TREASURERS MOTOR VEHICLE OPERATING FUND MANUAL

Guidelines and Procedures as adopted by the

Director of Vehicles, Kansas Department of Revenue

and the

Kansas County Treasurers Association

Revised November 2004

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Foreword

The Kansas County Treasurers Association formed a committee of county treasurers to revise the February 1998 edition of this manual. Committee members are identified below. The editorial "we" used in the text of the manual refers to the committee members on behalf of the Kansas County Treasurers Association. Alan Alderson, legal counsel for the Association, and William Ervin, former Chief of the Kansas Municipal Accounting Section, provided editorial assistance for this revision.

Carmen Alldritt, Director of Vehicles, Kansas Department of Revenue, reviewed drafts of this manual and supports the instructions in it.

Our special thanks to Michael K. Heim, Principal Analyst at the Kansas Legislative Research Department, for his permission to use selected material from his book *Kansas Local Government Law*.

Besides Kansas law, applicable Attorney General Opinions, and this manual, all county treasurers shall be required to implement and comply with all of the rules, regulations, procedures and guidelines set by the Director of Vehicles and/or the Secretary of Revenue, both currently in existence and those to be developed and adopted in the future, regarding the titling and registration of motor vehicles.

We urge county treasurers to become familiar with all instructions of this manual, and we recommend that education concerning the motor vehicle fund be a regular subject of discussion at future treasurers meetings and seminars.

Mike Billinger, Ellis County Treasurer
Nancy Weeks, Haskell County Treasurer
Eileen King, Riley County Treasurer
JoAnn Raaf, Coffey County Treasurer
Jenneth Karlin, Barton County Treasurer
& President, Kansas County Treasurers Association

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TREASURERS MOTOR VEHICLE OPERATING FUND MANUAL

Introduction

Prudent accounting practices (GAAP) are important to county treasurers for several reasons. First, such practices help treasurers, with a high level of confidence, demonstrate that their resources are being properly used. Together with annual audits of financial records and procedures, sound accounting practices help provide assurance that the resources of the county and the Department of Revenue's Division of Vehicles are properly safeguarded. Second, sound accounting practices and the records thus produced can provide county officials and the Kansas County Treasurers Association with the information to evaluate the financial needs of the Division of Vehicles in order to set a course for future action. Complete, accurate, and timely accounting reports covering such matters as financial responsibility, actual performance against budgeted expenditures, and the cost of providing services are vital ingredients in successful management and policy making.

A good accounting system is also essential in enabling others to evaluate the performance of the county treasurers and the Division of Vehicles in implementing the State's motor vehicle registration laws.

This manual describes procedures for county treasurers to follow prudent accounting practices for the motor vehicle registration process.

Statutory authority for the vehicle registration function in Kansas

Kansas law covers motor vehicle registration and related topics in K.S.A. 8-126 through 8-1,123 and in K.S.A. 79-5101 through 79-5116. In summary, these laws provide for: registration of motor vehicles; issuance of number plates or tags; issuance of certificates of title; and collection of fees for licenses, registrations, and certificates of title. The primary use of the fees, after paying administrative expenses, is building up the state highway fund for construction and maintenance of the state highway system. The Division of Vehicles, within the Kansas Department of Revenue, has general responsibility for administering these laws. It is impossible, of course, for the Division to perform all procedures to administer the laws in Topeka--most of the work must be performed at locations convenient to the citizens registering motor vehicles. Early on, the Kansas legislature passed laws to assign many of these duties to the county treasurers.

Special relationship between county treasurers and Department of Revenue

Monies collected by the counties in this motor vehicle registration activity are almost wholly for the benefit of the State of Kansas, thus county treasurers are used by the State for these purposes. It should not be concluded, however, that county treasurers may conduct registration activity "by their own rules." Rather, in this regard, county treasurers function as agents of the Secretary of Revenue and Director of Vehicles. It is the position of the Director of Vehicles that all county treasurers shall be required to implement and comply with all of the rules, regulations, procedures and guidelines--both currently in existence and those to be developed and adopted in the future--by the Director of Vehicles and/or the Secretary of Revenue, regarding the titling

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and registration of motor vehicles. (Attorney General Opinion 74-122.) The Division of Vehicles of the Department of Revenue is active in its oversight of county treasurers' operations in this regard. To help ensure continuity and consistency, the Division provides counties: assistance in buying computer systems (hardware and software), forms, regular memorandums of law changes, telephone support, and instructions in operating the vehicle registration program.

Law of 1937 created motor vehicle fund

It is important that all Kansas county treasurers understand the history of the so-called "motor vehicle fund" created in K.S.A. 8-145. Many legislators believe that this enactment is relatively recent, but nothing could be further from the truth.

What is now known as the "motor vehicle fund" was created in 1937 (L. 1937, Ch. 172, § 8). Section 8-145 of the General Statutes of 1935 was amended to provide for ". . . a special fund, which fund is hereby appropriated for the use of the county treasurer in paying for necessary help and expenses incidental to the administration of his duties in accordance with the provisions of this law . . . ." In 1947 via L. 1947, Ch. 97, § 1, this fund was further appropriated to provide extra compensation directly to the county treasurer. At that time, the language ". . . and extra compensation to the county treasurer for the services performed by him in administering the provisions of this act, which compensation shall be in addition to any other compensation provided by any other law . . ." was added to K.S.A. 8-145.

Thus, the motor vehicle fund has been available for use by county treasurers for more than 65 years. It was provided by the legislature for the purpose of compensating treasurers, both with respect to payment of office expenses and compensation for the county treasurer for performing state functions at the local level. It has just as much validity today as it did when it was created and the legitimacy of its purpose must be maintained by the legislature and the integrity of the fund must be protected by all of the Kansas county treasurers.

Operation of K.S.A. 8-145

Motor vehicle fund revenues

The 1937 law change also provides for special handling fees to be charged to persons registering vehicles and sets the amount of county treasurers extra compensation that results from handling motor vehicle registrations. The operation of the vehicle office involves many types of revenues besides those that end up in the motor vehicle fund. The following table summarizes the main revenue sources from the motor vehicle registration program.

