



Kansas Register

Ron Thornburgh, Secretary of State

Vol. 25, No. 21 May 25, 2006 Pages 675-738

In this issue . . .	Page
Kansas Water Authority	
Notice of meetings.....	677
Morton County	
Notice of proposed DBE Program.....	677
Department of Administration—Division of Facilities Management	
Notice of commencement of negotiations for civil engineering services	677
Notice of commencement of negotiations for architectural and engineering services	677
Notices of commencement of negotiations for architectural services	678
Legislative interim committee schedule.....	678
Criminal Justice Coordinating Council	
Notice of grant award meeting.....	679
Kansas Development Finance Authority	
Notices of hearing on proposed revenue bonds.....	679
Pooled Money Investment Board	
Notice of investment rates.....	679
City of Wichita	
Notice to bidders.....	680
Kansas Department of Transportation	
Notice to contractors.....	680
Notice of cancellation of public auction	681
Department of Administration—Division of Personnel Services	
Notice of hearing on proposed administrative regulations	681
Kansas Department of Agriculture	
Notice of hearing on proposed administrative regulations	683
Department of Health and Environment	
Notice of hearing on proposed TMDLs.....	683
Notice concerning water pollution control permits/applications	684
Kansas Council on Developmental Disabilities	
Notice of available grant funding	684
University of Kansas	
Notice to bidders.....	684
Kansas Court of Appeals	
Docket for June	687
Department of Administration—Division of Purchases	
Notice to bidders for state purchases	696

(continued on next page)

Social and Rehabilitation Services
 Request for proposals 697

Notice of Bond Sale
 City of North Newton..... 697
 City of Valley Center (revised) 698
 City of Wathena 699
 City of Hays..... 700
 Morton County..... 701

Governmental Ethics Commission
 Opinion 2006-10 701

New State Laws
House Bill 2432, concerning real property; relating to recreational trails 703
Senate Bill 332, concerning postsecondary education; relating to the state board of regents
 and postsecondary educational institutions 703
Substitute for Senate Bill 323, concerning eminent domain 705
House Substitute for Senate Bill 435, concerning sales taxation; relating to authority for
 countywide retailers’ sales tax in certain counties..... 708
Senate Bill 164, concerning the unification of certain cities and counties 713
Substitute for Senate Bill 486, concerning the task force on racial profiling 715
Senate Substitute for House Bill 2105, concerning abuse, neglect and exploitation of persons 715
Senate Bill 366, concerning crimes, punishment and criminal procedure..... 716
House Substitute for Senate Bill 337, concerning courts 725

Index to administrative regulations..... 733

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

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

© Kansas Secretary of State 2006. Reproduction of this publication in its entirety or for commercial purposes is prohibited without prior permission. Official enactments of the Kansas Legislature and proposed and adopted administrative regulations of state agencies may be reproduced in any form without permission.

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



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

State of Kansas

Kansas Water Authority

Notice of Meetings

The Kansas Water Authority will meet Thursday, June 1, and Friday, June 2, at the Reynolds Lodge-Lake Shawnee, 3315 S.E. Tinman Circle, Topeka. The meeting will begin at 9 a.m. both days. The Authority will convene as the Committee of the Whole on Thursday and as the full Authority on Friday.

For an agenda, a map to Reynolds Lodge and background information on the water issues to be discussed, refer to the Kansas Water Office Web site, www.kwo.org. The background information will be linked to KWA Mailing Materials on the home page and the agenda will be found under Calendar. The information will be posted on the Web site not later than May 26. For more information, contact the Kansas Water Office at (888) KAN-WATER or (888) 526-9283.

Steve Irsik
Chairman

Doc. No. 033167

State of Kansas

Department of Administration
Division of Facilities ManagementNotice of Commencement of Negotiations
for Civil Engineering Services

Notice is hereby given of the commencement of negotiations for civil engineering services for bridge inspection for the Kansas Department of Wildlife and Parks. Services will be provided in accordance with the National Bridge Inspection Standards administered by the Kansas Department of Transportation. Seventy-six bridges are to be inspected, 71 in the eastern 60 percent of the state. The bridges include timber, steel and concrete, and vary in age. Inspections must be completed by February 28, 2007.

For more information concerning the scope of services, contact Russell LaForce, (785) 296-2281 or russell@wp.state.ks.us.

To be considered, five bound proposals and one PDF file on a CD of the following should be provided: a letter of interest, an SF330 Part I, information regarding similar projects, a certificate of professional liability insurance, and an SF330 Part II for each firm and consultant. Proposals should be concise and follow the 2006 State Building Advisory Commission guidelines, available to firms at <http://da.state.ks.us/fp/>. If copies of the guidelines are needed, contact Phyllis Fast, Division of Facilities Management, Suite 102, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, (785) 296-5796, Phyllis.Fast@da.state.ks.us. Submittals should be received by Phyllis Fast before noon June 9.

D. Keith Meyers
Director, Division of
Facilities Management

Doc. No. 033183

(Published in the Kansas Register May 25, 2006, 2006.)

Morton County, Kansas

Notice of Proposed DBE Program

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

The county's project-specific goal for projects funded in FY 2006 is 0.4 percent of the federal financial assistance.

The proposed DBE program is available for public inspection and comment at the Morton County Courthouse. The county will accept comments on the goals for 30 days from the date of this notice. Comments may be sent to Mary Gilmore, Morton County Clerk, 1025 Morton St., Elkhart, 67950.

Mary Gilmore
Morton County Clerk

Doc. No. 033184

State of Kansas

Department of Administration
Division of Facilities ManagementNotice of Commencement of Negotiations for
On-Call Architectural and Engineering Services

Notice is hereby given of the commencement of negotiations for both architectural and mechanical-electrical-plumbing engineering "on-call" services for restricted (small) projects for the Kansas Commission on Veterans' Affairs. One architectural firm and one engineering firm will be selected. Contracts will be for one year, renewable for two additional one-year periods.

For more information concerning the scope of services, contact Wayne Bollig, (785) 296-3976.

To be considered, five bound proposals and one PDF file on a CD of the following should be provided: a letter of interest, an SF330 Part I, information regarding similar projects, a certificate of professional liability insurance, and an SF330 Part II for each firm and consultant. Proposals should be concise and follow the 2006 State Building Advisory Commission guidelines, available to firms at <http://da.state.ks.us/fp/>. If copies of the guidelines are needed, contact Phyllis Fast, Division of Facilities Management, Suite 102, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, (785) 296-5796, Phyllis.Fast@da.state.ks.us. Submittals should be received by Phyllis Fast before noon June 9.

D. Keith Meyers
Director, Division of
Facilities Management

Doc. No. 033182

State of Kansas

Legislature

Interim Committee Schedule

The following committee meetings have been scheduled during the period of May 25-30. Requests for accommodation to participate in committee meetings should be made at least two working days in advance of the meeting by contacting Legislative Administrative Services at (785) 296-2391 or TTY (785) 296-8430. When available, agendas can be found at <http://kslegislature.org/klrd>.

Date	Room	Time	Committee	Agenda
May 25	519-S	9:00 a.m.	Joint Committee on Administrative Rules and Regulations	Review of the rules and regulations proposed for adoption by: Dept. of Administration, Dept. of Agriculture, Board of Regents, Real Estate Appraisal Board, and Dept. of Social and Rehabilitation Services.
May 25	526-S	10:30 a.m.	Joint Committee on Information Technology	Review agency technology projects.
May 25	123-S	2:00 p.m.	Legislative Coordinating Council	Legislative matters.
May 30	123-S	9:00 a.m.	At-Risk Education Council	Council discussion.

