 62% of funds for public facility projects, 10% for housing rehabilitation projects, 27% for economic development projects, and 1% for projects to meet urgent community development needs.

In relationship to the three broad national CDBG objectives for use of CDBG funds, the 1984 Kansas program fund distribution was 97.4% for LMI Benefit and 2.6% for urgent need.

In 1985, a total of 292 applications were received with approximately \$16.8 million being distributed among 74 grants.

The State allocated 55% of funds for public facility projects, 5% for housing rehabilitation projects, 36% for economic development projects, and 4% for small lakes and projects for urgent community development needs. In relationship to the three broad national CDBG objectives for use of CDBG funds, the 1985 Kansas program fund distribution was 96.6% for LMI Benefits, 2.5% for Slum/Blight Removal, and .9% for Urgent Need.

In 1986, a total of 224 applications were received with approximately \$14 million available for distribution. To date, 66 grants have been awarded totaling \$13.5 million, with 97.6% of funds expended on projects primary benefitting low and moderate income persons.

The following summary details the 1986 allocation of Community Development Block Grants by project type.

Number of Awards	Project Type	Award Amount	Percent of Total
2	Housing Rehabilitation	\$ 319,800	2.3
7	Building	1,191,944	8.6
9	Sewer	1,196,868	8.7
10	Water	1,948,343	14.1
2	Drainage—Storm Sewer	466,826	3.4
6	Street	1,430,869	10.3
20	Economic Development	5,298,000	38.3
6	Planning	142,100	1.0
2	Miscellaneous	370,000	2.7
2	Urgent Need	600,000	4.3
66		\$12,964,750	100.0
	Balance: State Discretionary	861,050	6.3
		\$13,825,800	100.0

**III. Citizen Participation**

The Secretary of the Department appointed the Community Development Block Grant Advisory Task

Force to advise the state in the development of the 1987 CDBG Program. The individuals appointed represented a balance between elected and appointed local and state officials and community development professionals who had worked with the CDBG program. A broad range of Kansas community development interest and needs were represented. The Task Force held a public meeting on December 4, 1986, in the State Capitol Building.

In addition to oral and written testimony presented at the Task Force meetings, the state has considered all written comments received in preparation of this statement.

A public hearing on the Proposed Final Statement will be held on January 8, 1987, at 10:00 a.m. in Topeka. Comments in response to the Proposed Final Statement will be considered in developing the 1987 Final Statement of Community Development Objectives and Projected Use of Funds.

**IV. Kansas Community Development Goals and Objectives**

**A. National Purpose**

The State confirms and endorses the national purpose of the program which is to develop viable communities by funding activities which serve to achieve one or more of the three national objectives.

**1. Activities Which Benefit Low and Moderate Income Persons**

Activities will meet this objective if 51% of the persons benefiting from the activity are of low-and-moderate income. The term "low-and-moderate income persons" has the same meaning as "lower income families" in Section 8 HUD assisted housing programs.

**2. Activities Which Aid in the Prevention or Elimination of Slums or Blight**

An activity will meet this objective if it occurs in and is designed to upgrade an area or community which:

- a. meet the state statutory definition of blight; and
- b. occurs where there is a substantial number of deteriorated or dilapidated buildings or improvements throughout the area; and
- c. displays characteristics of physical distress which, if relieved, would prevent further deterioration into slum or blighted conditions.

**3. Activities Designed to Meet Community Development Needs Having a Particular Urgency**

Activities will meet this objective if they:

- a. Address needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community which conditions are of recent origin or which became urgent within 18 months of certification; and
- b. no other financial resources are available within the appropriate time frame to meet the need.

(continued)

**B. Kansas Goals and Objectives**

The state has identified the following goals and objectives for the 1987 Kansas Small Cities (CDBG) Program:

**Goal 1. To improve local economies and the economic well-being of the people of Kansas.**

**Objectives:**

- a. To encourage private investment which will result in 1) creation of new jobs and income generation and/or 2) the expansion of the tax base.
- b. To encourage the creation and retention of viable businesses which employ and serve the local population.
- c. To promote a strong local government role in maintaining and improving the basic community infrastructure which is essential to the well-being of the community and its economy.
- d. To increase the use of minority and women business enterprises wherever feasible thereby expanding job creation in that segment of the local community.

**Goal 2. To provide funding for community improvements that 1) eliminate conditions which are detrimental to the public health and safety, or 2) meet other essential community development needs.**

**Objectives:**

- a. To improve existing public facilities.
- b. To provide new facilities when warranted by recent documented population growth, or when essential needs exist.
- c. To improve housing conditions and ensure fair housing opportunities, especially for persons of low and moderate income.

**Goal 3. To provide funding for projects that may need an immediate state response or that address specific state priorities.**

**Objectives:**

- a. To help local communities recover from natural disasters or alleviate a major threat to public health or safety.
- b. To fund priority projects that address critical community needs for which no other funds are available, some of which may not have been adequately addressed by the rating system.
- c. To assist the efforts of local government in providing funds for technical assistance, comprehensive planning and capital improvements planning, so that development strategies ensure efficient and equitable use of resources.

**V. Small Cities Community Development Block Grant—1987—Schedule**

- 1. Public Hearing Process
  - a. Publication in the Kansas Register December 22, 1986
  - b. Press Release on Public Hearing January 2, 1987
  - c. Public Hearing January 8, 1987

- 2. Submit Final Statement to HUD (on or before) January 16, 1987
- 3. CDBG Application Workshop January 26-February 3, 1987
- 4. Community Improvement Grant Schedule
  - a. Application Deadline March 30, 1987
  - b. Award Announcement (on or about) May 29, 1987
  - c. Grantee Workshop (on or about) June 9, 1987
- 5. Planning Grant Schedule
  - a. Application Deadline September 4, 1987
  - b. Award Announcement (on or about) September 25, 1987
  - c. Grantee Workshop (on or about) October 6, 1987
- 6. Economic Development Grant Schedules
  - Round I
    - a. Application Deadline March 2, 1987
    - b. Award Announcement (on or about) April 3, 1987
    - c. Grantee Workshop (on or about) April 14, 1987
  - Round II
    - a. Application Deadline June 29, 1987
    - b. Award Announcement (on or about) July 31, 1987
    - c. Grantee Workshop (on or about) August 11, 1987
  - Round III
    - a. Application Deadline November 2, 1987
    - b. Award Announcement (on or about) December 4, 1987
    - c. Grantee Workshop (on or about) December 15, 1987
- 7. Discretionary Grants
  - a. Award Announcement (on or about) December 18, 1987
  - b. Grantee Workshop February, 1988
- 8. Urgent Need Grants
  - a. Application any time until December 14, 1987
  - b. Announcement at any time before December 18, 1987

NOTE: Award announcements for respective grant competitions will be made as herein scheduled. It is possible that grant contracts will be made for less than the full amount awarded for any competition depending on the status of the HUD letter of credit to Kansas at that point in time.

**VI. Projected use of Funds—1987 Program**

The total amount of small cities CDBG funds allocated to Kansas for FY 1987 will be approximately \$14 million. The state will use no more than \$100,000 plus 2% of the total amount for state administration of the program. No more than 20% of the total grant will be used for administrative, planning and/or technical assistance costs at both the state and local levels.

Grant funds may be used only for activities which are eligible under the Kansas Community Development Block Grant Program as defined by Title I, Section 105 of the Housing and Community Development Act of 1974, as amended. A project will consist of activities that directly relate to each grant type.

**A. Allocation to Grant Categories**

The Grant Types coincide with the state goals and objectives and will be funded according to the allocation goals. The dollar amounts presented below are based on a grant to the State of \$14 million in Federal funds. This amount may vary depending on final federal determination of the 1987 Small Cities Program. The percentage allocation will, in any event, be used for distribution purposes.