Table of Motor Vehicle Registration Revenue

Revenue	Authority	Disposition
Motor vehicle tax	K.S.A. 79-5101 et seq.	State & municipalities
Registration fees	K.S.A. 8-143	Div of Vehicles
County service fee	K.S.A. 8-145d	Motor vehicle fund

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Table of Motor Vehicle Registration Revenue (Continued)

Satellite office fee	K.S.A. 8-145d	Motor vehicle fund
License application fee	K.S.A. 8-145	Motor vehicle fund
Transfer license plate	K.S.A. 8-145	Motor vehicle fund
Title application fee	K.S.A. 8-145	Motor vehicle fund
Sales tax	K.S.A. 79-3601 et seq.	Div of Taxation
Sales tax fee	K.S.A. 8-145d	Motor vehicle fund
Lienholder copy	K.S.A. 8-135	Motor vehicle fund
Miscellaneous fees, including postage, copies, notary fees, etc.	Reimbursement basis	Motor vehicle fund

Extra compensation of county treasurers

Appendix B shows the transactions which can be counted for county treasurer extra compensation. Appendix C is a worksheet that can be used for computing the compensation.

K.S.A. 8-145 does not authorize, nor is it the intent of the legislature, that the board of county commissioners make the total of the county treasurer's salary contingent on the amount received pursuant to this statute. Rather, the legislature intended compensation for motor vehicle registration duties be extra compensation.

Acceptable and non-acceptable uses of the motor vehicle fund

The proper and legitimate uses of the motor vehicle fund are defined by the language ". . . paying for necessary help and expenses incidental to the administration of duties in accordance with the provisions of this law and extra compensation." The reference to "the provisions of this law" should be read broadly to include the entire motor vehicle registration laws of the state, and it has been construed that way by various attorneys general. It should not, however, be read more broadly than that. It is not appropriated to assist in property tax administration and collection (although the tax and tag law obviously creates an overlap).

The expenses paid from the motor vehicle fund must bear some reasonable relationship to the purposes for which the fund was created (Attorney General Opinion 79-74). The legitimate purposes are those which spring from the key words "necessary help and expenses." This phrase must always be the outside limits of the test applied in trying to determine how the motor vehicle fund can be used.

The motor vehicle fund may *not* be used to pay bonuses to employees. (Attorney General Opinion 79-74.) No additional compensation over and above employees respective salaries may be paid except for overtime work which bears a relationship to the actual work of the motor vehicle side of the treasurer's office. The fund should not be used to pay overtime for personnel assigned to the property tax side of the office.

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The fund may be used to hire additional full-time or part-time help and pay the portion of the salary attributable to the motor vehicle registration work. County hiring policies and procedures must be followed.

The fund may be used to purchase equipment or supplies or perform other functions necessary to administer the motor vehicle laws. County purchasing policies and procedures must be followed. The treasurer may spend all of the fund, but one should make sure that the fund is not being spent just to avoid a transfer to the general fund. Rapid spending at the end of the fiscal year would be highly suspect as far as meeting the "necessary" test, even if the item might have been clearly necessary in the budget year.

Compliance

This manual accurately follows state law and, accordingly, if a county treasurer fails to comply with this manual, the county or district attorney may bring an ouster proceeding pursuant to K.S.A. 60-1205 et. seq. or a civil action in the district court. If the court finds the county treasurer has not complied with this manual, it may order a forfeiture to the county general fund of any portion of the county treasurer's additional compensation authorized under K.S.A. 8-145(b).

A member in good standing with the Association shall annually submit four (4) reports to the Association's Chairperson of the Motor Vehicle Fund Committee by December 1 of each year:

1. Motor Vehicle Fund Compensation Form (previous year) Appendix C

2. Motor Vehicle Fund Budget Form (for the upcoming calendar year) Appendix F

3. Audit Report pages, including Motor Vehicle Operating Fund (for the most recent calendar year)

4. List of Capital Purchases (for the most recent calendar year that coincides with the audit report)

Counties contingent interest in motor vehicle fund

The county commission's only financial interest in the money accumulated in the motor vehicle fund is in the balance at the close of the calendar year (to be transferred to the county general fund by June 1 of the following year).. Such balance is to be "withdrawn and credited to the general fund of said county." Thus, it is clear that the county treasurer, and not the county commission, is charged with the administrative responsibilities for the monies in the fund. If, however, the county treasurer makes expenditures from the motor vehicle fund that are not authorized by statute or otherwise abuses the power vested in him/her under the law, the county would have remedies in protection of it's contingent interest. (Wyandotte County Commissioners v. Ferguson, 159 K. 80.)

Disputes with boards of county commissioners

Background

The board of county commissioners is vested with much discretionary authority and control over county budgetary and fiduciary matters. However, as with all discretionary powers, competing interests or statutory enactments limit the exercise of such authority. (Attorney General Opinion 91-65.)

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Budgetary laws, generally K.S.A. 79-2925 et seq. and K.S.A. 19-503(c)(4), do not authorize the board of county commissioners to unreasonably or capriciously restrict the exercise of authority granted to the county treasurer. K.S.A. 19-241 requires the board of county commissioners to levy sufficient amounts to finance the proposed budgetary expenditures. In constructing the annual budget, the board of county commissioners must therefore consider many factors, including the availability of funds and the degree of need or demand for specific governmental services. The necessity for a specific expenditure is often a question which must be determined on a case-by-case basis by the office given the authority or directed by law to take a particular action. (Attorney General Opinion 89-131.)

An exception to the general rule permitting the board of county commissioners to determine when and where to spend county monies exists when: (1) funds are included in the budget of another elected official or, (2) the expenditure is required by another elected official in order to carry out statutory imposed duties. Absent funds properly budgeted for a particular purpose or a law allowing or requiring other county officials to create an indebtedness against the county, other elected officials cannot incur expenses against the county in the absence of approval by the board of county commissioners. (Attorney General Opinion 89-131.)

Within the constraints of the statutes discussed above, the board of county commissioners has no authority to manage the internal affairs of the various offices of duly elected county officials, nor to make management decisions affecting the use of personnel in those offices. That authority and discretion is placed in the hands of the respective county officers to enable them to carry out the statutory duties they were elected to perform. (Attorney General Opinion 80-88.)