Jeffrey M. Russell
Director of Legislative
Administrative Services

Doc. No. 033194

State of Kansas

**Department of Administration
Division of Facilities Management**

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

Notice is hereby given of the commencement of negotiations for "on-call" architectural services for restricted (small) projects for Pittsburg State University. Two architectural firms will be selected. The contract will be for one year, renewable for two additional one-year periods.

For more information concerning the scope of services, contact Paul Stewart, (620) 235-4130.

To be considered, five bound proposals and one PDF file on a CD of the following should be provided: a letter of interest, an SF330 Part I, information regarding similar projects, a certificate of professional liability insurance, and an SF330 Part II for each firm and consultant. Proposals should be concise and follow the 2006 State Building Advisory Commission guidelines, available to firms at <http://da.state.ks.us/fp/>. If copies of the guidelines are needed, contact Phyllis Fast, Division of Facilities Management, Suite 102, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, (785) 296-5796, Phyllis.Fast@da.state.ks.us. Submittals should be received by Phyllis Fast before noon June 9.

D. Keith Meyers
Director, Division of
Facilities Management

Doc. No. 033205

State of Kansas

**Department of Administration
Division of Facilities Management**

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

Notice is hereby given of the commencement of negotiations for "on-call" architectural services for restricted (small) projects for Fort Hays State University. At least two architectural firms will be selected. The contract will be for one year, renewable for two additional one-year periods.

For more information concerning the scope of services, contact Dana Cunningham, (785) 628-4424.

To be considered, five bound proposals and one PDF file on a CD of the following should be provided: a letter of interest, an SF330 Part I, information regarding similar projects, a certificate of professional liability insurance, and an SF330 Part II for each firm and consultant. Proposals should be concise and follow the 2006 State Building Advisory Commission guidelines, available to firms at <http://da.state.ks.us/fp/>. If copies of the guidelines are needed, contact Phyllis Fast, Division of Facilities Management, Suite 102, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, (785) 296-5796, Phyllis.Fast@da.state.ks.us. Submittals should be received by Phyllis Fast before noon June 9.

D. Keith Meyers
Director, Division of
Facilities Management

Doc. No. 033206

**State of Kansas
Criminal Justice Coordinating Council**

Notice of Grant Award Meeting

The Kansas Criminal Justice Coordinating Council will meet at 9 a.m. Friday, June 23, in Conference Room 530, Curtis State Office Building, 1000 S.W. Jackson, Topeka, to determine final grant awards for the federal Edward Byrne Memorial Justice Assistance Grant (JAG) program for FY 2007.

Juliene Maska
Governor's Grants Program Administrator

Doc. No. 033177

**State of Kansas
Kansas Development Finance Authority**

Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, June 8, at the offices of the Kansas Development Finance Authority, 555 S. Kansas Ave., Suite 202, Topeka, on the proposal by Four Seasons Venture, L.P., a Kansas limited partnership (the borrower), to the Kansas Development Finance Authority to issue revenue bonds, in one or more series, pursuant to K.S.A. 74-8901 et seq. (the act), in an aggregate principal amount not to exceed \$1,110,000. The proceeds of the bonds will be loaned to the borrower for the purpose of refunding all the KDFA's Adjustable Rate Multifamily Housing Revenue Bonds, Series 1997M (Four Seasons Apartments Project), in the original principal amount of \$1,400,000, of which \$1,110,000 remains outstanding (the refunded bonds). The proceeds of the refunded bonds were loaned to the borrower pursuant to the act to finance costs of acquisition, rehabilitation and equipping of Four Seasons Apartments and related improvements and equipment to be used for public housing purposes. Four Seasons Apartments consist of 53 one- and two-bedroom units located at 9512 W. 87th St., Overland Park, Johnson County, Kansas.

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

The public hearing is being held pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended. All individuals attending the hearing will be given an opportunity to express their views for or against the proposed plan of financing for the project and other matters relating to the bonds. All written comments previously filed with the KDFA at its offices at 555 S. Kansas Ave., Suite 202, Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the KDFA.

Steven R. Weatherford
President

Doc. No. 033195

**State of Kansas
Pooled Money Investment Board**

Notice of Investment Rates

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

Effective 5-22-06 through 5-28-06

Term	Rate
1-89 days	4.99%
3 months	4.81%
6 months	4.96%
1 year	5.01%
18 months	4.96%
2 years	4.95%

Derl S. Treff
Director of Investments

Doc. No. 033180

**State of Kansas
Kansas Development Finance Authority**

Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, June 8, in the conference room in the offices of the Kansas Development Finance Authority, 555 S. Kansas Ave., Suite 202, Topeka, on the proposal for the KDFA to issue approximately \$9 million principal amount of Housing Development Revenue Bonds for KC Venture Group, L.L.C., a Missouri limited liability company, or an affiliated entity (the developer). The bonds will be issued, pursuant to K.S.A. 74-8901 et seq., to finance the costs of acquisition and rehabilitation of an existing 151-unit multifamily housing complex to be operated as Heather Glen Apartments and located in Lenexa, Johnson County, Kansas, and related improvements and equipment to be used for public housing purposes (the project).

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

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

Steven R. Weatherford
President

Doc. No. 033193

(Published in the Kansas Register May 25, 2006.)

City of Wichita, Kansas

Notice to Bidders

The city of Wichita will receive bids at the Purchasing Office, 455 N. Main, 12th Floor, Wichita, 67202, until 10 a.m. Friday, June 23, for the following project:

**(KDOT Project No. 87N-0308-01/472-84244/205390)
(OCA Code 706924)
Paving-KDOT**

Construction of Left Turn Lanes on
Maize Road at Westport

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

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

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

Marty Murphy
Administrative Aide
City of Wichita—Engineering

Doc. No. 033190

State of Kansas

Department of Transportation

Notice to Contractors

Sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the Bureau of Construction and Maintenance, KDOT, Topeka, or at the Eisenhower State Office Building, fourth floor west wing, until 2 p.m. June 21, and then publicly opened:

District One — Northeast

Osage—70 K-1314-07 — Eisenhower State Park at Melvern Reservoir, state park road improvement. (State Funds)

Wyandotte—70-105 KA-0524-01 — I-70, 0.4 mile east of the I-70/I-635 junction, bridge repair. (State Funds)

District Two — Northcentral

District—70-106 K-8646-01 — I-70, intelligent transportation system (ITS) installation. (State Funds)

Saline—4-85 KA-0175-01 — K-4, Smoky Hill River, 2.2 miles east of the junction of K-104, bridge overlay. (State Funds)

District Three — Northwest

Gove—70-32 KA-0605-01 — I-70 from the Logan-Gove county line east to Grainfield, 17.5 miles, median inlet construction. (State Funds)

Logan—55 C-3978-01 — County road 5 miles south and 2 miles east of McAllaster, 0.1 mile, grading and culvert. (Federal Funds)

Osborne—71 C-4068-01 — County road 1.1 miles east of Covert, 0.2 mile, grading and bridge. (Federal Funds)

Phillips—383-74 KA-0439-01 — K-383, 8.7 miles north-east of the Norton-Phillips county line, slide repair. (State Funds)

District Four — Southeast

Crawford—19 C-4037-01 — County road 2 miles south and 0.6 mile west of Pittsburg, 0.3 mile, grading, bridge and surfacing. (Federal Funds)