Grant Category Type	Approximate Amount	Allocation Goals
1. Community Improvement	\$5.6m-\$8.4m	40-60%
2. Economic Development	\$4.2m-\$7.0m	30-50%
3. State Discretionary	\$1.4m	10%
a. Planning—(10% of state discretionary amount)		
b. Urgent Need		
c. Discretionary		

A formal system will be used to evaluate, select, and fund applications for grants. The selection criteria are designed to facilitate an objective assessment of the community and economic development needs of the area and the applicant's ability to carry out the project in an effective and timely manner.

**I. Community Improvement and Planning Allocations**

Community Improvement and Planning Grant applications will be evaluated, scored, and ranked according to criteria designed to measure community need and effort, project quality and impact, and to assure benefit to low-and-moderate income persons. Points will be awarded in accordance with the predetermined selection criteria as stated in the General Requirements.

<b>Rating Points</b>	<b>— Community Improvement Grant</b>
0	1. Threshold Requirements
250	2. Community Need/Effort Factors
450	3. Project Quality and Impact
300	4. Benefit to Low-and-Moderate Income Persons

1,000

<b>Rating Points</b>	<b>— Planning Grants</b>
0	1. Threshold Requirements
250	2. Community Need/Effort Factors
750	3. Project Quality and Impact

1,000

The funding ceiling for Community Improvement grants is \$1,000 per capita (1980 as updated) with a maximum of \$300,000 per grant. (See Eligible Applicants, General Requirements.) Planning grants will have a \$30,000 CDBG funding ceiling with a 25% local match requirement.

**2. Economic Development Grants**

Economic Development Grant applications will be evaluated, scored and ranked according to criteria designed to measure community need, project impact, project feasibility and to assure benefit to low-and-moderate income persons. Points will be awarded in accordance with the predetermined selection criteria as stated in the General Requirements.

<b>Rating Points</b>	<b>— Economic Development Grant Type</b>
0	1. Threshold Requirements
100	2. Community Need
450	3. Project Impact
450	4. Project Feasibility

1,000

The funding ceiling for Economic Development grants is established at \$400,000.

**3. State Discretionary Grants**

**(a) Urgent Need Grants**

Applications may be submitted at any time through December 14, 1987. See General Requirements for application details. Grant awards will be made on a first come basis so long as funds are available in this category and all eligibility regulations are met.

**(b) State Discretionary Grants**

Discretionary grants may be made by the Governor from among applications submitted within the competitive grant selection system. These applications may meet special, unusual or urgent community needs that are

not addressed by the competitive selection system or which demonstrate creative approaches that may serve as a model for other communities within the state. All grants made will primarily benefit LMI persons.

**VII. Program Requirements**

**A. Eligible Applicants**

Eligible applicants under the Small Cities Program are defined as general purpose units of government—all counties and all cities which are not participants in the HUD/CDBG entitlement program areas of Kansas.

**B. 51% Assurance**

The State of Kansas will assure that at least 51% of the State's Small Cities allocation will be used to support activities which will benefit low-and-moderate income persons over the next two (2) year program period.

**C. State Compliance Criteria**

**General Administration:** The following administrative and financial guidelines apply to the Kansas Small Cities CDBG Program.

- (1) **General Requirements.** Specific details of each grant category are published in the 1987 General Program Requirements.
- (2) **Project Administrative Cost.** Due to the wide disparity in project administrative cost, such costs will be individually negotiated at the time of contract signing and generally will not exceed 10% of the award.
- (3) **National Objectives and Eligible Activities.** The three national objectives are incorporated into the applicant selection criteria for the community development programs and only activities eligible under Section 105 of the Act will be eligible for funding by the Kansas Department of Commerce.
- (4) **Negotiated Funding.** The State reserves the right to negotiate with applicants and to deny partial or total funding of any application in a given funding period.
- (5) **Use of Undistributed Funds.** In the event that undistributed project funds from 1987 remain on January 31, 1988, those funds will be pooled. The highest ranked community improvements applicant(s) will receive a grant offer if pooled funds equal or exceed the amount(s) requested. If pooled funds do not equal the amount(s) requested, the State may elect to negotiate with the top ranked applicant(s) or to carry the funds into the next program year.
- (6) **Program Income.** Principal and interest returned to a grantee as the result of a community development/economic development project may be retained by the grantee and reused for the same community development/economic development activity. The same activity is the activity from which program income is described in the application materials submitted by the local government as approved by the state. (Activity is defined

(continued)

as providing loans for the purpose of economic development or housing rehabilitation by a grantee under the provisions of Section 105 of the HCD Act of 1974, as amended, according to the guidelines set out by the state for the reuse of program income.) If program income is retained by the grantee, the following guidelines must be used:

- (a) Program income retained by the grantee can only be used to capitalize a revolving loan fund for further community development/economic development activities or for specific public facility improvements related to the activity which generated the program income. Federal regulations on program income reuse will apply through contract close
- (b) Submission of a plan and strategy for program income reuse which is determined by the State to meet program guidelines, and which address the following:
  - (i) A detailed statement of the community development/economic development eligible activities for which the funds will be used;
  - (ii) Established policy, decision making and administrative procedures for the use of program income, and a commitment to ensure that administrative costs will not exceed 10% of the total program income funds for each reuse;
  - (iii) Arrangements for financial management of the revolving loan fund;
  - (iv) A commitment to ensure that at least 51% of the program income must be used to benefit LMI persons; and
  - (v) How changes to the reuse plan will be made (any changes must be approved by KDOC).
- (7) State Use of Program Income. Program income received by the State would be used to capitalize a State Community Development Revolving Fund. Revolving funds would be distributed consistent with HUD regulations and in the manner prescribed each year in the General Requirements.
- (8) Distribution of Recaptured Funds. Recaptured funds may be used to fund Community Improvement grants as those awards are made annually or will be distributed in the same manner as undistributed funds which are pooled at the end of January each year.
- (9) Minimization of Relocation. The State of Kansas will minimize residential and/or commercial relocation and will require the applicant to explain its plans for minimizing relocation within its application. The effectiveness of the local strategy will be reviewed in all applications.
- (10) Applicant Appeals. Applicants may meet with the CDBG Program Administrator to review their application and rating scores. When an

applicant appeals a rating score the following procedures will be observed:

- (a) Appeals will be granted only on the basis of miscalculation of numerical factors.
  - (b) An unsuccessful applicant has thirty (30) days after receipt of denial to submit a written appeal to the Community Development Division Director, Kansas Department of Commerce.
  - (c) The State must answer the appeal in writing within twenty (20) days.
  - (d) In the event an unsuccessful applicant disagrees with the response from the Division Director, a further appeal may be made to the Secretary of Commerce within thirty (30) days.
- (11) Single Purpose Projects. For the purposes of community improvements, planning and grants funded under State Discretionary categories, only single purpose projects will be accepted. A single purpose project is defined as one or more activities which collectively will address a deficiency. The relationship of the activities in a public facilities project must be of a singular nature and address a specific deficiency. The project must include only activities that are directly related and benefit the LMI population of the target area.

#### Definitions

**Undistributed funds:** Undistributed funds are those block grant funds remaining at the end of January not having been distributed according to the original allocation.

**Recaptured funds:** The unused portion of any grant award not used to complete the project.

**Program Income:** The principal and/or interest derived from the completion of a Community Development Project.

(Editor's Note: The Department of Economic Development will become the Department of Commerce effective January 12, 1987.)

CHARLES J. "JAMIE" SCHWARTZ  
Secretary of Economic Development

Doc. No. 004912

State of Kansas

**OFFICE OF JUDICIAL ADMINISTRATION  
COURT OF APPEALS DOCKET**

(Note: Dates and times of arguments are subject to change.)