A law was passed in 1983 in an attempt to resolve certain conflicts between the board of county commissioners and the county clerk, treasurer, register of deeds, and sheriff. The law permits each elected official to appoint a deputy or undersheriff and additional deputies and assistants necessary to carry out the duties of the office. These elected officials are given the power to promote, demote or dismiss their personnel and, within budget limitations, they may require their deputies or assistants to attend meetings or seminars. All personnel actions of these elected officials are subject to any personnel policies and pay plan established by the board of county commissioners, as well as any collective bargaining agreements or civil service system. Further, the budget for the elected official's office must be approved by the board of county commissioners. See K.S.A. 19-302, 19-502b, 19-503, 19-805, and 19-1202.

In a 1990 case, the Trego County district court found that the board of county commissioners had acted in an arbitrary and capricious manner when it reduced the county treasurer's adopted budget by $8,800 following a dispute over the payment of overtime to certain county treasurer's office employees. The court found that the county board had not adopted a comprehensive pay plan or employee policy manual or conducted any study to justify its action. The court said that K.S.A. 19-503 does not allow the county board to take actions which prevent or hinder the treasurer from conducting the business of that office. The court recognized the ability of the county board to amend the county's budget but said such decisions could not be arbitrary.

In early 2002, the sheriff of Lincoln County challenged the authority of the board of county commissioners who took action to fire a deputy sheriff. Another dispute developed between the sheriff and the board regarding the authority of the board's purchase policy which, among other provisions, required that department heads must have all purchases pre-approved by the board, regardless of the cost. The board maintained that its policy was consistent with the general principles of Attorney General Opinion 99-29 (see synopsis of this opinion in Appendix A).

These matters went to trial in Lincoln County district court, and the district court sided with the board of county commissioners on both issues. On appeal, however, the Kansas Supreme Court (Case No. 88,844 filed January 31, 2003) found that: (1) the legislative history of K.S.A. 19-805(a) demonstrates the legislature's intent to vest sheriffs, not boards of county commissioners, with the authority to appoint, promote, demote

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and dismiss additional deputies and assistants; and (2) where the board of county commissioners has approved a budget including necessary expenses, the sheriff cannot be required to obtain advance approval for purchases within the limits of the approved budget regardless of the amount.

Financial obligations

As noted above, the 1937 law (codified in K.S.A. 8-145) sets out the parameters for the amount of fees collected and the disposition of the fees. The 1937 law provided only for the collection of registration fees and sales tax. With the passage of the "tax and tag" law in the early 1980s, county treasurers began collecting vehicle personal property tax as part of vehicle registration.

K.S.A. 8-173 requires that all personal property tax on a vehicle must be current in order to register it. Through the Kansas Vehicle Information Processing System (VIPS) implemented in 1988, county treasurers are able to flag registrations (statewide) on vehicles with delinquent taxes. This flagging allows county treasurers to help each other in collecting these delinquent taxes.

These changes to the law and procedures over the years have brought about major shifts in the county treasurers' duties and responsibilities and have "muddied the waters" regarding the financing for the county treasurer office. Vehicle registration fees have been, and no doubt will continue to be, the primary source of financing for the State program of vehicle registration in which county treasurers play a major role. But how should the responsibility be equitably divided between financing from: (1) vehicle registration fees, and (2) county general fund appropriations primarily consisting of county-wide ad valorem tax? There is no "one size fits all" answer. Each county is different, and, considering its unique conditions, must determine the proper financing arrangements.

Budgeting the motor vehicle fund

Prudent accounting rules state that all revenues should be budgeted. Attorney General Opinions have consistently held that all funds should be budgeted unless there are specific statutory exemptions from the budgeting requirement. A strong case can be made that budgeting certain types of funds, such as agency funds, doesn't make much sense. Some agency funds are established as a bookkeeping device only to account for monies until they can all be accumulated and then sent on to their ultimate destination. Thus, there seems to be little reason for budgeting an agency fund used only, for example, to receive, hold, and remit state sales taxes collected on casual vehicles sales between individuals.

While not statutorily required to be budgeted, we recommend that the motor vehicle fund be budgeted. Therefore, the county treasurer shall submit a budget of the motor vehicle fund to the board of county commissioners for review. It is acceptable for county treasurers, when it is beneficial to do so, to incorporate the motor vehicle fund budget into the county general fund. If done this way, the county treasurer should identify the motor vehicle fund expenses and revenues that are incorporated into the county general fund budget. Such treatment should also be shown on a Kansas County Treasurers Association budget form. See Appendix D and Appendix E for guidance in estimating motor vehicle fund revenues and expenditures. The Kansas County Treasurers Association motor vehicle fund budget form's primary purpose is for reporting to the Association and is not necessarily the form that county treasurers show motor vehicle fund budget activity to their county clerks. We suggest that, in any event, county treasurers use the official Kansas County Treasurers Association form (see Appendix F) for motor vehicle fund budget activity.

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Responsibilities of county treasurers for budgeting motor vehicle fund

County treasurers already have budget responsibilities in preparing estimated expenditure details for their department which is part of the operation of the county general fund. There is really little difference between budgeting for this purpose and budgeting for the motor vehicle fund. The same types of expenditures apply to both: personal services, supplies, contractual services, and capital outlay. If some employees work part-time in motor vehicle registrations and time records are not kept on which to allocate the payroll expenditures, estimates should be used.

Estimating revenues and expenditures

Estimating revenues for the motor vehicle fund will be the responsibility of the county treasurer. We recommend a worksheet similar to Appendix D. Note that only revenues to be retained by county treasurers for financing operations of the motor vehicle fund expenditures are to be shown--revenues that will be remitted to the Division of Vehicles and others are not.

The budgeting of revenues involves gathering historical data for the actual year most recently concluded (for the first column of the budget form) and for the current year which will usually be about one-half completed at budget making time (for the second column). From the trend of these two years, a more accurate estimate can be made for the budget year (the third column). The estimate for the budget year should, of course, consider various other factors besides merely historical data. The "Budget Tips" booklet published each year by the League of Kansas Municipalities provides ideas for making these estimates.