Crawford—19 K-1426-10 — Crawford State Park, state park road improvement. (State Funds)

Crawford—19 K-1426-11 — Crawford State Park, state park road improvement. (State Funds)

Greenwood—54-37 K-9512-01 — U.S. 54 and Main Street in the city of Eureka, traffic signals. (State Funds)

Labette—160-50 K-9641-01 — U.S. 160 Pumpkin Creek drainage culvert, 3.8 miles east of the Montgomery-Labette county line, culvert repair. (State Funds)

District Five — Southcentral

Butler—54-8 K-9511-01 — U.S. 54 from Lulu Street to Osage Street in the city of Augusta, 0.6 mile, traffic signals. (State Funds)

District Six — Southwest

Finney—28 U-1898-01 — Jenny Barker Road from U.S. 50/U.S. 400 to north of K-156, 2.1 miles, grading and surfacing. (Federal Funds)

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

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

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

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

Deb Miller
Secretary of Transportation

Doc. No. 033196

State of Kansas

Department of Transportation

Notice of Cancellation of Public Auction

The public auction scheduled for 1 p.m. June 14 has been cancelled. The Kansas Secretary of Transportation will not be offering for sale at public auction the following structure located in Reno County, Kansas: 1,029 Sq. Ft., 3-bedroom, 1-bath house on crawl space located at 3002 E. 43rd Ave., Hutchinson, Kansas.

Deb Miller
Secretary of Transportation

Doc. No. 033210

State of Kansas

Department of Administration
Division of Personnel ServicesNotice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 10 a.m. Tuesday, July 25, in Room 108, Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of proposed rules and regulations of the Division of Personnel Services, Department of Administration, on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Secretary of Administration, 1000 S.W. Jackson, Suite 500, Topeka, 66612, or to Kraig.Knowlton@da.state.ks.us. 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 that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Faith Loretto at (785) 296-6006 or TTY (800) 766-3777. The north entrance to the Landon State Office Building is accessible, and handicapped parking is located across the street from the north entrance to the building.

Summaries of the proposed regulations and their economic impact follow. Note: Statements indicating that a regulation is "not anticipated to have any economic impact" or "is not anticipated to have any identifiable economic impact" are intended to indicate that no economic impact on the Department of Administration, other state agencies, state employees or the general public has been identified.

K.A.R. 1-2-46, Length of service, and K.A.R. 1-2-77, Retiree. K.A.R. 1-2-46 defines the term "length of service" and identifies certain types of work for the state of Kansas that are excluded from that definition, including time worked as a "temporary employee." Subsection (a)(1) of

K.A.R. 1-2-46 is being amended to clarify that only time worked as a classified temporary employee in accordance with the provisions of K.A.R. 1-6-25 is to be excluded from length of service. Since this proposed amendment is merely a clarification and is not substantive, there will be no economic impact from this proposal.

Subsection (g) of K.A.R. 1-2-46 currently provides that "for purposes of leave accrual, layoff, and longevity bonus pay, the length of service of any retiree returning to state service" is to be reduced to zero and calculated on the same basis as that for a new hire. Amendments to subsection (g) of K.A.R. 1-2-46 are proposed in conjunction with the proposed revocation of K.A.R. 1-2-77, which defines the term "retiree." K.A.R. 1-2-46 (g) is the only place where the term "retiree" is used in the personnel regulations, so a specific regulation defining the term was determined to be unnecessary. In addition, revocation of the definition of "retiree" in K.A.R. 1-2-77 and the related amendment to subsection (g) remove a potential misreading created by a timing element contained in the definition of "retiree." However, the revocation and amendment would not change existing practices or the current application of those regulations. Therefore, the proposed revocation of K.A.R. 1-2-77 and the proposed amendments to K.A.R. 1-2-46 (g) will have no economic impact.

K.A.R. 1-3-5, Definitions; K.A.R. 1-3-6, Equal employment opportunity, affirmative action; and K.A.R. 1-9-18, Equal employment opportunity, affirmative action; discrimination prohibited. K.A.R. 1-9-18 is proposed to be revoked, and the contents of that regulation are being separated into two new regulations: K.A.R. 1-3-5 and 1-3-6. These proposed new regulations would be placed in Article 3, the title of which is to be changed from "Workforce Planning and Control" to "Equal Employment Opportunity and Affirmative Action" in order to emphasize the importance of these policies.

The provisions of K.A.R. 1-3-5 and 1-3-6 are substantially the same as those found in K.A.R. 1-9-18, but the requirements and terms have been updated to reflect the current terminology and practices of the state. In addition, existing provisions in K.A.R. 1-9-18 prohibiting discrimination have not been included in these new regulations since these prohibitions are covered elsewhere in state law, and the investigation and enforcement of discrimination actions are within the purview of the Kansas Human Rights Commission. Further, the list of characteristics on which employment decisions may not be based, as contained in the definition of equal employment opportunity in K.A.R. 1-3-5, would be amended by adding "military or veteran status" as another characteristic and by adding the phrase "except as otherwise provided by law" in recognition of specialized employment laws that provide for one or more of these characteristics to be a factor in certain employment decisions, such as the veteran's preference provided under Kansas law.

Because these new regulations do not contain new substantive issues or requirements and the prohibition with respect to discrimination remains in place elsewhere in state law, the revocation of K.A.R. 1-9-18 and the adoption of K.A.R. 1-3-5 and K.A.R. 1-3-6 are anticipated to have no economic impact.

(continued)

K.A.R. 1-5-8, Beginning pay. Under the existing provisions of K.A.R. 1-5-8, if authorization is given to one or more state agencies to provide a higher beginning pay rate for new employees in a certain class or geographical area, then each agency receiving that authority is to raise the pay of its current employees who are in the same class or geographical area to the higher beginning pay rate. Proposed amendments to K.A.R. 1-5-8 clarify the timing of this pay increase by stipulating that the pay increase is to take effect on the first day of the first pay period following the date on which the authorization for higher pay is granted. The proposed amendment makes it clear that the pay increase for incumbents need not be delayed until the agency fills the vacant position that serves as a basis for the request for higher beginning pay.

To the extent that this clarification results in agencies implementing the pay increases for incumbents somewhat sooner than they would if they read the current language as requiring a delay until the vacant position is filled, the salaries and wages expenditures of those agencies may increase minimally, and the incumbent employees would receive the pay increase more quickly. There will be no economic impact on the Department of Administration, state employees not in such classes, or the general public.

K.A.R. 1-6-2, Recruitment. K.A.R. 1-6-2 establishes minimum recruiting standards for vacancies in state agencies. The proposed amendment to this regulation expands the minimum recruiting standards by allowing persons who separate from state service due to a disability for which they receive disability benefits from KPERs or the U.S. Social Security Administration to be eligible to apply for all posted vacancies. This will provide these individuals with additional opportunities to be considered for state employment and is designed to enhance their ability to return to state service should they choose to do so. This amendment is not anticipated to have any measurable economic impact on the Department of Administration, state employees, or the general public.

K.A.R. 1-6-22a, Training classes. Currently, K.A.R. 1-6-22a provides that the duration of the training period served in a training class must be at least six months, but not more than 24 months. Proposed amendments to this regulation remove those standards from the regulation and replace them with language allowing training periods to be specified in written agreements between the director and the appointing authority of the agency in which the training class is used or, when a class is used by multiple agencies, by the director, after consultation with the affected agencies.