Kansas Court of Appeals  
Supreme Court Room, 3rd Floor, Judicial Center  
301 W. 10th, Topeka, Kansas

Before Briscoe, P.J.; Rees and Brazil, JJ.

Tuesday, January 6, 1987  
9:00 a.m.

Case No.	Case Name	Attorney	County
58,880	State of Kansas, Appellee,	Jim Welch, Assistant District Attorney Attorney General	Shawnee
	v. James E. Blevins, Appellant.	Benjamin C. Wood Melissa Kelly Sheridan	
59,054	Julie C. Crooks, Cons. for David A. Williams, and David A. Williams, Individually, Appellant,	Eugene B. Ralston	Shawnee
	v. Horace T. Green, M.D., and Jane C. Stormont Hospital and Training School for Nurses, Appellee.	Wayne T. Stratton Thomas L. Theis	
59,426	William R. Endicott, Appellant,	Allen B. Angst	Shawnee
	v. Kansas Board of Examiners of Dentists, Appellee.	Harold Youngentob	
59,340	Gerald Coacher, Appellant,	David M. Cooper David M. Schauner	Shawnee
	v. U.S.D. 437, Shawnee County, Appellee.	Jerry Eschmann Wayne Probasco	
1:00 p.m.			
59,461	Nora Lyon & Associates, Appellee,	Ruth Graham	Shawnee
	v. Henry O. Boaten, Appellant,	Henry Boaten, <i>pro se</i>	
	v. Enoch Green.		
58,721	State of Kansas, Appellee,	David R. Heger and Ed Randels, Assistant County Attorneys Attorney General	Miami
	v. Terry Brewer, Appellant.	Benjamin C. Wood	
59,587	Cynthia Parker, Appellant,	Alan V. Johnson	Shawnee
	v. Kansas Neurological Institute, Appellee.	Janie Kelly, SRS	
59,613	MCI Telecommunications Corp., Appellee,	James L. Grimes, Jr. Neal Larsen Eva Powers	Shawnee
	v. State Corporation Commission, Appellant.	Basil W. Kelsey Robert L. Lehr	
59,675	In the Matter of the Estate of Nona E. Morton, Deceased.	Walker A. Hendrix Richard O. Skoog Thomas H. Sachse Sam H. Sheldon	Franklin

(continued)

## Summary Calendar—No Oral Argument

59,251	Hubert L. Evans, Appellant, v. State of Kansas, Appellee.	Benjamin C. Wood  Geary Gorup, Assistant District Attorney Attorney General	Sedgwick
59,267	In the Interest of C. L. K.	Kathleen Stannard, Assistant District Attorney Carl Black, Gdn. A/L Gregory Bernard King	Wyandotte
59,405	State of Kansas, Appellee,  v. Marvin Porter, Appellant.	Daniel Doyle, Assistant District Attorney Attorney General  Benjamin C. Wood Steven R. Zinn	Wyandotte

Kansas Court of Appeals  
Court of Appeals Courtroom, 2nd Floor, Judicial Center  
301 W. 10th, Topeka, Kansas

Before Davis, P.J.; Parks and Meyer, JJ.

Tuesday, January 6, 1987  
9:00 a.m.

Case No.	Case Name	Attorney	County
58,834	State of Kansas, Appellee,  v. Michael W. Thompson, Appellant.	Randy Hendershot, Assistant District Attorney Attorney General  Benjamin C. Wood	Shawnee
59,165	State of Kansas, Appellee,  v. James J. Simms, Appellant.	Kyle Smith, Assistant County Attorney Rod Symmonds, County Attorney Attorney General  Benjamin C. Wood Melissa Kelly Sheridan	Lyon
58,920	In the Matter of the Hearing Concerning John Edward Shields, before the Real Estate Commission.	Anne E. Oliver Mark A. Buck	Shawnee
59,035	Roberta Mildfelt, Appellant, v. State of Kansas, <i>ex rel.</i> , SRS, Appellee.	Deborah A. Peterson  Michael George Reid Stacey	Shawnee
1:00 p.m.			
59,144	State of Kansas, Appellee,  v. John E. Lavin, Appellant.	Ken Smith, Assistant District Attorney Attorney General  Hugh R. McCullough	Shawnee
59,590	Kansas Lumber Co. of Manhattan, Kansas, Inc., Appellant, v. Cheng-Yuan Wang, <i>et al.</i> , Appellees.	James M. Morrison William Frost  David Stutzman John F. Stites Bren Abbott Howard Fick	Riley
59,448	Topeka Datsun Motor Co., Appellee, v. Paulette S. Stratton, Appellant.	H. Kent Hollins  Anne P. Garlinghouse	Shawnee

59,072	1st American Inv. Group, and 1st American Inv. Group Serv. Division, Inc., Appellee, v. Beverly A. Henry, James A. Lucas, Robert E. Gordinier, Gregg Meens, and Lyla A. Accardi, Appellants.	F. G. Manzanares  Lynn D. Lauver Lyla A. Accardi, <i>pro se</i>	Shawnee
59,107	Jeff Bannon, Appellant, v. Kansas Real Estate Commission, Appellee.	Jack Focht Randall J. Forbes  Mark A. Buck Thomas E. Wright	Shawnee
<b>Summary Calendar—No Oral Argument</b>			
59,406	Clint Eugene Kyle, Appellant, v. State of Kansas, Appellee.	Benjamin C. Wood Roseanne Piatt  Michael Grosko, Assistant District Attorney Attorney General	Wyandotte
59,162	State of Kansas, Appellee, v. Janice E. Arnett, Appellant.	Kim T. Parker Geary Gorup, Assistant District Attorney Attorney General  Benjamin C. Wood	Sedgwick
<b>To be Argued by Conference Call</b>			
59,663	In the Interest of J.D., D.D., E.W., C.W., R.W., and J.W., all children under the age of eighteen years.	Conni L. McGinness Camilla Klein Haviland Jack W. Shultz	Ford

**Kansas Court of Appeals  
Division No. 5 Courtroom, Wyandotte County Courthouse  
Kansas City, Kansas  
Before Abbott, C.J.; Richard W. Wahl, District Judge, assigned;  
and Terry L. Bullock, District Judge, assigned.**

**Wednesday, January 7, 1987  
9:45 a.m.**

Case No.	Case Name	Attorney	County
59,466	Jerrold Eugene Henry, Appellant, v. State of Kansas, Appellee.	Benjamin C. Wood Michael Grosko, Assistant District Attorney  Attorney General	Wyandotte
59,236	State of Kansas, Appellee, v. Thomas C. Martin, Appellant.	Brad Watson, Assistant District Attorney Attorney General  Benjamin C. Wood Lucille Marino	Johnson
58,848	In the Matter of the Estate of Raymond F. Girt, Sr., Deceased.	Stanley R. McAfee Brenda J. Crabtree, <i>pro se</i>	Wyandotte
(59,483) (59,484)	State of Kansas, Appellee, v. Fanance Murray, Appellant.	Nick Tomasic, District Attorney Wesley Griffin, Assistant District Attorney Attorney General  Benjamin C. Wood Roseanne Piatt	Wyandotte

(continued)

1:00 p.m.