Salary and wages is the most significant item of the budgeted expenditures. Appendix G shows a form that can be used for this. Often fringe benefit costs are handled county-wide in separate funds, but the county treasurer department request form is a good place to accumulate these costs, whether they will be shown as expenditures of the general fund, the motor vehicle fund, or an employee benefits fund.

Your county's automated accounting systems may provide budget worksheets to accumulate the figures for estimating revenues and expenditures.

Tracking activity of motor vehicle fund

During the year, the collections of revenues should be compared periodically with the budgeted collections in order to evaluate both actual performance and budget estimates. Similarly, the actual expenditures should be compared with the budgeted expenditures to provide management control and because there are negative consequences for overspending the budget. Perhaps the most important factor of all, however, is to provide full disclosure: you make a plan before the year begins, you keep track of financial activity as it plays out during the year, and you compare actual financial activity to the budget.

How often these comparisons will be made depends on several factors including the expectations of the board of county commissioners, the capabilities of the accounting system, and the capabilities and initiative of department heads.

Appendix H shows the basic form of how a monthly budget report can be set up. These reports can be prepared in a matter of minutes using personal computer electronic spreadsheets if the county's accounting system provides ready access to "actual" amounts. The "Estimate for Year" and "Budget Estimate" amounts are taken directly from the annual budget or derived from it. The "Actual" amounts come from the county's ac-

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counting system, and the electronic spreadsheet software computes the over-under and "Balance Not Yet Realized."

County treasurers should be alert to the budget reporting capabilities of their existing accounting systems. Those systems may provide reports as good or better than those illustrated in the appendices.

Accounting for the motor vehicle fund

Not all county treasurers see themselves as accountants, but it's a given that accounting knowledge and skills are important to the successful operation of the county treasurer's office. R. M. Mikesell, Late Professor Emeritus of Accounting, Indiana University, wrote in his governmental accounting textbook:

> "Even when developed to the ultimate stage of perfection, governmental accounting cannot become a guaranty of good government. At best, it can never be more than a valuable tool for promotion of sound financial management. It does not offer a panacea for all the ills that beset representative government; nor will it fully overcome the influence of disinterested, uninformed citizens. It cannot be substituted for honesty and moral integrity on the part of public officials; it can help in resisting but cannot eliminate the demands of selfish interests, whether in the form of individual citizens, corporations, or the pressure groups which will always abound to influence government at all levels."

Accurate, timely, and full disclosure accounting used in the motor vehicle fund will not solve all the conflicts that develop between the county treasurers and other elected officials, but it should help. Better accounting is, for the most part, better communication, and better communication fosters better understanding and cooperation.

County treasurers should become familiar with the county's accounting system to learn its procedures and capabilities. Most counties now have automated accounting systems with seasoned, efficient software that produce accurate and useful reports.

Relation of motor vehicle fund to other county operating funds

The motor vehicle fund is the responsibility of the county treasurer, but it must still be accounted for along with other county funds. Bookkeeping/accounting mechanics are much the same as those used for those other funds. Receipts are brought in and deposited to the bank account and credited to the motor vehicle fund using systems and procedures that are the same (or similar) to those used for other funds. The motor vehicle fund monies shall be deposited in a county authorized depository, and bank reconciliations should be performed by someone not having direct involvement with the motor vehicle fund. All interest earned should be credited to the county general fund unless otherwise directed by law, see K.S.A. 12-1677 and 12-1678a. Disbursements from the motor vehicle fund are usually controlled by the same paperwork used for other county funds.

The motor vehicle fund and generally accepted accounting principles

In considering the motor vehicle fund in light of Generally Accepted Accounting Principles (GAAP), the motor vehicle fund is classified as a "special revenue fund" which is, in many respects, similar to the general fund. It should be noted that Kansas law has, for over 25 years, required Generally Accepted Accounting

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Principles for Kansas municipalities as promulgated by the Government Finance Officers Association and adopted by the American Institute of Certified Public Accountants.

A governmental unit's general fund serves as the primary reporting vehicle for all current financial resources not required by law or administrative action to be accounted for in another fund. Accordingly, the general fund conceivably could be used to account for *all* government activities and normally *should*, to the extent possible, be used to account for all general government functions. Most governments, however, face legal requirements restricting specific resources to expenditures for specified purposes. In these situations, a special revenue fund is the logical choice.

When assessing whether to use a special revenue fund, counties should also take into consideration the "number of funds" principle, one of the 12 generally accepted accounting principles for governmental accounting. Authoritative standards *require* the use of a special revenue fund in limited instances, but they are commonly used for accounting for grants, entitlements, and shared revenues. Although there is no clear requirement by GAAP that the motor vehicle fund be incorporated into the general fund, it possibly could be. We feel, however, because of historical practice and the "shared revenue" aspect, the motor vehicle fund is best accounted for as a special revenue fund.

Accounting for revenues

In the fund accounting context, revenues are defined as additions to assets which: (a) do not increase any liability; (b) do not represent the recovery of an expenditure; (c) do not represent the cancellation of certain liabilities without a corresponding increase in other liabilities or a decrease in assets; and (d) do not represent contributions of fund capital. In more common terminology, revenues are increases in assets or decreases in liabilities; that is, increases to a fund's equity.

Classification of revenues is established by a chart of accounts (a naming and numbering of accounts) to provide a framework for summarizing financial information in a useful form. Revenues are classified in accounts in order to produce information that managers may use to: (1) prepare and control the budget, (2) control the collection of revenues, (3) prepare financial statements for reporting to the public, and (4) prepare financial statistics. A classification of revenue accounts by sources (together with appropriate reports) provides the basic data for all these purposes.

Accounting for expenditures

Expenditures are defined generally as the cost of goods delivered or services rendered, whether paid or unpaid, including provision for debt retirement and capital outlays.

Expenditures are classified during the pre-audit step of the budget process. Pre-audit consists of approving transactions before they have taken place, as in the case of purchase orders, or before they have been recorded, as in the case of expenditures. The pre-audit of expenditures is directed toward the (1) control of methods and procedures involved in the expenditure process, and (2) prevention of illegal expenditures and stealing/misuse of assets.

Most governmental units use some form of the "voucher system" which is defined in the *Kohler Dictionary for Accountants* as:

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> "The system by means of which invoices and other evidences of liability are collected, audited, recorded, and settled. It involves the use of vouchers, voucher checks, a voucher register, etc., and is an important feature of any system of internal control."