The qualifications of several professions, notably those in the surveying and inspecting industry, now require experience and training that exceeds the current limit on training periods. As a result, employees are forced to be considered full performance employees and elevated from the training class in which they were hired before they actually complete the certification, experience, and training requirements that are required of their occupation. The amendment will allow agencies with these types of occupations to accommodate their additional requirements within the state classification system.

As a result of this amendment, the employees in a small number of training classes for certain professions will serve a longer training period than they would have been required to serve under current language, thus taking longer to achieve permanent status and to move to the higher pay grade that coincides with moving from a training class to a full-performance class. This amendment will have no other discernible economic impact.

K.A.R. 1-9-7b, Military leave; voluntary or involuntary service with reserve component of the armed forces. K.A.R. 1-9-7b establishes the conditions and limitations for military leave involving voluntary or involuntary service with the reserve component of the armed forces. The primary amendment to this regulation is a proposed increase in the amount of military leave with pay available to eligible employees from 12 working days to 15. This increase is being proposed to recognize the armed forces' increased reliance on its reserve component for military initiatives as well as to bring Kansas into line with other states with respect to this type of leave. In order to ensure that the increase from 12 to 15 working days of paid military leave is implemented in an equitable manner, the amendments to this regulation will be effective on October 1, 2006.

This amendment will have a positive impact on employees called to active duty in that they will have three additional days of paid military leave to use before using their own accrued leave or military leave without pay. The employing agencies would be required to provide the three additional paid days of leave, which may result in additional expenditures for salaries and wages to the extent that affected employees may have otherwise used military leave without pay.

The remainder of the proposed amendments to this regulation are minor amendments that mirror the corresponding provisions of the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA). These amendments will have no identifiable economic impact on the Department of Administration, state agencies or employees, or the general public.

K.A.R. 1-9-25, Alcohol and controlled substances test for employees in commercial driver positions, and K.A.R. 1-9-26, Pre-duty controlled substances testing for employees in positions assigned commercial driver functions. Currently, these regulations consist primarily of a restatement of the provisions of the federal regulations concerning alcohol and drug testing of applicants and employees in commercial driver positions along with provisions that establish a uniform, statewide standard for areas in which those federal regulations give employers some discretion. Proposed amendments remove those portions of the regulations already found in federal law. The amendments to these regulations do not change the existing policies in any way. Therefore, these amendments will have no identifiable economic impact.

Copies of the proposed regulations and the associated economic impact statements may be obtained from the Division of Personnel Services, (785) 296-4278, or at the following Web page: <http://da.state.ks.us/ps/documents/regs/proposed.htm>.

Duane Goossen
Secretary of Administration

Doc. No. 033178

State of Kansas

Department of Health
and Environment

Notice of Hearing

The Kansas Department of Health and Environment has prepared seven Total Maximum Daily Loads (TMDLs) for streams in the Lower Arkansas River Basin that are impaired by not meeting state water quality standards for chloride and sulfate. These seven TMDLs complete the requirements of Kansas to develop TMDLs for impaired waters in the 12 river basins of the state by June 30, 2006. These requirements were established under a schedule dictated by an April 13, 1998 Court Decree between the state, the Sierra Club, the Kansas Natural Resources Council and the U.S. Environmental Protection Agency to implement Section 303(d) of the Federal Clean Water Act.

The seven TMDLs presented for public review are:

1. Arkansas River from Hutchinson to Maize — Chloride
2. Arkansas River from Maize to Derby — Chloride
3. Arkansas River from Derby to Arkansas City — Chloride
4. Upper Little Arkansas River — Chloride
5. Turkey Creek in McPherson County — Chloride
6. Cow Creek in Rice and Reno Counties — Chloride
7. The Medicine Lodge River — Sulfate

These TMDLs are available for review at the Kansas Department of Health and Environment TMDL Web site: <http://kdheks.gov/tmdl/>. Additionally, copies of the TMDLs can be obtained by contacting the Bureau of Water, Watershed Planning Section, at (785) 296-6170.

A public hearing to take testimony from interested parties will be held from 3 to 6 p.m. Wednesday, June 7, at the Kansas Department of Transportation Building, 1220 E. Fourth St., Hutchinson. The first portion of the hearing will be a briefing by the Watershed Planning Section outlining each of the seven TMDLs. The public record for these TMDLs will be held open until June 20. After reviewing the testimony and public comments, KDHE will make any appropriate revisions to the seven TMDLs and will submit them to Region VII of the U.S. Environmental Protection Agency by June 30.

Any individual with a disability may request accommodation in order to participate in the public hearing process and may request the proposed TMDLs in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting KDHE.

Requests or questions should be directed to Tom Stiles, Watershed Planning Section, KDHE, 1000 S.W. Jackson, Suite 420, Topeka, 66612-1367, tstiles@kdhe.state.ks.us, (785) 296-6170 or fax (785) 291-3266.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 033198

State of Kansas

Department of Agriculture

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 11 a.m. Tuesday, July 25, in the fourth floor training room of the Kansas Department of Agriculture, 109 S.W. 9th, Topeka, to consider the adoption of proposed changes in existing meat and poultry rules and regulations.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Secretary of Agriculture, 109 S.W. 9th, 4th Floor, 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 that each participant limit any oral presentation to five minutes.

K.A.R. 4-16-1c and **K.A.R. 4-17-1c** update current regulations. Current regulations, which adopted the 1997 edition of Title 9 of the Code of Federal Regulations by reference, will be replaced with the adoption by reference of the 2005 edition of Title 9 of the Code of Federal Regulations.

K.A.R. 4-16-1a and **K.A.R. 4-17-1a** consolidate and improve the clarity of definitions.

K.A.R. 4-16-3a allows an exemption for the custom slaughtering and processing of diseased and disabled livestock for humane reasons and an exemption for home slaughter and processing and sale of up to 250 domestically raised rabbits.

K.A.R. 4-16-250, 4-16-251, 4-16-252, 4-16-260 and **4-17-5a** are obsolete and are being revoked.

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

Copies of the regulations and their economic impact statements may be obtained by contacting Leslie Garner or by accessing the department's Web site at <http://www.ksda.gov>.

Adrian J. Polansky
Secretary of Agriculture

Doc. No. 033181

**State of Kansas
Council on Developmental Disabilities**

Notice of Available Grant Funding

The Kansas Council on Developmental Disabilities announces the availability of grant funding for innovative projects. The KCDD plans to invest up to \$285,000 in initiatives that will improve health, housing and employment outcomes for individuals with developmental disabilities. To request a copy of the calls for investment and applications, call (785) 296-2608 or e-mail kcdd@alltel.net, or visit the KCDD Web site at www.kcdd.org.

Jan Rhys
Executive Director

Doc. No. 0333176

**State of Kansas
University of Kansas**

Notice to Bidders

Sealed bids for the item listed below will be received by the University of Kansas Purchasing Office, Lawrence, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 864-5970 or fax (785) 864-3454 for additional information:

**Monday, June 5, 2006
IFB 86026**

Floor Coverings for the Department of Student Housing
Barry K. Swanson
Associate Comptroller/
Director of Purchasing Services

Doc. No. 033202

**State of Kansas
Department of Health
and Environment**

**Notice Concerning Kansas/Federal Water
Pollution Control Permits and Applications**

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

The proposed actions concerning the draft documents are based on staff review, applying the appropriate standards, regulations and effluent limitations of the state of Kansas and the Environmental Protection Agency. The final action will result in a Federal National Pollutant Discharge Elimination System Authorization and/or a Kansas Water Pollution Control permit being issued, subject to certain conditions, revocation and reissuance of the designated permit or termination of the designated permit.