- |        |  |  |           |
|--------|--|--|-----------|
| 59,268 | State of Kansas, Appellee,<br><br>v.<br>Jane E. Nyberg, a/k/a/ Jane Friej,<br>Appellant.   | Robin Lewis, Assistant<br>District Attorney<br>Attorney General<br><br>Timothy J. Turner                             | Johnson   |
| 59,508 | State of Kansas, Appellee,<br><br>v.<br>John Robinson, Appellant.  | Steve Obermeyer, Assistant<br>District Attorney<br>Attorney General<br><br>James L. Eisenbrandt<br>J. Charles Droege | Johnson   |
| 59,615 | Larry J. Baxter, Appellant,<br><br>v.<br>L. T. Walls Const. Co., and State Farm<br>Fire & Casualty Co., and Workers'<br>Compensation Fund, Appellees.  | Thomas Brooks<br><br>J. Paul Maurin<br><br>Arthur W. Douville  | Johnson   |
| 59,535 | C.W. Henning, M.D., <i>et al.</i> , Appellants,<br><br>v.<br>Ottawa Care Center, Inc., Ottawa<br>Retirement Village Inc., <i>et al.</i> , Appellees.   | Eugene T. Hackler<br><br>Thomas E. Ruzicka<br>Dwight D. Sutherland, Jr.  | Franklin  |
| 59,173 | Harry Stevens, Appellant,<br><br>v.<br>City of Kansas City and Lawrence Gray,<br>Appellees.<br><br>Walter Norman, Appellant,<br><br>v.<br>City of Kansas City and Lawrence Gray,<br>Appellees. | John S. Sutherland<br><br>Michael P. Howe<br>David J. Waxse<br><br>James M. Sheeley                                  | Wyandotte |

**Summary Calendar—No Oral Argument**

- |        |  |  |         |
|--------|--|--|---------|
| 58,726 | In the Interest of T.S., a child under 18<br>years of age.                     | Sherri A. Mears<br>Gail Christy<br>Thomas Kelly Ryan<br>Jon S. Willard<br>David M. Jancich   | Johnson |
| 59,022 | In the Matter of the Marriage of Anna<br>Rebecca Jones and Allen Eugene Jones. | Donna L. Whiteman<br>Richard J. Rome   | Reno    |
| 59,289 | State of Kansas, Appellee,<br><br>v.<br>Lonnie Stuart, Appellant.              | Paul J. Morrison, Assistant<br>District Attorney<br>Attorney General<br><br>Benjamin C. Wood | Johnson |

**Kansas Court of Appeals  
District Courtroom 1, Geary County Courthouse  
Junction City, Kansas  
Before Abbott, C.J.; James P. Buchele, District Judge, assigned;  
and Daniel L. Hebert, District Judge, assigned.**

**Tuesday, January 20, 1987  
9:45 a.m.**

- | Case No. | Case Name   | Attorney   | County |
|----------|---|--|--------|
| 59,334   | State of Kansas, Appellee,<br><br>v.<br>Charles McQueen, Appellant. | Steven L. Opat, County Attorney<br>Attorney General<br><br>Peter Charles Rombold<br>Richard A. Pinaire | Geary  |

58,978	State of Kansas, Appellee, v. Welsey Dean Corter, Appellant.	William O'Keefe, County Attorney Attorney General	Nemaha
59,321	S. M. Samarra, Appellant, v. Ronald W. Hill and Ann L. Hill, Appellees.	Benjamin C. Wood Lucille Marino Charles D. Green	Riley
58,961	State of Kansas, Appellee, v. Joseph C. Simpson, Appellant.	Gary McCallister Henry Otto III, Assistant County Attorney Attorney General	Pottawatomie
		G. H. Griffeth	
		1:00 p.m.	
59,526	State of Kansas, Appellee, v. Lyle W. Manka, Appellant.	Edwin Wheeler Jr., County Attorney Attorney General	Marion
59,007	Curtis Scott Beames, Appellant, v. Daniel H. Stahl, Def., State Farm Mutual Auto Ins. Co., Appellee.	Stephen M. Joseph Robert C. Johnson	Harvey
59,319	Phillip Karrigan, Appellee, v. Harold Alexander, Appellant.	Howard Engleman	Clay
59,210	Robert A. Coffey, Appellant, v. Vernon White, dba Flint Hills Speedway and Junction City Raceway Inc., Appellees.	Bruce H. Wingerd Robert L. Constable Michael D. Hepperly	Geary
59,285	City of Abilene, Appellee, v. Franklin Franks, Appellant.	Frederick K. Starrett Eugene Ralston	Dickinson
		Stan Martin	
		Allen B. Angst	
	<b>Summary Calendar—No Argument Requested</b>		
59,408	Victor C. Altemay, Appellant, v. State of Kansas, Appellee.	Benjamin C. Wood Melissa Kelly Sheridan	Sedgwick
59,468	State of Kansas, Appellee, v. Ralph E. Parsons, Appellant.	Geary Gorup, Assistant District Attorney	Sedgwick
59,569	State of Kansas, Appellee, v. Kent William Stroda, Appellant.	Geary Gorup, Assistant District Attorney Attorney General Kerry J. Granger Keith D. Hoffman, County Attorney Attorney General	Dickinson
		Robert L. Pottroff	

(continued)

Kansas Court of Appeals  
3rd Floor, Crawford County Courthouse  
Girard, Kansas  
Before Brazil, P.J.; Parks and Briscoe, JJ.

Tuesday, January 20, 1987  
10:00 a.m.

Case No.	Case Name	Attorney	County
58,808	State of Kansas, Appellee, v. Robert Leroy Baker, Appellant.	Herman A. Loepp, County Attorney Attorney General  Benjamin C. Wood Steven R. Zinn	Anderson
Consolidated with 59,081	State of Kansas, Appellee, v. Robert Leroy Baker, Appellee.	Nanette Kemmerly-Weber County Attorney Attorney General  William C. Walker	Allen
59,195	State of Kansas, Appellee, v. Cecil W. Emerson, Appellant.	Charles Bennett, County Attorney Attorney General  Benjamin C. Wood Roseanne Piatt	Neosho
59,318	Fred Carra, Appellant, v. Estate of Herbert J. Carra, Deceased; Lucile E. Carra, Widow and Adm. of Estate of Herbert J. Carra, Deceased, Appellees.	Philip J. Bernhart  Timothy Emert	Chautauqua
1:00 p.m.			
59,302	Claude H. Trotter, Trustee, and H. Darby Trotter, Appellants, v. Wells Petroleum Corp., George Durgom, Max Fink, Nathaniel Weisbaum, Jack Wideman, Appellees.	Gary House  Jon R. Viets	Chautauqua
59,389	Douglas Keller, Appellant, v. Coffeyville Community College Board of Trustees, Appellee.	Wesley A. Weathers  H. E. Jones Jon R. Viets	Montgomery
59,065	Rebecca L. Wells, Appellee, v. John F. Wells, Appellant.	D. A. Whittier  John F. Wells, <i>pro se</i>	Crawford
59,509	In the Matter of the Estate of Ray Van Zant, Deceased.	Carla J. Stovall Charles Menghini	Crawford
59,000	Elizabeth W. Burris, Billie Dean Walker, Raymond Dan Walker, Addie Ann McWhorter and Mary L. Bryant, Appellants, v. K. I. Loy, Appellee.	John J. Bukaty, Jr. Timothy L. Fielder  Randall D. Palmer Duncan A. Whittier	Crawford

## Summary Calendar—No Oral Arguments

58,458	In the Interest of M.J.W. and S.P.W.	William R. Griffith Richard Dickson, Gdn. A/L John D. Clark Gerald Domitrovic	Sedgwick
59,164	State of Kansas, Appellee,  v. David P. Hayes, Appellant.	Geary Gorup, Assistant District Attorney Attorney General  Benjamin C. Wood	Sedgwick
59,193	State of Kansas, Appellee,  v. James E. Smith, Appellant.	Geary Gorup Julia Wright, Assistant District Attorney Attorney General  Benjamin C. Wood	Sedgwick
59,180	State of Kansas, Appellee,  v. Lorna G. Anderson, Appellant.	Rodney H. Symmonds, County Attorney Attorney General  Jack Focht	Lyon