The voucher itself is the paperwork that constitutes an outline of the work that must be performed in making sure that appropriate procedures have been followed in the process of requisitioning, purchasing, receiving, and approving invoices for payment.

The motor vehicle fund may be used for the payment of motor vehicle registration expenditures of:

- salary and wages allocable to the motor vehicle registration function including those of the county treasurer, deputies, and special assistants;
- supplies and equipment used in connection with motor vehicle registration; and
- any other expenditures, including training, which are properly allocable to the motor vehicle registration function.

Any expenditures not directly or tangibly related to the motor vehicle registration function, but acceptable to county expenditure practices, should be properly documented and expended through the county general fund. County treasurers should not purchase commodities, supplies or capital outlay items for other departments out of the motor vehicle fund even though the county commissioners may give their approval for such expenditures. If the county commissioners want to spend motor vehicle fund money on non-motor vehicle registration activities, they should budget those expenditures through the general fund anticipating an end-of-year revenue transfer from the motor vehicle fund provided by K.S.A. 8-145. In other words, there are no exceptions for motor vehicle fund monies to be expended on any non-motor vehicle registration functions.

The county treasurer has sole discretion in this area and can make such motor vehicle fund expenditures without the concurrence of the county commission.

The Attorney General has opined that the motor vehicle fund may be used to provide *extra compensation* only to the county treasurer (based on the statutorily prescribed formula). Bonuses for any other employee, either directly or indirectly, are not legitimate. When employees are directly paid from the motor vehicle fund, they may receive length of service bonuses if all county employees are entitled to the same benefit. Paying bonuses from the treasurer's compensation, to any employee, is not allowed.

Transferring balance of motor vehicle fund to general fund as of year-end

One major objective of accurate and timely accounting--as it applies to the motor vehicle fund--is to be able to determine the correct balance in the motor vehicle fund at year-end in preparation for transferring that balance to the county general fund. K.S.A. 8-145 states the requirement:

> "any balance remaining in [the motor vehicle] fund at the close of any calendar year shall be withdrawn and credited to the general fund of the county prior to June 1 of the following calendar year."

The accounting mechanics for making this transfer are straightforward. A journal entry debiting the motor vehicle fund and crediting the general fund is all that is required.

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Or a treasurer's check may be prepared and made payable to the county and would be processed into the accounting system with a treasurer's miscellaneous receipt. The county treasurer may want to present the county commission with a check at a regularly scheduled meeting thus getting the transfer of funds in the minutes and maybe some positive publicity. To encourage better reporting, in the interest of full disclosure, we recommend that county treasurers prepare a report to be available to any interested parties which shows the monies coming into the motor vehicle fund (year's receipts) and the monies going out of the motor vehicle fund (year's disbursements) and the balance available for transfer to the general fund. A worksheet similar to that shown in Appendix H would be appropriate for: (1) tracking the revenue, expenditures, and transfers and, (2) public information purposes.

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Appendix A - Attorney General letters and opinions relevant to motor vehicle fund

NOTE: The following Summaries and Synopses of Attorney General Letters and Opinions (writings) relate to the motor vehicle fund. The Summaries have been written by the authors of this booklet, as early writings of the Attorney General's did not include Synopses. The Synopses were taken from the Attorney General Opinions themselves. The Summaries and Synopses provide highlights of the respective writings as of the time they were issued. Thus, later writings should be considered while reading earlier writings. Ask your county attorney/county counselor for assistance: (1) if there appears to be contradictions from one writing to another, and (2) before relying on the earlier writings.

Besides the Attorney General Letters and Attorney General Opinions, there is a 1944 Kansas Supreme Court case which provides good interpretation of the motor vehicle law, see Wyandotte County Commissioners v. Ferguson, 159 K. 80.

Attorney General Letter. March 30, 1964--Summary: The county treasurer determines what constitutes necessary help and expenses incidental to the administration of his duties. There is no requirement in the law that the treasurer's check drawn on the motor vehicle fund be countersigned by any other county officer. We believe the law allows the county treasurer to deposit the motor vehicle fund monies in a separate bank account. K.S.A. 9-1401 is applicable, however, and the monies may not be deposited in a bank not designated by the Board of County Commissioners as a county depository.

Attorney General Letter. June 1, 1967--Summary: The county treasurer is the administrator of the motor vehicle fund. The county treasurer is authorized to deposit motor vehicle fund monies in a separate bank account and to write checks on it without approval of board of county commissioners except for the payment of himself or his deputy. The motor vehicle fund monies may be used for employees' help and supplies related to motor vehicle registration. Compensation of deputy county treasurers from motor vehicle fund must be approved the board of county commissioners. Any amount remaining in the motor vehicle fund at the close of the year should be credited to the general fund.

Attorney General Letter. September 19, 1967--Summary: The requirement of a May 25. 1959 opinion that payments to the county treasurer and deputies first be approved by a board of county commissioners is effectively withdrawn.

Attorney General Letter. March 27, 1968--Summary: The records of purchase of license plates in the county treasurer's office, per K.S.A. 45-201, are open for personal inspection by any citizen.

Attorney General Letter, December 29, 1969--Summary: We think "payment" of motor vehicle registration fees is effectuated by the proffer of either cash or check or bank draft. We do not believe that a credit sales transaction constitutes payment for goods received; the county treasurer who received a charge slip for issuance of license plates would not be "paid" within the terms of K.S.A. 8-145.

Attorney General Letter. November 18, 1971--Summary: In providing for staggered registration, the Legislature did not alter the allowable compensation provided in K.S.A. 8-145. Accordingly, we must conclude that the compensation rates fixed in the laws remain applicable, notwithstanding the additional workload imposed by staggered registrations.

Attorney General Letter. November 23, 1971--Summary: The compilation of license tag lists and lien lists for the sheriff's office is not a function required to be performed by the county treasurer's office. These records

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are open for public inspection. Thus, the county treasurer (or any other citizen) can compile such lists and retain the ,fees for sales of the lists where the work is not part of his official duties.

The county treasurer may not accumulate "cash overages" and distribute the overages among the treasurer and members of the staff: No county officer or employee should profit from the mistake which created these "cash overages."