**Public Notice No. KS-AG-06-137
Application(s) for New or Expansion of
Existing Swine Facilities**

Name and Address of Applicant	Owner of Property Where Facility Will Be Located
J-Six Farms Inc. (North Farm) P.O. Box 170 Seneca, KS 66538	J-Six Farms Inc. P.O. Box 170 Seneca, KS 66538

Legal Description	Receiving Water
SE/4 of Section 03, T03S, R13E, Nemaha County Kansas Permit No. A-MONM-S048	Missouri River Basin

This is an application for a permit for expansion of an existing swine facility by replacing two Cargill floors with two enclosed swine buildings for an additional 305 head of swine weighing over 55 pounds and 200 head of swine weighing 55 pounds or less. This will increase the animal capacity to a maximum of 1,725 head (690 animal units) of swine weighing over 55 pounds and 2,700 head (270 animal units) of swine weighing 55 pounds or less, for a total of 960 animal units. A new or modified permit will not be issued without additional public notice.

**Public Notice No. KS-AG-06-138/144
Pending Permits for Confined Feeding Facilities**

Name and Address of Applicant	Legal Description	Receiving Water
MLS Ranch, Inc. Mark Schamberger Route 1, Box 8 M Hoxie, KS 67740	NE/4 of Section 04, T07S, R28W, Sheridan County	Solomon River Basin

Kansas Permit No. A-SOSD-B008
This is a new permit for an existing facility expanding to 999 head (999 animal units) of beef cattle weighing greater than 700 pounds. The facility is proposing to construct three new sediment basins and an earthen wastewater retention structure to control runoff.

Name and Address of Applicant	Legal Description	Receiving Water
Stonington Farms, dba Hume Feedlot Robert Z. Hume 10600 S. Road V Manter, KS 67862	SE/4 of Section 24 & NE/4 of Section 25, T30S, R43W, Stanton County	Cimarron River Basin

Kansas Permit No. A-CIST-C007 Federal Permit No. KS0096628
This is a new permit for an expanding facility for 3,500 head (3,500 animal units) of beef cattle. The expansion consists of combining and enlarging some of the existing wastewater retention structures and constructing one additional wastewater retention structure, with no change in the facility animal capacity.

Name and Address of Applicant	Legal Description	Receiving Water
Eastside Dairy II, LLC Daniel E. Senestraro 9620 E. Road 8 Johnson, KS 67855	NE/4 of Section 09, T28S, R39W, Stanton County	Cimarron River Basin

Kansas Permit No. A-CIST-D003 Federal Permit No. KS0097501
This is a modified permit for an existing facility for 4,185 head (5,859 animal units) of mature dairy cattle. The modification is to incorporate the "as-built" dimensions of the retention control structures. No operational changes or change in head/animal units is proposed.

Name and Address of Applicant	Legal Description	Receiving Water
3-B Cattle Co., Inc. Route 3, Box 10 Beloit, KS 67420	SE/4 of Section 31, T06S, R07W, Mitchell County	Solomon River Basin

Kansas Permit No. A-SOMC-C005 Federal Permit No. KS0098787
This is a renewal permit for an existing facility expanding to a maximum of 2,500 head [1,250 animal units (a.u.)] of cattle weighing less than

700 pounds and 1,000 head (1,000 a.u.) of cattle weighing 700 pounds or more, for a total of 3,500 head (2,250 a.u.) of cattle. The construction of additional pens and a new retention structure is being proposed.

Name and Address of Applicant	Legal Description	Receiving Water
Wilroads Feed Yard Steve Doll 11449 Lariat Way Dodge City, KS 67801	W/2 of Section 09, T27S, R24W, Ford County	Upper Arkansas River Basin

Kansas Permit No. A-UAFO-C014 Federal Permit No. KS0080373
This is a renewal permit and expansion in animal units for an existing permitted facility. The facility is proposing a pen density increase of 1,300 head, which would increase the total capacity to 12,800 head (12,800 animal units) of beef cattle. No additional feeding pens or wastewater retention structures are being proposed.

Name and Address of Applicant	Legal Description	Receiving Water
Coolidge Dairy, LLC Dale E. Senestraro P.O. Box 199 Coolidge, KS 67836	E/2 of Section 17, SE/4 of Section 20 & W/2 & NE/4 of Section 21, T23S, R42W, Hamilton County	Upper Arkansas River Basin

Kansas Permit No. A-UAHM-D001 Federal Permit No. KS0093343
This is a modification of the permit to address additional waste management areas, the addition of new waste controls, and the modification of existing controls. The previous permit reflected the average number of cattle present, and this permit will reflect the maximum number of cattle. The animal unit capacity is changing from 11,200 to 12,390.

Name and Address of Applicant	Legal Description	Receiving Water
Mark Grollmes 1751 1st Road Circleville, KS 66416	SE/4 of Section 35, T05S, R13E, Nemaha County	Kansas River Basin

Kansas Permit No. A-KSNM-S021
This is a renewal permit for an existing facility for a maximum of 55 head (22 animal units) of swine each weighing more than 55 pounds and 240 head (24 animal units) of swine each weighing 55 pounds or less, and 40 head (20 animal units) of beef cattle each weighing 700 pounds or less, for a total of 66 animal units.

Public Notice No. KS-06-071/072

Name and Address of Applicant	Waterway	Type of Discharge
Meier's Ready Mix, Inc. P.O. Box 8477 Topeka, KS 66608	Four Mile Creek via Dixon Creek via Unnamed Tributary	Process Wastewater

Kansas Permit No. I-LR15-PR01 Federal Permit No. KSG110164
Facility Description: SW¹/₄, SW¹/₄, SW¹/₄, S2, T11S, R5E, Geary County

Facility Name: Meier's Ready Mix - Milford Plant
Facility Description: The proposed action is to issue a general permit for the above facility to operate pollution control structures for a new ready-mix concrete plant. This facility will use a concrete basin, consisting of one washout and two settling compartments to collect wastewater generated by washing the inside of the truck mixer drums and the outside of the trucks. Wash water that does not evaporate is reused in concrete production and for dust control on roads and/or sand/gravel piles. Settled solids are periodically removed and hauled to a construction and demolition landfill. Any makeup water needed is obtained from an on-site well. Domestic wastewater is collected in portable toilets and hauled to a KDHE-permitted facility. Although these facilities generally operate as nonoverflowing facilities, the general permit allows discharges of treated wastewater to surface waters of the state provided the discharge meets the limits in the general permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Phoenix Coal Company, Inc. P.O. Box 498 Vinta, OK 74301	Buck Run Creek via Unnamed Tributary	Pit Dewatering and Stormwater Runoff

Kansas Permit No. I-MC61-PO04 Federal Permit No. KS0098515
Legal: NE¹/₄, S10, T27S, R25E, Bourbon County

Facility Name: Garland Mine No. 2
Facility Address: Deer Road & 250th St., Garland, KS 66741

Facility Description: The proposed action is to issue a new permit for the discharge of wastewater during coal mining operations. Mined coal is transported to a coal processing plant at Garland Mine No. 1, where it is crushed, screened and washed. This permit is for stormwater runoff and active strip pit dewatering flows at the new mining location. These flows are directed to sediment traps and ponds for settlement prior to discharge through Outfalls 003, 005 and 007. All discharges are precipitation based. The proposed permit includes limits and/or monitoring for total recoverable iron, total suspended solids, pH, settleable solids, recoverable zinc, total hardness, total dissolved solids, sulfate, chloride, effluent flow and rainfall quantity. Contained in the permit is a schedule of compliance requiring the permittee to annually submit maps reflecting updated outfall locations and the status of the mining areas and associated pollution controls. The permit also requires that a stormwater pollution prevention plan be developed and implemented within one year of the effective date of the permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Public Notice No. KS-ND-06-011/012