**Kansas Court of Appeals  
3rd Floor, Memorial Building  
Chanute, Kansas**

**Before Rees, P.J.; Meyer and Davis, JJ.**

**Tuesday, January 20, 1987  
9:00 a.m.**

Case No.	Case Name	Attorney	County
59,199	Wilford E. Aday, Richard L. Thompson, Chas. R. Daugherty, Shirley Lopeman, Kenneth Keas, Francis Miller, Francene Johnson and Louise Stephens, Appellees,  v. David L. White and Bonnie White, Appellants.	Steve Stapleton Richard Thompson, <i>pro se</i>  Richard L. Hines	Neosho
59,550	David H. Scott and Eleanor C. Scott, Appellees,  v. Class 1 Waterproofing, Inc., Appellant.	Robert K. Scovel  Richard L. Hines	Montgomery
59,133	Federal Deposit Ins. Co. substituted for First National Bank of Chanute, Appellee,  v. Raymond A. Yarnell, Marva Yarnell, and Administrator of Small Business Administration, Appellants.	Raymond W. Radford David S. Brake  David K. Clark Stephen K. Lester	Wilson
<b>1:00 p.m.</b>			
59,204	State of Kansas, Appellee,  v. Bill Taylor, Appellant.	John J. Gillett, County Attorney Attorney General  David K. Clark	Wilson
59,206	Stephen M. Filтинberger and Cedar Vale State Bank, Appellees,  v. General Service Insurance Agency, Hartford Fire Insurance Co., and Neal Leedy, Appellants.	Robert L. Eastman  Dale L. Pohl	Chautauqua

(continued)

58,778	Francis W. Melle, Appellant, v. Frank L. Price, Appellee.	W. J. Fitzpatrick Monti L. Belot Jeffrey A. Chubb	Montgomery
59,291	Marvin Hamsher, Appellee, v. Bob Williams, Appellant.	Daryl Ahlquist W. J. Fitzpatrick	Labette
59,346	Jack King, Appellant, v. U.S.D. 446, Appellee.	W. J. Fitzpatrick Rawley J. Dent	Montgomery
<b>Summary Calendar—No Oral Arguments</b>			
59,128	State of Kansas, Appellee, v. Mary Jackson Bailey, Appellant.	Philip D. Lunt, County Attorney Attorney General Benjamin C. Wood Lucille Marino	Pratt
59,519	State of Kansas, Appellee, v. Robert Cochran, Jr., Appellant.	Sally D. Pokorny, County Attorney Attorney General Benjamin C. Wood Melissa Kelly Sheridan	Montgomery
59,260	Ricky Allen Reid, Appellant, v. State of Kansas, Appellee.	Benjamin C. Wood Scott Condray, County Attorney Attorney General	Cheyenne
59,450	In the Matter of the Marriage of George R. Strom and Dawn D. Strom.	Keith D. Hoffman Doug Thompson	Dickinson

LEWIS C. CARTER  
Clerk of the Appellate Courts

## State of Kansas

DEPARTMENT OF HEALTH  
AND ENVIRONMENTTEMPORARY ADMINISTRATIVE  
REGULATIONSArticle 4.—MATERNAL AND  
CHILD HEALTH

**28-4-269. Licensing procedures.** (a) Each person, corporation, firm, association or other organization desiring to conduct a group boarding home or residential center shall apply for an authorizing license on forms provided by the Kansas department of health and environment.

(b) A person, corporation, firm, association or other organization shall not conduct a group boarding home or residential center for children under 16 years of age unless issued an authorizing license by the Kansas department of health and environment.

(c) The application for a license shall be accompanied by a written proposal which details the purpose of the facility, the administration, financing, staffing and services to be offered, including age range and sex of residents to be served. The proposal shall be approved by the Kansas department of social and rehabilitation services before a license is issued by the Kansas department of health and environment.

(d) Plans for each building to be used as a group boarding home or residential center shall be submitted to the Kansas department of health and environment.

(e) A license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 through 65-516, and amendments to them, and the rules and regulations promulgated pursuant to those statutes, and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and its amendments.

**(f) Renewals.**

(1) Before the existing license expires, the licensee shall apply for renewal of the license on forms supplied by the Kansas department of health and environment.

(g) An application may be withdrawn at any time upon request by the applicant. The Kansas department of health and environment shall notify the applicant or licensee and other appropriate agencies that the facility is considered closed and the license terminated. The applicant shall submit a new application to the Kansas department of health and environment prior to reopening a facility.

(h) A new application and fee shall be submitted for each change of ownership, sponsorship or location.

**(i) Grievance procedures.**

(1) Each applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to an administrative hearing by the Kansas department of health and environment and subsequently the right of appeal to the district court.

(2) Each applicant or licensee aggrieved by a licensing evaluation or by licensing procedures may

appeal in writing to the Kansas department of health and environment.

**(j) Exceptions.**

(1) Each applicant or licensee may submit a written request for an exception to a regulation to the Kansas department of health and environment. An exception shall be granted if the secretary determines the exception to be in the best interest of a child or children and their families, and if statutory requirements are not violated.

(2) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended T-87-34, Nov. 19, 1986.)

**28-4-277. Environmental standards.** (a) General requirements.

(1) Community resources, such as schools, churches, recreational and health services, police protection and fire protection from an organized fire department, shall be available to the facility.

(2) The building shall meet the legal requirements of the community as to building codes, zoning, and fire protection. Where local fire regulations do not exist, fire safety approval shall be obtained from the state fire marshal.

(3) Plans for constructing a proposed building or for any major addition or alteration shall be the responsibility of a licensed architect.

(A) New buildings. Preliminary plans and outline specifications including plot plans shall be submitted to the Kansas department of health and environment for review and approval prior to commencing construction.

(B) Additions or alterations. A written statement defining the proposed use of the construction shall accompany the plans and specifications. The statement shall be submitted to the Kansas department of health and environment for review prior to beginning construction.

(4) If construction is not commenced within the year, plans and proposals shall be resubmitted to the department before proposed construction begins.

**(b) Premises.**

(1) There shall be sufficient outside play space available as determined by the number and ages of residents.

(2) The outdoor play area shall be free of physical hazards including bodies of water, ravines, and drainage ditches.

(3) Playground equipment, such as climbing apparatus, slides and swings, shall be provided as appropriate for the age of residents, and shall be firmly anchored. A hard-surfaced area or gravel shall not be used under anchored play equipment.

(4) Each facility shall develop a written maintenance policy which shall be followed. The facility and outside area shall be maintained in good condition and shall be clean at all times, free from accumulated dirt, trash, vermin and rodent infestation. Garbage and

*(continued)*

outdoor trash containers shall be covered. Contents of outdoor containers shall be removed at least weekly.

(5) The structure of the facility shall be large enough to house the number of residents for which the facility was planned, the staff, substitute staff and children of the staff who are to live in it.

(6) Living rooms and indoor play space shall have proper heating, cooling, lighting and ventilation. There shall be adequate space for recreation and study.

(7) All quarters occupied by the residents shall have lighting of a minimum of 20 foot candles in all parts of the room. There shall be lighting of a minimum of 35 foot candles in areas used for reading, study or other close work.

(8) There shall be a telephone located in each facility and readily available.

(9) Windows and doors shall be screened as needed unless areas are air conditioned.

(10) Low windows and glass doors which present a hazard to children shall be effectively screened and guarded.

(11) All stairs shall be provided with sturdy handrails.

(12) The facility shall contain adequate central storage for household supplies bedding, linen, out-of-season clothing, luggage and play equipment in addition to adequate closet and storage space in bedrooms for the residents and child care staff.

(13)(A) Asbestos shall not be used in new or remodeling construction.

(B) If friable asbestos is present, it shall be covered and sealed so as to provide a protective barrier between the asbestos and the occupants of the building.

(14) Floors shall be smooth, free from cracks, and easily cleanable. They shall not be slippery. Floor covering for living quarters shall be required over concrete slabs in contact with the ground.