The reservation of (license plate) numbers is a service which the treasurer may render only by reason of the duties charged by law to that office. Thus, receiving a "tip" for such service is forbidden by K.S.A. 28-175.

Attorney General Opinion 73-87. February 28, 1973--Summary: Nonresident servicemen present in the state in compliance with military orders and subject to Sec. 514 of the Soldiers' and Sailors' Civil Relief Act may lawfully be required to pay no more than ten percent of the fees prescribed by law for the registration of motor vehicles in this state.

Attorney General Opinion 74-122. April 23, 1974--Summary: It is our opinion that motor vehicle registration records on file with the county treasurer are public documents and are open to inspection.

The county treasurer may not, however, conduct registration and title applications unfettered by any governing authority, as the county treasurer is subject to the policy guidelines, rules and regulations established by the Secretary of Revenue. A person wanting copies of motor vehicle records must be furnished these records pursuant to the provisions of K.S.A. 45-201 et seq. Fees charged for this service shall be deposited to the county general fund.

Attorney General Opinion 77-48. February 7, 1977--Synopsis: Monies deposited in the motor vehicle fund pursuant to K.S.A. 8-145 may be used only to pay for necessary help and expenses allocable to administration of the motor vehicle registration law performed by the office of county treasurer. Annual bonuses for all deputies and assistants to the treasurer are not properly payable from said fund.

Attorney General Opinion 77-70. March 4, 1977--Synopsis: The owner of a motor vehicle is the one who holds legal title to the vehicle, except that in the event a lease is made for thirty days or more, with immediate right of possession, the lessee is the "owner" for registration purposes. Registration must be made with the county treasurer of the Kansas county where the owner, or such lessee, resides or has his office or principal place of business. At registration, there must be presented to the treasurer proof, by a paid receipt, of payment of taxes in the preceding year. Vehicles purchased or acquired after January 1 are valued and assessed for the current year at the time of registration. If for any reason proof cannot be made of payment of taxes, the applicant must at once seek assessment and must pay preceding year taxes before being registered. Vehicles being operated in- interstate commerce are subject to Kansas taxation. The Division of Motor Vehicles must assess a fleet of three or more vehicles which is operated partially in interstate and partially in Kansas, but if such fleet includes vehicles which are domiciled or based in some Kansas county, such vehicles shall be listed separately.

Attorney General Opinion 77-365. November 28, 1977--Synopsis: Employees in the motor vehicle department of a county treasurer are not state employees, but rather employees of the county treasurer. Such employees may appropriately be included in a county union contract, with the cooperation of the county treasurer, notwithstanding they are not paid from funds budgeted and thereby appropriated by the board of county commissioners.

Attorney General Opinion 79-74. May 1, 1979--Synopsis: The county treasurer may not pay bonuses to employees from the special motor vehicle registration fund. In addition, the county treasurer may not pay additional compensation from the motor vehicle fund to employees above and beyond their respective salaries except for overtime work of such employees which bears a relationship to the actual work of motor vehicle

Notes:

registration. Of course, the county treasurer is free to expend monies from the motor vehicle fund to hire additional personnel on a full or part-time basis, pay that portion of any employee's salary actually attributable to the work of motor vehicle registration, purchase equipment or supplies or perform other functions necessary to administer the motor vehicle registration act, and such expenditures are not subject to the supervision of the board of county commissioners.

Attorney General Opinion 79-113. June 12, 1979--Synopsis: Shawnee County Resolution No. 79-53 as it purports to regulate the appointment powers of other duly elected county officials in some respects exceeds the legal power vested in the Board of County Commissioners, and in other respects the resolution is procedurally deficient to effect the intended result.

Attorney General Opinion 80-88. April 8, 1980--Synopsis: A county resolution by which the board of county commissioners directs that certain persons employed by the county treasurer for the performance of duties of the office of county treasurer shall be prohibited from working for the treasurer in the performance of her duties under K.S.A. 1979 Supp. 8-145 is invalid and ineffective inasmuch as said resolution is an impermissible restraint of the exercise of the discretion of the county treasurer in managing the affairs of her office.

A county resolution by which the board of county commissioners purports to change the procedure established by state law for the classification and registration of motor vehicles by the county appraiser and the county treasurer is invalid and ineffective inasmuch as said resolution impairs or abridges the authority of the county appraiser and the county treasurer in the performance of their duties imposed by state law, and because said resolution is local legislation which is contrary to the provisions of an act of the legislature uniformly applicable to all counties and the administrative procedures established pursuant to that act.

Attorney General Opinion 81-122. May 28, 1981--Synopsis: Since no other disposition of the Antique Vehicle Tax Registration fee imposed by subsection (b) of K.S.A. 1980 Supp. 8-167 is specifically prescribed by law, said fee is to be credited to the county's general fund.

Attorney General Opinion 81-257. November 23, 1981--Synopsis: Although the provisions of chapter 36 of the 1981 Session Laws of Kansas will result in an unusually large number of motor vehicle registrations at the end of calendar year 1981 and, correspondingly, will also result in an unusually large amount of money for that time of year in the motor vehicle fund created under K.S.A. 1980 Supp. 8-145, any balance remaining in that motor vehicle fund at the end of calendar year 1981 must be withdrawn and credited to the county general fund.

Attorney General Opinion 82-76. April 1, 1982--Synopsis: The county treasurer has control over the means by which the duties imposed under the state motor vehicle registration laws are to be fulfilled. Thus, the county treasurer, and not the board of county commissioners, has the authority to fix the salaries of the necessary help needed to fulfill those duties. However, the county has no responsibility or authority to give financial assistance to the county treasurer in regard to the administration of the state motor vehicle registration laws. The financial resources available to the county treasurer to administer these laws are confined, by K.S.A. 1981 Supp. 8-145, to the amount deposited in the motor vehicle fund provided for in that statute. (Attorney General Opinion No. 77-39 is withdrawn.)