Name and Address of Applicant	Legal Location	Type of Discharge
Kelly MacLaskey Oilfield Services, Inc. P.O. Box 222 El Dorado, KS 67042	SW ¹ / ₄ , NW ¹ / ₄ , S5, T26S, R5E, Butler County	Nonoverflowing

Kansas Permit No. I-WA09-NP04 Federal Permit No. KSJ000162

Facility Description: The proposed action is to reissue an existing permit for operation of an existing nonoverflowing lagoon wastewater treatment facility. This facility transports crude oil to refineries. The exterior of the tanker trucks is washed in an inside wash bay. The vehicle wash water, routed through a mud trap, and domestic wastewater from the business office is directed to a 0.12 acre single-cell earthen waste stabilization lagoon. An average of six vehicles per week are washed at this facility. The estimated maximum flow rate directed to the wastewater lagoon is 200 gpd. Annual monitoring for chloride, sodium, sulfate, oil and grease, pH and volatile organic compounds are required by the permit. Contained in the permit is a schedule of compliance requiring the permittee to provide KDHE with the procedure used to collect wastewater from degreasing operations and parts cleaning and the location where this wastewater is disposed. The schedule of compliance also requires the permittee to obtain the services of a KDHE-certified wastewater treatment plant operator to achieve compliance with this permit. Discharge of wastewater from this treatment facility to waters of the state of Kansas is prohibited by this permit.

Name and Address of Applicant	Legal Location	Type of Discharge
Butler County Dept. of Public Works 205 W. Central El Dorado, KS 67042-2195	NE ¹ / ₄ , S25, T27S, R4E, Butler County	Nonoverflowing

Kansas Permit No. I-WA03-NP03 Federal Permit No. KSJ000128

Facility Description: The proposed action is to reissue an existing permit for operation of an existing nonoverflowing lagoon wastewater treatment facility. This facility is a two-cell nondischarging wastewater stabilization pond system with an average inflow of 420 gallons per day and a total surface area of 8,400 square feet. Domestic sewage and discharges from the vehicle wash bay are directed to the ponds via a lift station. Waste fluids from vehicle maintenance are

(continued)

collected for separate disposal or recycling. Washwater from the vehicle wash bay is first treated by an oil and grease separator. The pond has a double synthetic liner with an intermediate leak detection system. Discharge of wastewater from this treatment facility to waters of the state of Kansas is prohibited by this permit.

Public Notice No. KS-EG-06-025

In accordance with K.A.R. 28-46-1 et seq. and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared for the use of the well(s) described below within the state of Kansas:

Name and Address of Applicant

Northern Natural Gas Company
P.O. Box 47
Mullinville, KS 67109
Facility Location: Mullinville, Kansas

Well and Permit Number Location

#1	660 feet from south line and 660 feet from east line of SE Corner (SE $\frac{1}{4}$, SE $\frac{1}{4}$, S20-T28S, R19W) Kiowa County, KS
KS-01-097-001	

Facility Description: The proposed action is to reissue an existing permit for a Class I nonhazardous waste injection well at the location described above. This UIC facility serves two gas pipeline compressor stations—Mullinville and Macksville. The fluids to be injected are nonhazardous liquid waste consisting of cooling tower blowdown, water softener regeneration water, building floor drains, secondary containment for jacket water tower, salt brine tank, liquid hydrocarbon storage tank and oil skimming unit, water tower water resulting from emergency or repairs, and wastewater from the Northern Natural Gas - Macksville facility consisting of stormwater runoff, water softener regenerate and building floor drains during emergency conditions. Injection is to be made into the Arbuckle formation through openhole from a depth of 5,581 feet to 5,642 feet. Disposal will be by means of gravity flow; wellhead pressure will not be allowed. The maximum rate of injection will be 100,000 gallons per day. All construction, monitoring and operation of this well will meet the requirements that apply to Class I Injection wells under the Kansas Underground Injection Control Regulations, K.A.R. 28-46-1 through 28-46-44.

Public Notice No. KS-GP-06-001

Public Notice of Draft Kansas Water Pollution Control General Stormwater Permit and National Pollutant Discharge Elimination System General Stormwater Permit for Stormwater Runoff from Industrial Activity

The Kansas Department of Health and Environment has prepared a draft general stormwater permit for industrial activity. This permit is a combined Kansas Water Pollution Control general stormwater permit and National Pollutant Discharge Elimination System general stormwater permit.

The permit is written primarily for stormwater runoff associated with industrial activity, addressing categories of facilities generally involved in materials handling, manufacturing, and transportation and/or production, as opposed to businesses more closely associated with providing services or trade at the retail level. Applicability is typically determined by comparing the facility's industrial activities and primary Standard Industrial Classification (SIC) code with the federal regulatory definition under 40 CFR 122.26(b)(14).

A general stormwater permit is provided for those entities engaged in similar activities and discharging stormwater of similar quality. A general permit is placed on

public notice once during the life of the permit and then is made available, without further public notice, to all qualified entities that meet the requirements of the permit. The permittees also are required to meet all other federal, state and local requirements.

The general permit requires the permittee to develop, implement and comply with a Stormwater Pollution Prevention (SWP2) plan. The SWP2 plan must contain certain items that are specified in the general permit, and the SWP2 plan must specify the "Best Management Practices" to be employed or what steps will be taken to minimize the contamination of stormwater runoff associated with industrial activity from the site.

Copies of all information, forms, reference materials and the general NPDES permit can be downloaded from the KDHE Stormwater Website at <http://www.kdhe.state.ks.us/stormwater/index.html>. Copies of these documents also may be obtained by writing the Kansas Department of Health and Environment, Bureau of Water - Industrial Programs Section, 1000 S.W. Jackson, Suite 420, Topeka, 66612-1367.

Persons wishing to comment on the draft documents and/or permit applications must submit their comments in writing to the Kansas Department of Health and Environment if they wish to have the comments considered in the decision-making process. Comments should be submitted to the attention of the Livestock Waste Management Section for agricultural-related draft documents or applications, or to the Technical Services Section for all other permits, at the Kansas Department of Health and Environment, Division of Environment, Bureau of Water, 1000 S.W. Jackson, Suite 420, Topeka, 66612-1367.

All comments regarding the draft documents or application notices received on or before June 24 will be considered in the formulation of the final determinations regarding this public notice. Please refer to the appropriate Kansas document number (KS-AG-06-137/144, KS-06-071/072, KS-ND-06-011/012, KS-EG-006-024, KS-GP-06-001) and name of the applicant/permittee when preparing comments.

After review of any comments received during the public notice period, the Secretary of Health and Environment will issue a determination regarding final agency action on each draft document/application. If response to any draft document/application indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC).

All draft documents/applications and the supporting information including any comments received are on file and may be inspected at the offices of the Kansas Department of Health and Environment, Bureau of Water. These documents are available upon request at the copying cost assessed by KDHE. Application information and components of plans and specifications for all new and expanding swine facilities are available on the Internet at <http://www.kdhe.state.ks.us/feedlots>. Division of Environment offices are open from 8 a.m. to 5 p.m. Monday through Friday, excluding holidays.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 033201

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

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

Wednesday, June 7, 2006
 9:30 a.m.