(15) Walls shall be smooth, easily cleanable and in sound condition.

(16) Electrical outlets within the reach of children under six years shall be covered with safety devices.

(17) Appropriate physical facilities, equipment and furnishings shall be provided.

(18) Care for children with handicapping conditions. Care for non-ambulatory children shall be provided on the ground floor. All exits and steps shall have ramps properly equipped with cross-treads. Each ramp shall have an incline of no more than two inches to the foot.

(c) Sleeping facilities.

(1) Sleeping facilities shall be limited to first and second floors. The minimum square footage of floor space exclusive of built in furniture, storage space or closets shall be 80 square feet per person in single rooms and an average of not less than 60 square feet per person in rooms accommodating more than one person. Minimum ceiling height shall be 7' 8" over 90% of the room area.

(2) Each sleeping room shall be an outside room with operable windows, and shall be well-ventilated, adequately lighted, and appropriately heated or cooled.

(3) A separate bed with level flat mattress in good condition and adequate bedding shall be provided for each resident.

(4) Children of staff who reside in the center shall have separate sleeping areas if sex or age is different from that of residents.

(d) Water supply.

(1) The water supply shall be from a source approved and certified by the county health officer and shall be under pressure. Water coming into the premises shall come from a public or municipal source, or from a private water supply which has been investigated and approved by the responsible health authorities. The plumbing shall have been installed according to local or state plumbing codes.

(2) Sanitary drinking facilities shall be provided for the residents. The following methods are acceptable:

(A) Disposable cups and an appropriate water dispenser which is available to the residents;

(B) a fountain of approved design with water under pressure so that the stream is not less than three inches high; or

(C) a glass washed after each use.

(e) Toilet and lavatory facilities.

(1) All plumbing fixtures and building sewers shall be connected to public sewers if the public sewer line is within 50 yards of the building.

(2) Where a public sewer is not available, a private sewage disposal system meeting requirements of the health authority and installed and connected to all plumbing fixtures and building sewers shall be used.

(3) Toilet and bathing facilities shall be convenient to sleeping quarters, living and recreation rooms.

(4) Cold water and hot water not exceeding 120° F., shall be supplied under pressure to lavatory and bathtub or shower.

(5) For each five or fewer residents of each sex there shall be at least one toilet, one lavatory and a bathtub or shower.

(6) Separate bathroom facilities shall be provided for live-in staff.

(7) Each bathroom shall be ventilated. An inside bathroom shall have a mechanical system to the outdoors with a minimum of four air changes per hour.

(8) Facilities serving non-ambulatory children shall have toilets and washbasins designed to accommodate them.

(f) Laundry facilities.

(1) If laundry is done at the facility, laundry fixtures shall be located in an area separate from food preparation areas and shall be installed and used in a manner that safeguards the health and safety of the residents.

(2) If needed, the type of diapers and diaper service shall be determined by the facility director with approval of the health nurse.

(3) Soiled linen shall be kept in areas separate from clean linen. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended T-87-34, Nov. 19, 1986.)

**28-4-351. Licensing procedures.** (a) A person, corporation, firm, association or other organization shall

not conduct a detention center for children under 16 years of age, unless the person, corporation, firm, association or other organization has been issued a license to do so by the Kansas department of health and environment.

(b) Any public agency or private individual, corporation, firm, association or other organization desiring to conduct a detention center shall apply for a license to do so on forms provided by the Kansas department of health and environment.

(c) Detention centers and other foster care facilities operated by or receiving support from county or municipal governments shall meet the same requirements for licensure as facilities operated by nongovernmental entities.

(d) The application for a license shall be accompanied by a written proposal which details the purpose of the center, the administration, financing, staffing, and services to be offered including age range and sex of residents to be served. This proposal shall be approved by the Kansas department of social and rehabilitation services before a license is issued by the Kansas department of health and environment.

(e) Plans for all buildings to be used to as a detention center shall be submitted to the Kansas department of health and environment as prescribed in K.A.R. 28-4-359.

(f) A full license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 *et seq.* and amendments thereof and the rules and regulations promulgated pursuant to those statutes, and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments thereof. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1979; amended T-83-24, August 25, 1982; amended May 1, 1983; amended T-87-34, Nov. 19, 1986.)

#### **28-4-359. Environmental standards.**

(a) Building—General requirements. (1) The building shall meet the legal requirements of the community as to building code, zoning, fire protection, water supply, and sewage disposal. The detention center shall use public water and sewerage systems, or shall have private water and sewerage systems having approval and permits as required by K.S.A. 65-163 and 65-165. Where local fire regulations do not exist, K.A.R. 22-15-1 through 22-15-7 shall apply. In instances of conflict the more stringent shall prevail.

(2) Plans for a proposed building to be newly constructed or for any major addition or alteration shall be the responsibility of a licensed architect.

(A) In the case of new buildings, preliminary plans and outline specifications including plot plans shall be submitted to the Kansas department of health and environment for review prior to commencing the final working drawings and specifications. The final working drawings, construction specifications and plot plans, shall be submitted to said department for review and written approval prior to the letting of contracts.

(B) In the case of any anticipated addition or alteration, a written statement defining the proposed use of

the construction shall accompany the plans and specifications which must be submitted to the Kansas department of health and environment for review prior to commencing construction.

(3) If construction is not commenced within the year, the plans and proposal shall be resubmitted to the state before proposed construction begins.

(b) Location and grounds.

(1) Community resources such as health services, police protection, and fire protection from an organized fire department shall be available to the detention center.

(2) There shall be at least 100 square feet of outside play space available per resident utilizing the area at any given time.

(3) The outdoor play area shall be free of physical hazards.

(c) The water supply shall be from a source approved by the health authority and shall be so certified.

(1) Plumbing shall have been installed and be maintained in a manner approved by local or state plumbing codes.

(2) Any private water supply shall have been approved by the county health officer or Kansas department of health and environment.

(d) Inside area.

(1) Floors shall be smooth and free from cracks, easily cleanable and shall not be slippery. Floor covering for living quarters shall be required over concrete slabs in contact with the ground. All floor covering shall meet fire safety regulations.

(2) Walls shall be smooth, easily cleanable and in sound condition. Paneling shall meet fire safety regulations as set forth in K.A.R. 22-15-5(a)(3). Lead-free paint shall be used on all painted surfaces.

(3) Resident rooms shall be limited to ground level and above. Any room with floor level more than 30 inches below ground level shall be considered a basement. The minimum square footage of free floor space shall be 80 square feet per person in single rooms, and an average of not less than 60 square feet of free floor space per person in rooms accommodating more than one person. Minimum ceiling height shall be seven feet eight inches over 90% of the room area. An even temperature of between 68° F. and 78° F. shall be maintained with an air exchange of at least four times per hour.

(4) Bedrooms occupied by the detainees shall have a source of natural light.

(5) All quarters occupied by the residents shall have lighting of a minimum of 30 foot candles in all parts of the room. There shall be lighting of a minimum of 50 foot candles in areas used for reading, study or other close work.

(6) There shall be adequate spaces for study and recreation.

(7) The living unit shall contain adequate central storage for household supplies, bedding, linen and recreational equipment.

(8) Separate beds with level, flat mattresses in good condition, shall be provided for all residents.

(continued)

(9) Adequate, clean bedding shall be provided for all residents.

(10) There shall be a telephone readily accessible in all areas. Emergency numbers, such as fire, police, hospital, physician, poison control center, and ambulance shall be posted by each phone.

(e) Food services and food storage shall comply with K.A.R. 28-36-20 through 28-36-29, Kansas department of health and environment regulations governing food and lodging services.

(f) Toilet and lavatories.

(1) For each eight or fewer residents of each sex, there shall be at least one toilet, one lavatory and a bathtub or shower.