Attorney General Opinion 89-131. October 26, 1989--Synopsis: If the yearly budget established by the board of county commissioners includes either a line item for salaries for county treasurer personnel or another fund that may be properly expended for personnel salaries, and those funds have been previously expended or committed, the county treasurer is subject to that budget and may not commit additional funds without the approval of the board of county commissioners. K.S.A. 19-503 authorizes the county treasurer to employ deputies and assistants but such action is subject to budgetary restrictions and any existing county employee policies that are applicable to all county employees.

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Attorney General Opinion 91-65 June 10, 1991--Synopsis: A board of county commissioners has the authority to decrease the amount of an official's compensation as long as such action is not deemed to be an unreasonable or arbitrary action. However, K.S.A. 1990 Supp. 8-145 does not authorize nor was it the intent of the legislature that the board of county commissioners make the total of the county treasurer's salary contingent on the amount received pursuant to this statute.

Attorney General Opinion 96-65 August 9, 1996--Synopsis: In the absence of statutory authorization, county treasurers may not charge an additional $2 fee per motor vehicle registration when registrants use a "satellite" registration facility. Because the registration fee statutes are uniform and a resolution allowing additional fees would be in conflict therewith, counties may not alter this conclusion by home rule.

Attorney General Opinion 96-88 December 3, 1996--Synopsis: County treasurers are not authorized to assess fees in excess of those prescribed by statute for "priority processing" of applications for certificates of title.

Attorney General Opinion 99-18 April 5, 1999--Synopsis: The board of county commissioners, assisted by the county clerk and county treasurer, is responsible for keeping an ongoing account of the county budget and for developing an annual budget report at the end of the fiscal year. Some counties may have a county administrator, auditor or controller who are statutorily required to perform certain duties concerning the county budget. Although the duties of the county clerk, treasurer, administrator, auditor and controller are set forth in statutes, the board of county commissioners is given exclusive control over all county expenditures and discretion to require additional duties of those county officials who oversee the county budget.

Attorney General Opinion 99-29 June 11, 1999--Synopsis: A board of county commissioners has authority over county expenditures; however, the board must allow expenditures necessary to meet the statutory responsibilities of elected officials. The Board of County Commissioners of Shawnee County may require that monies allotted to a major service area (MSA) within the general budget be spent for services or goods that fall within that particular MSA. Because Shawnee County does not require that an elected official adhere to any specific line items within each MSA, once the Board of County Commissioners has designated funds to a particular MSA within an elected official's budget, the official may spend those funds for purposes within the MSA. The Board of County Commissioners may not, for current budget year purposes, override an expenditure decision by an elected official if the expenditure is within the bottom line amount for the MSA and the official complies with applicable county purchasing procedures. An elected county official may not incur indebtedness in excess of the established budget unless the additional expenditures is required by law or approved by the board of county commissioners. An elected official should follow county purchasing procedures; however, a board of county commissioners may not require that an elected official obtain prior approval by the board for expenditures that are necessary for the elected official to carry out statutory duties.

Attorney General Opinion 99-62 November 29, 1999--Synopsis: K.S.A. 8-173, as amended by L. 1999, Ch. 162 §. 10, does not require a county treasurer to keep a copy of the proof of insurance provided by an applicant for registration of a motor vehicle. A facsimile copy of proof of insurance may be accepted by a county treasurer when registering a motor vehicle; however, proof of insurance may not be made by telephone. An applicant for motor vehicle registration must provide proof of insurance in addition to a certificate signed by the applicant. Liability of county treasurers or their employees arising out of their motor vehicle registration duties cannot be determined absent specific facts. Because county treasurers are county officers and their employees are county employees, generally the county or the county's insurance company would provide for their defense.

Notes:

Appendix B - Transactions counted for county treasurers extra compensation

Formerly Non-highway
Lost plate and decal
Original title
Registration renewal
Special plate application
30 day permit
Lost plate
Registration only
Quarterly pay
Weight increase
30 day IR permit
72 hour permit
60 day farm permit
15 day permit
Non negotiable title
Salvage title

Note: The above listing was taken from a Division of Vehicles Memorandum of February 11, 2004

Notes:

Appendix C - Worksheet for computing county treasurers extra compensation

1. Total number of qualifying transactions* for year: _____

2. Number of transactions in first tier (1 to 5,000): _____ times $0.60 = _____

3. Number of transactions in second tier (5,001 10,000): _____ times $0.45 = _____

4. Number of transactions in third tier (over 10,000): _____ times $0.02 = _____

5. Total of Lines 2, 3, and 4 _____

6. Maximum extra compensation allowed by K.S.A. 8-145: _____

7. Smaller of Line 5 or Line 6 equals allowable extra compensation _____

* - See Appendix B

Notes:

Appendix D - Worksheet for Estimating Motor Vehicle Fund Revenue

Any Kansas County Worksheet for Estimating Motor Vehicle Fund Revenue For Budget Year 20X5				
Revenue	20X3 Actual	20X4 Budget	20X5 Budget	Increase -Decrease
Daily receipts	200,000	202,000	205,000	3,000
Lienholder fees	500	600	610	10
Full privilege tag	700	710	720	10
Postage	200	210	220	10
Reimbursements	200	210	220	10
Interest income	150	150	170	20
Misc collections	800	1,000	1,000	0
Total	**202,550**	**204,880**	**207,940**	**3,060**

Note: The purpose of Appendix D and Appendix E (following) is to suggest worksheet formats for estimating revenue and expenditures, the main elements of the required annual budget for the motor vehicle fund. The revenue and expenditure categories were taken from representative counties' budgets, but you should change the categories, as appropriate, to fit your county's situation. The Increase/Decrease columns are for memo purposes only--they are not used in the Annual Budget for Motor Vehicle Fund (Appendix F).

To speed up the calculations and help ensure mathematical accuracy, many counties set up their budget worksheets on electronic spreadsheet software.