Case No. / Case Name	Attorneys	Jurisdiction
94,766 Arthur Neil Warner, Individually; and Arthur Neil Warner for and on Behalf of all of the Surviving Heirs of Patricia Ann Warner, Deceased, Appellants v. Robert Harry Stover; and Canal Insurance Company, Appellees and Farm Bureau Mutual Insurance Company, Appellee	Gary E. Laughlin David E. Watson Jack D. McInnes Douglas N. Ghertner	Shawnee

Before Malone, P.J.; Green, J.; and Bukaty, S.J.

Tuesday, June 20, 2006
 9:00 a.m.

Case No. / Case Name	Attorneys	Jurisdiction
95,515 TFMComm, Inc., Appellee v. Dultmeier Development Company, Appellant	David L. Vogel Bryan W. Smith	Shawnee
95,708 State of Kansas, Appellant v. Randy Henning, Appellee	Attorney General Vernon E. Buck, Asst. C.A. Frederick L. Meier II	Lyon
94,412 State of Kansas, Appellee v. Byron Bailey, Appellant	Attorney General Tony Cruz, Asst. C.A. Carl Folsom III, Asst. A.D.	Geary
94,002 State of Kansas, Appellee v. Donnie Ray Ventris, Appellant	Attorney General Linda E. DeWitt, Special Counsel Matthew J. Edge, Asst. A.D.	Montgomery
94,951 Marie M. McGinley, Appellant v. Bank of America, N.A., Appellee	Phillip L. Turner Dan E. Turner Rebecca S. Jelinek Steven E. Mauer	Shawnee
95,551 Southwestern Bell Telephone, L.P., Appellee v. APAC-Kansas, Inc., Appellant	David D. Backer Anthony L. Gosserand	Lyon

(continued)

95,202 Rene Thomas, as Parent and Natural Guardian of Juliana Sanchez and Viviana Sanchez, Minors and Heirs at Law of Ramon Sanchez and Victor Reyes, Appellees v. Benchmark Insurance Company, Appellant	Mark Beam-Ward J. Franklin Hummer	Wyandotte
95,018 Gayle Pletcher, Appellee v. Direct Wholesale Supply, Inc., Appellant	Mark J. Noah C. Richard Comfort	Mitchell

**Wednesday, June 21, 2006
9:00 a.m.**

Case No. / Case Name	Attorneys	Jurisdiction
95,051 Jo Ann Seitz and the Estate of Oscar I. Beck, Appellant v. The Lawrence Bank, Appellee	James L. Wisler Steven F. Coronado Richard D. Fry	Douglas
94,697 D.A.N. Joint Venture III, L.P., Appellant v. Brad W. Turk and Peggy Turk, Appellees	Thomas J. Fritzlen Jr. Keith Collett Craig D. Cox	Harvey
94,613 State of Kansas, Appellee v. Curt Daniel Vandavelde, Appellant	Attorney General Robert D. Hecht, D.A. Rick Kittel, Asst. A.D.	Shawnee

Summary Calendar—No Oral Argument

(These cases shall be deemed submitted without oral argument, and an opinion may be released prior to the regularly scheduled docket without further notice. The cases will receive full consideration by the assigned panel of Judges.)

Case No. / Case Name	Attorneys	Jurisdiction
95,748 City of Concordia, Kansas, Appellant v. Shawn D. Ellis, Appellee	Lawrence R. Uri Jr. Joseph A. Allen James D. Sweet	Cloud
95,036 In the Matter of: Diana L. Cox (Alexander), Appellee and Thomas R. Cox III, Appellant	Scott M. Mann Thomas R. Cox III, Pro Se	Johnson
93,189 State of Kansas, Appellee v. Daniel K. Smith, Appellant	Attorney General Sherri Schuck, C.A. Matthew J. Edge, Asst. A.D.	Pottawatomie
95,691 State of Kansas, Appellee v. Morton D. Alfrey, Appellant	Attorney General Gerald R. Kuckelman, C.A. Robert D. Campbell	Atchison
95,172 State of Kansas, Appellee v. Dustin Thomas Markus, Appellant	Attorney General Eric W. Godderz, C.A. Patrick H. Dunn, Asst. A.D.	Osage
94,777 State of Kansas, Appellee v. Crystal A. Graham, Appellant	Attorney General William T. North, C.A. Mary Curtis, Asst. A.D.	Chase

93,897 James F. Leffel, Appellant v. Kansas Department of Revenue, Appellee	Michael S. Holland II Ted Smith	Reno
95,312 Denison State Bank, Appellee v. Becker & Associates, Ltd., Appellant	Thomas D. Haney John R. Kurth	Jefferson
94,611 State of Kansas, Appellee v. Joseph Littleton, Appellant	Attorney General Bethany C. Fields, Asst. C.A. Virginia A. Girard-Brady, Asst. A.D.	Riley
94,285 Lorenzo M. Davis, Appellant v. State of Kansas, Appellee	Janice J. Jorns Attorney General Matt J. Maloney, Asst. D.A.	Sedgwick
94,033 Thomas J. G. Martin, Appellee v. Kansas Department of Revenue, Appellant	Michael A. Millett John D. Shultz	Johnson
94,979 State of Kansas, Appellee v. Robert R. Carlsgaard, Appellant	Attorney General Don L. Scott, C.A. Matthew J. Edge, Asst. A.D.	Seward
94,394 State of Kansas, Appellee v. Buddy G. Brazee, Appellant	Attorney General Kristi L. Barton, Asst. D.A. Shirla R. McQueen	Sedgwick
95,109 State of Kansas, Appellant v. Donald Kirby, Appellee	Attorney General Razmi M. Tahirkheli, Asst. C.A. JoAnna Derfelt	Crawford
94,475/94,476 State of Kansas, Appellee v. Travis Boyd, Appellant	Attorney General John Sauer, C.A. Douglas M. Crotty III Jacob B. Price	Ford

Before Rulon, C.J.; Pierron and Buser, JJ.

Wednesday, June 28, 2006

9:30 a.m.

Case No. / Case Name	Attorneys	Jurisdiction
94,302 Jorge Medina and Jennet Caro, Appellants v. City of Wichita, Kansas, Appellee	Diane F. Barger Sharon L. Dickgrafe	Sedgwick

Before Marquardt, P.J.; Elliott and Pierron, JJ.

Wednesday, June 28, 2006

1:30 p.m.

Case No. / Case Name	Attorneys	Jurisdiction
94,924 In the Matter of the Marriage of: Diane Elaine Margolies, Appellee and Jonathan Adam Margolies, Appellant	Allan E. Coon Scott H. Kreamer R. Pete Smith Alleen C. VanBebber	Johnson
94,062 In the Matter of the Marriage of Guillermo (Bill) Vientos, Appellant and Laura Vientos, Appellee	Ronald W. Nelson D. Todd Arney Allan E. Coon	Johnson

(continued)

**Kansas Court of Appeals
Ford County Courthouse
Courtroom 2
101 W. Spruce
Dodge City, Kansas**

Before McAnany, P.J.; Greene and Hill, JJ.

Tuesday, June 20, 2006

9:30 a.m.