(2) All bathrooms shall be ventilated. Inside bathrooms shall have a mechanical ventilating system to the outside with a minimum of ten air changes per hour.

(3) Toilet and bathing facilities shall be convenient to sleeping quarters, living and recreation rooms.

(4) Cold water and hot water, not exceeding 120° F., shall be supplied to lavatories, bathtubs and showers.

(g) Laundry.

(1) If laundry is done at the center, laundry fixtures shall be located in an area separate from food preparation areas and shall be installed and used in such a manner as to safeguard the health and safety of the residents.

(2) Soiled linen shall be stored in areas separate from clean linen. In centers constructed after January 1, 1974, separate handwashing facilities shall be provided in the laundry room which serves 25 or more persons.

(3) Blankets shall be laundered or sanitized before reissue.

(4) Blankets, when used with sheets, shall be laundered at least once every month.

(5) Mattresses shall be water repellent and washed down or sprayed with disinfectant before reissue.

(h) Hygienic standards.

(1) Building maintenance.

(A) The building shall be clean at all times, free from accumulated dirt, vermin and rodent infestation.

(B) The floors and walking surfaces are to be kept free of hazardous substances at all times.

(C) A schedule for cleaning buildings shall be established and maintained.

(i) Floors shall be swept and mopped daily.

(ii) Floors and walls shall be smooth, easily cleanable and in sound condition.

(D) Washing aids, as brushes, dishmops and other hand aids used in dishwashing activities, shall be clean and used for no other purpose.

(E) Mops and other cleaning tools shall be cleaned and dried after each use and stored in a well-ventilated place on adequate racks.

(F) The use of insecticides, rodent killers and other poisons shall be used under careful supervision. These materials shall be stored in a locked area.

(G) Toilets, lavatories, sinks and other such facilities in the living quarters shall be cleaned thoroughly each day.

(2) Personal hygiene.

(A) Residents shall bathe at least twice a week.

(B) Residents shall be furnished soap, toothpaste and toothbrushes.

(C) Facilities for shaves and haircuts shall be made available.

(D) Residents' washable clothing shall be changed and laundered a minimum of once a week.

(E) Clean, individual bath and face towels shall be issued at least twice a week and bed linen shall be changed at least once a week. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1979; amended T-87-34, Nov. 19, 1986.)

### **28-4-377. Environmental standards.**

(a) General building requirements.

(1) Maternity centers caring for three or fewer patients shall comply with the legal requirements of the community relating to residential building codes, zoning, fire protection, water supply, and sewerage disposal. The building shall meet the requirements of the fire safety code for maternity centers promulgated by the state fire marshal.

(2) Maternity centers serving four or more patients shall comply with construction standards 7.29 set forth in the department of health, education and welfare handbook, entitled "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities," publication No. H.R.A. 79-14500 as such standards existed on January 1, 1979, and shall comply with fire safety requirements of chapter 6, section 3 of the national fire protection association code 101.1976.

(3) Plans for a proposed building to be newly constructed or any major addition or alteration to an existing building shall be submitted as follows:

(A) In the case of new building, preliminary plans and outline specifications, including plot plans, shall be submitted to the Kansas department of health and environment for review prior to commencing the final working drawings and specifications. The final working drawings, including construction specifications and plot plans, shall be submitted to said department for review prior to the letting of contracts.

(B) In the case of any anticipated addition or alteration to an approved plan, a written statement defining the proposed use of the construction shall accompany the plans and specifications which must be submitted for review prior to commencing construction.

(4) If construction is not commenced within the year, the plans and proposal shall be resubmitted to the Kansas department of health and environment before proposed construction begins.

(b) Location and grounds.

(1) The maternity center shall be located so that total travel time to the level II or level III hospital with which there is a contract does not exceed 30 minutes including time for the ambulance to arrive at the maternity center.

(2) Local fire and police protection shall be available.

(3) The maternity center shall use public water and sewerage systems where available or there shall be

private water and sewerage systems in compliance with the following:

- (A) K.A.R. 28-4-50 and K.A.R. 28-4-55 for 20 or fewer persons; or
- (B) K.S.A. 65-163 and K.S.A. 65-165 through K.S.A. 65-171 for more than 20 persons.
- (4) The yard shall be free from hazards.
- (c) Building interior.
  - (1) Delivery rooms shall be on ground level.
  - (2) The building shall be in good repair, clean and well maintained.
  - (3) Lead free paint shall be used.
  - (4) Porches, steps and stairways shall be safe and railed as needed.
  - (5) If ramps are provided, there shall be no more than one inch incline to a foot.
  - (6) There shall be central heat and proper ventilation.
  - (7) There shall be a telephone on the premises.
  - (8) A mobile unit shall be skirted and anchored and have exits at opposite ends.
  - (9) There shall be a route of egress to the outside with no doorway less than 30 inches in width.
  - (10) Privacy shall be provided for each family group in waiting areas.
  - (11) Toilet and lavatory facilities which are not used by patients shall be provided for family members and visitors.
  - (12) Trash and garbage shall be placed in covered containers and removed regularly.
- (d) Food service.
  - (1) Maternity centers caring for three or fewer patients shall provide meals to patients only. One of the following methods of food service shall be used:
    - (A) Food catered from a licensed food service using vendor's utensils.
    - (B) Prepackaged complete meals.
    - (C) Meals prepared on the premises.
      - (i) Kitchen shall be equipped for sanitary preparation of foods and snacks;
      - (ii) There shall be a sink to wash, sanitize and air dry dishes; or
      - (iii) There shall be a mechanical dishwasher.
    - (D) Mechanical refrigeration shall be provided.
  - (2) Maternity centers caring for four (4) or more patients shall comply with the requirements of K.A.R. 28-36-20 through 28-36-29 relating to food and lodging services.
    - (3) Prepackaged disposable formula units shall be used for other than breast feeding.
- (e) Safety and accident prevention.
  - (1) Unused electrical outlets, other than in the delivery room, shall be covered.
  - (2) Safe storage shall be provided for medication and drugs, poisons, disinfectants and cleaning agents.
  - (3) Guns or other weapons shall not be kept on the premises.
  - (4) Plans shall be posted for evacuation in case of fire, tornado or other disasters and all staff shall be formed of the plans.
  - (5) Evacuation drills shall be held at least four times a year, and the dates recorded.

(6) Heating appliances shall be guarded and those using combustible fuel shall be vented to the outside.

(7) There shall be no pets on the premises.

(8) Telephone numbers of community emergency services shall be posted by the telephone.

(9) All closet and bathroom doors shall be openable from either side whether locked or unlocked.

(10) No business other than medical practice shall be conducted in the maternity center. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1981; amended T-87-34, Nov. 19, 1986.)

#### **28-4-422. Procedures.** (a) General.

(1) Any person, corporation, firm, association, or other organization desiring to conduct a child care center or preschool which will operate for more than five consecutive hours or more than one day per week shall apply for a license on forms supplied by the Kansas department of health and environment.

(2) In lieu of being licensed, preschools operated on the premises of private schools providing kindergarten through grade six shall be governed by Kansas statutes applicable to private schools.

(3) Each application for a license or an application for renewal of license shall be accompanied by the license fee which shall not be refundable.

(4) Children shall not be in attendance at the center or preschool until a license has been issued by the Kansas department of health and environment.

(5) Applicants shall be 18 years of age or older at time of application.

(6) A license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 *et seq.* and amendments thereof, and the rules and regulations promulgated pursuant to those statutes, and that the applicant has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments thereof.

(A) A license for an additional facility operated by a licensee shall not be issued until all existing facilities operated by the licensee are in compliance with licensing regulations.

(B) It shall be the responsibility of the licensee to provide the financial resources necessary to maintain compliance with licensing regulations.