Notes:

Appendix E - Worksheet for Estimating Motor Vehicle Fund Expenditures

Any Kansas County Worksheet for Estimating Motor Vehicle Fund Expenditures For Budget Year 20X5				
Expenditures	20X3 Actual	20X4 Budget	20X5 Budget	Increase -Decrease
Personal Services				
Salaries	100,000	105,000	110,000	5,000
Extra comp-treas	10,000	10,300	10,500	200
Salaries-temp, seasonal	16,000	16,000	16,000	0
FICA	7,500	7,600	7,700	100
KPERS	2,500	2,265	2,320	55
Health insurance	12,000	13,000	14,200	1,200
Workers comp ins	100	110	120	10
State unemploy tax	100	110	130	20
Subtotal-Pers Services	**148,200**	**154,385**	**160,970**	**6,585**
Contractual Services				
Postage, freight, shipping	10,000	10,500	10,200	-300
Printing and duplicating	4,000	3,800	3,750	-50
Advert and legal publ	520	530	550	20
Repair and maintenance	1,400	1,500	1,560	60
Travel	2,000	2,150	2,300	150
Lodging and meals	500	600	700	100
Dues and memberships	300	320	350	30
Training	1,600	1,700	1,800	100
Other contractual services	850	900	990	90
Subtotal-Contract Services	**21,170**	**22,000**	**22,200**	**200**
Commodities				
Office supplies	6,000	6,000	5,900	-100
Books and publications	2,200	2,260	2,400	140
Software	1,100	250	980	730
Subtotal-Commodities	**9,300**	**8,510**	**9,280**	**770**
Capital outlay	**3,200**	**2,300**	**15,490**	**13,190**
Total expenditures	**181,870**	**187,195**	**207,940**	**20,745**

Notes:

Appendix F - Annual Budget for Motor Vehicle Fund

Any Kansas County Budget for Motor Vehicle Fund For Budget Year 20X5			
	20X3 Actual	20X4 Budget	20X5 Budget
Unreserved fund balance, Jan 1	**0**	**0**	**0**
Receipts			
Daily receipts	200,000	202,000	205,000
Lienholder fees	500	600	610
Full privilege tag	700	710	720
Other receipts	1,350	1,570	1,610
Total receipts	**202,550**	**204,880**	**207,940**
Expenditures			
Personal Services			
Salaries	100,000	105,000	110,000
Extra comp-treas	10,000	10,300	10,500
Salaries-temp, seasonal	16,000	16,000	16,000
FICA	7,500	7,600	7,700
KPERS	2,500	2,265	2,320
Health insurance	12,000	13,000	14,200
Workers comp ins	100	110	120
State unemploy tax	100	110	130
Subtotal-Pers Services	**148,200**	**154,385**	**160,970**
Contractual Services			
Postage, freight, shipping	10,000	10,500	10,200
Printing and duplicating	4,000	3,800	3,750
Advert and legal publ	520	530	550
Repair and maintenance	1,400	1,500	1,560
Travel	2,000	2,150	2,300
Lodging and meals	500	600	700
Dues and memberships	300	320	350
Training	1,600	1,700	1,800
Other contractual services	850	900	990
Subtotal-Contract Services	**21,170**	**22,000**	**22,200**
Commodities			
Office supplies	6,000	6,000	5900
Books and publications	2,200	2,260	2,400
Software	1,100	250	980
Subtotal-Commodities	**9,300**	**8,510**	**9,280**
Capital outlay	**3,200**	**2,300**	**15,490**
Total expenditures	**181,870**	**187,195**	**207,940**
Ending bal transf to Co Gen Fund	**20,680**	**17,685**	**0**

Notes:

Appendix G - Worksheet for Estimating Salary and Wages

Any Kansas County
Worksheet for Estimating Salary and Wages for Annual Budget
For Budget Year 20X5

Department: ____			Division: ____				Proposed Annual Salary
	Present Salary			Proposed Salary			
Name & Title	Grade	Step	Monthly Salary	Grade	Step	Monthly Salary	

Appendix H - Comparison of Actual (Year to Date) to Budget for Motor Vehicle Fund

Motor Vehicle Fund	2005 Budg	January	February	March	April	May	June	Actual YTD	Budget Bal
Revenue									
Daily receipts	205,000	17,000	17,000	17,000	17,000	17,000	17,000	102,000	103,000
Lienholder fees	610	50	50	50	50	50	50	300	310
Full privilege tag	720	60	60	60	60	60	60	360	360
Other receipts	1,610	135	135	135	135	135	135	810	800
Total receipts	**207,940**	**17,245**	**17,245**	**17,245**	**17,245**	**17,245**	**17,245**	**103,470**	**104,470**
Expenditures									
Personal services									
Salaries	110,000	9,200	9,200	9,200	9,200	9,200	9,200	55,200	54,800
Extra comp-treas	10,500	875	875	875	875	875	875	5,250	5,250
Salaries-temp, seasonal	16,000	1,350	1,350	1,350	1,350	1,350	1,350	8,100	7,900
FICA	7,700	642	642	642	642	642	642	3,852	3,848
KPERS	2,320	193	193	193	193	193	193	1,158	1,162
Health insurance	14,200	1,200	1,200	1,200	1,200	1,200	1,200	7,200	7,000
Workers comp ins	120	10	10	10	10	10	10	60	60
State unemploy tax	130	11	11	11	11	11	11	66	64
Contractual services									
Postage, frt, shipping	10,200	850	850	850	850	850	850	5,100	5,100
Printing & duplicating	3,750	313	313	313	313	313	313	1,878	1,872
Advert and legal publ	550	46	46	46	46	46	46	276	274
Repair and maintenance	1,560	130	130	130	130	130	130	780	780
Travel	2,300	192	192	192	192	192	192	1,152	1,148
Lodging and meals	700	58	58	58	58	58	58	348	352
Dues and mships	350	30	30	30	30	30	30	180	170
Training	1,800	180	180	180	180	180	180	1,080	720
Other contr services	990	83	83	83	83	83	83	498	492
Commodities									
Office supplies	5,900	492	492	492	492	492	492	2,952	2,948
Books and publ	2,400	200	200	200	200	200	200	1,200	1,200
Software	980	82	82	82	82	82	82	492	488
Capital outlay	15,490	1,291	1,291	1,291	1,291	1,291	1,291	7,746	7,744
Total Expenditures	**207,940**	**17,428**	**17,428**	**17,428**	**17,428**	**17,428**	**17,428**	**104,568**	**103,372**

Note: The above sample worksheet compares the receipts and expenditures year-to-date through June 20X5 to the 20X5 total budgeted amounts. This is another worksheet that can be set up on an electronic spreadsheet to speed up calculations and help ensure mathematical accuracy.