(b) Statement of services offered. When making application to the Kansas department of health and environment for a license to conduct a child care center or preschool, the applicant shall state what services will be provided. Advertisements shall conform to the written statement of services. No claims as to specialized services shall be made unless the facility is staffed and equipped to offer those services. No general claim as to "state approval" shall be made unless the facility has obtained a license issued by the Kansas department of health and environment. The licensing agency shall be notified of any change in the position of program director or any change in program which effects licensure.

(c) Initial application.

(1) Site approval.

(A) The proposed site shall be approved by the

(continued)

Kansas department of health and environment, the local building inspector when required, and a fire safety inspector. Inspection reports shall accompany the application for license.

(B) When a building is to be constructed or an existing building is to be remodeled, construction or remodeling plans shall be submitted to the Kansas department of health and environment.

(C) When additional space in an existing building is to be used, prior approval shall be obtained from the Kansas department of health and environment.

(2) A working telephone shall be on the premises and available at all times for use by staff.

(d) Renewals.

(1) Before an existing license expires, the licensee shall apply for renewal of the license on forms supplied by the Kansas department of health and environment.

(2) Any application may be withdrawn at any time upon request by the applicant. The applicant shall submit a new application to the Kansas department of health and environment prior to reopening a facility.

(3) A new application and fee shall be submitted for each change of ownership, sponsorship or location.

(e) Grievance procedures.

(1) Each applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to an administrative hearing by the Kansas department of health and environment and subsequently of the right of appeal to the district court.

(2) Each applicant or licensee aggrieved by a licensing evaluation or by licensing procedures may appeal in writing to the Kansas department of health and environment.

(f) Exceptions.

(1) Any applicant or licensee may submit a written request for an exception to a regulation to the Kansas department of health and environment. An exception shall be granted if the secretary determines the exception to be in the best interest of a child or children and their families, and if statutory requirements are not violated.

(2) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-504, 65-505 and 65-508; effective May 1, 1983; amended May 1, 1984; amended T-87-34, Nov. 19, 1986.)

**28-4-440. Infant and toddler programs.** (a) Infant and toddler programs shall be conducted on the ground floor only.

(b) Infant and toddler units shall be separate from units for older children.

(c) Floor furnaces shall be prohibited.

(d) A sleeping area separate from the play area shall be provided for infants.

(e) A crib or playpen shall be provided for each infant in care at any one time. Cribs and playpens shall be maintained in good condition. Clean individual bedding shall be provided. The use of stacking cribs shall be prohibited.

(f) Cribs and playpens shall have slats not more than  $2\frac{3}{8}$  inches apart, or shall be equipped with bumpers. The side of the crib or playpen shall be up while the crib or playpen is in use.

(g) When children are awake, they shall not be left unattended in cribs or other confinement for more than 30 minutes.

(h) An adult-size rocking chair shall be provided in each infant or toddler unit.

(i) Children not held for feeding shall have low chairs and tables, infant seats with trays, or high chairs with a wide base and a safety strap.

(j) Individually-labeled towels and washcloths or disposable products shall be provided.

(k) Items that children may place in their mouths shall be washed daily with soap and water.

(l) Staff requirements. Single or multi-unit centers serving infants and toddlers shall employ one staff person per unit who meets the training requirements under one of the following options:

(A) Option 1: A person with six months' teaching experience or a supervised practicum in licensed child care centers enrolling infants and toddlers; or

(B) Option 2: A licensed L.P.N. or R.N. with three months' experience in pediatrics, or in licensed child care centers enrolling infants and toddlers; or

(C) Option 3: A child development associate credential in infant/toddler care.

(m) Program.

(1) Daily activities shall contribute to:

(A) Gross and fine motor development;

(B) visual-motor coordination;

(C) language stimulation; and

(D) social and personal growth.

(2) Infants and toddlers shall spend time outdoors daily unless extreme weather conditions prevail.

(n) Food service.

(1) The nitrate content of water for children under one year of age shall not exceed 45 milligrams per liter as nitrate ( $\text{NO}_3$ ).

(2) Infants shall be held when bottle fed until they can hold their own bottles.

(3) Infants and toddlers shall not be allowed to sleep with bottles in their mouths.

(4) Prepared formula and juice shall be refrigerated until used. Leftover formula and juice shall be labeled and refrigerated with the nipple covered, and shall be used within 24 hours.

(5) Solid foods shall be offered in consultation with the child's parents. Opened containers of solid foods shall be labeled with child's name, and shall be covered, and refrigerated. Food in previously opened containers shall be reheated only once, and shall not be served to other children.

(o) Toileting.

(1) Children's clothing shall be changed whenever wet or soiled.

(2) Each child shall have at least two complete changes of clothing.

(3) Handwashing facilities shall be in or adjacent to the diaper-changing area.

(4) Children shall be diapered in their own cribs or

playpens, or on a changing table. Each unit shall have a changing table.

(5) Changing tables shall have an impervious, undamaged surface. Tables shall be sturdy, and shall be equipped with railings or safety straps.

(6) Changing tables shall be sanitized after each use by washing with a disinfectant solution of 1/4 cup of chlorine bleach to one gallon of water, or an appropriate commercial disinfectant.

(7) Washable diapers or training pants shall be stored in a labeled, covered container or plastic bag, and returned home with the parent.

(8) Disposable diapers shall be placed in a covered container or plastic bag which shall be emptied daily.

(9) There shall be one potty chair for every five toddlers. Potty chairs shall be left in the toilet room. The wastes shall be disposed of immediately in a flush toilet. The container shall be sanitized after each use and shall be washed with soap and water daily. Potty chairs shall not be counted as toilets.

(10) Staff shall wash their hands after changing soiled clothing.

(11) Changing and toileting procedures shall be posted.

(p) Transportation. Car seats, as required in K.A.R. 28-4-425(a)(6), shall be provided when infants and toddlers are transported.

(q) There shall be daily communication between parents and the staff about the child's behavior and development. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended T-87-34, Nov. 19, 1986.)

BARBARA J. SABOL  
Secretary of Health  
and Environment

Doc. No. 004885

**Kansas Register binders. . . . \$14.00 each includes shipping and handling.**

CLIP AND MAIL

Dear Secretary Brier: Please send \_\_\_\_\_ **Kansas Register binders.**

(Quantity)

Price: \$14.00 each, includes shipping and handling.

AMOUNT ENCLOSED \$ \_\_\_\_\_

SHIP TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Shipping is by  
U.P.S. Delivery Service;  
STREET ADDRESS  
IS NECESSARY.

Mail order, WITH PAYMENT, to: Kansas Register; Secretary of State; State Capitol; Topeka, KS 66612.

**KANSAS REGISTER**  
**Secretary of State**  
**State Capitol**  
**Topeka, Kansas 66612-1594**

Second Class  
postage paid  
at  
Topeka, Kansas

---

**Use this form (or a copy of it) to enter a  
SUBSCRIPTION**

\_\_\_\_\_ One-year subscriptions @ \$47.50 ea.  
TOTAL ENCLOSED \_\_\_\_\_  
(Make checks payable to Kansas Register)

SEND TO: \_\_\_\_\_  
(Please, no  
more than  
4 address  
lines.) \_\_\_\_\_  
\_\_\_\_\_

Zip code must be included

THIS SPACE FOR REGISTER OFFICE  
USE ONLY, PLEASE

CODE \_\_\_\_\_ REC. NO. \_\_\_\_\_  
EXPIRES \_\_\_\_\_ ENTERED BY \_\_\_\_\_

Mail order, WITH PAYMENT, to: Kansas Register; Secretary of State; State Capitol; Topeka, KS 66612-1594.

---

**Use this form (or a copy of it) for  
CHANGE OF ADDRESS**

Remove your mailing label (above) and affix it here:

Indicate change or correction of name or address  
here:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_