Case No. / Case Name	Attorneys	Jurisdiction
94,616 City of Garden City, Kansas, Appellee v. Joe Bird, Appellant	Yvette L. Willson, City Prosecutor Leroy C. Rose	Finney
95,261 Raul Morales-Chavarin, Appellee v. National Beef Packing Company and Fidelity & Guaranty Insurance, Appellants	Steve Brooks Shirla R. McQueen	Work Comp.
94,923 In the Matter of the Marriage of: SuJean Stewart, Appellant and Stephen C. Stewart, Appellee	Loy D. "Kip" Johnson Daniel C. Walter	Smith
1:30 p.m.		
93,185 State of Kansas, Appellee v. Ulysses Hernandez, Appellant	Attorney General Lois K. Malin, Asst. C.A. Mary Curtis, Asst. A.D.	Finney
94,439 State of Kansas, Appellee v. Rudolph Hudson, Appellant	Attorney General Don L. Scott, C.A. Mary Curtis, Asst. A.D.	Seward
94,580 State of Kansas, Appellee v. Eusebio Sierra-Medrano, Appellant	Attorney General Louis A. Podrebarac, C.A. Rick Kittle, Asst. A.D.	Meade

Wednesday, June 21, 2006

9:30 a.m.

Case No. / Case Name	Attorneys	Jurisdiction
94,527 State of Kansas, Appellee v. Shawn C. Bandt, Appellant	Attorney General Edward C. Hageman, C.A. Michael S. Holland	Rooks
93,894 Michael Kenneth Bowen, Appellant v. State of Kansas, Appellee	Michael S. Holland Attorney General Craig S. Crosswhite, C.A.	Ness
94,750 State of Kansas, Appellee v. Scott Allen Baumfalk, Appellant	Andrew D. Bauch, Asst. A.G. Michael S. Holland	Cheyenne

Summary Calendar—No Oral Argument

(These cases shall be deemed submitted without oral argument, and an opinion may be released prior to the regularly scheduled docket without further notice. The cases will receive full consideration by the assigned panel of Judges.)

Case No. / Case Name	Attorneys	Jurisdiction
94,112 In the Matter of the Marriage of Marilyn Gay Webster, Appellant and Billie Joe Webster, Appellee	Cheryl J. Roberts Shannon A. Kelly	Sedgwick
94,626 Stephen D. Rowell, Appellant v. State of Kansas, Appellee	Michael P. Whalen Attorney General Kristi L. Barton, Asst. D.A.	Sedgwick
94,714 Jimmy D. Penwell, Appellant v. Vulcan Chemicals, Appellee	Robert R. Lee John B. Rathmel	Work Comp.
94,984 State of Kansas, Appellee v. Jimmie Templeton Jr., Appellant	Attorney General Kristen Chowning Martin, Asst. D.A. Rick Kittel, Asst. A.D.	Wyandotte
94,829 Eugene W. Moon, Appellant v. State of Kansas, Appellee	Michael P. Whalen Attorney General Matt J. Maloney, Asst. D.A.	Sedgwick
94,978 State of Kansas, Appellee v. Christopher John Campbell, Appellant	Attorney General Steven J. Obermeier, Asst. D.A. Jay Witt, Asst. A.D.	Johnson
95,912 Kevin Allison, #55026, Appellant v. Warden L.E. Bruce, Appellee	Kevin Allison, #55026, Pro Se Jon D. Graves	Reno
94,552 State of Kansas, Appellee v. Shaun P. Johnson, Appellant	Attorney General Lesley A. Isherwood, Asst. D.A. Mary Curtis, Asst. A.D.	Sedgwick
95,811 Ronald E. Mahan, Appellee v. Clarkson Construction Company and ACIG Insurance Company, Appellants	Robert W. Harris Andrew S. Mendelson	Work Comp.
94,615 Robert E. Williams, Appellant v. State of Kansas, Appellee	Michael P. Whalen Attorney General Matt J. Maloney, Asst. D.A.	Sedgwick
94,419 Kohler Jeffries, Appellant v. State of Kansas, Appellee	Stephen B. Chapman Attorney General Steven J. Obermeier, Asst. D.A.	Johnson
95,020 State of Kansas, Appellee v. Cleopatra C. Nichols, Appellant	Attorney General Michael X. Llamas, Asst. C.A. Randall L. Hodgkinson, Deputy A.D.	Harvey
94,331 LaMacey Woods, Appellant v. State of Kansas, Appellee	Michael P. Whalen Attorney General Jeffrey E. Evans, Asst. D.A.	Sedgwick

(continued)

95,394 Jesse Michael Stithem, Appellant v. Kansas Dept. of Revenue, Appellee	Daniel C. Walter James G. Keller	Ellis
94,294 State of Kansas, Appellee v. James Lewis Bell, Appellant	Attorney General James R. Spring, Deputy C.A. Roger L. Falk	Cowley
94,582 State of Kansas, Appellee v. Emory Walker, Appellant	Attorney General Bryant T. Barton, Asst. C.A. Gerald Wells	Riley
95,123 Sylvester Henry, Appellant v. Sam Cline, Warden of Ellsworth Correctional Facility, and Kansas Department of Corrections, Appellees	Paula D. Hofaker Robert E. Wasinger	Ellsworth
95,111 State of Kansas, Appellee v. Loretta M. Shields, Appellant	Attorney General David Lowden, Deputy D.A. J. Patrick Lawless, A.D.	Sedgwick

**Kansas Court of Appeals
Butler County Courthouse
Courtroom A, 2nd Floor
201 W. Pine
El Dorado, Kansas**

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

**Tuesday, June 20, 2006
9:00 a.m.**

Case No. / Case Name	Attorneys	Jurisdiction
94,532 Charles D. Green, Appellant v. State of Kansas, Appellee	Michael P. Whalen Attorney General Matt J. Maloney, Asst. D.A.	Sedgwick
94,452 David H. Spurlock, Appellant v. State of Kansas, Appellee	Michael P. Whalen Attorney General David E. Yoder, C.A.	Harvey
94,898 State of Kansas, Appellee v. Benjamin M. Maberry, Appellant	Attorney General Jay Sizemore, Asst. C.A. Randall E. Fisher	Harvey
94,151 Bill Rowland and Lois J. Rowland, Appellants v. Jon R. Barb, Debra G. Barb, Donald W. Badgett, and Donna M. Badgett, Appellees	Thomas A. Dower James S. Oswalt	Reno
93,591 State of Kansas, Appellee v. Aaron G. Gomez, Appellant	Attorney General Lesley A. Isherwood, Asst. D.A. Michelle Davis, Asst. A.D.	Sedgwick

1:30 p.m.

<p>94,319 State of Kansas, Appellee v. Lynne E. Stewart, Appellant</p>	<p>Attorney General Matt J. Maloney, Asst. D.A. Nathan B. Webb, Asst. A.D.</p>	<p>Sedgwick</p>
<p>94,657 State of Kansas, Appellee v. Marty J. Kincade, Sr., Appellant</p>	<p>Attorney General James R. Watts, Asst. C.A. Patrick H. Dunn, Asst. A.D.</p>	<p>Butler</p>
<p>94,003 State of Kansas, Appellee v. Taj Feon Young, Appellant</p>	<p>Attorney General Steven W. Wilhoft, C.A. Randall L. Hodgkinson, Deputy A.D.</p>	<p>Labette</p>
<p>94,341 State of Kansas, Appellee v. David A. Headgepath, Appellant</p>	<p>Attorney General Lesley A. Isherwood, Asst. D.A. Sandra Carr</p>	<p>Sedgwick</p>

Wednesday, June 21, 2006

9:00 a.m.

Case No. / Case Name	Attorneys	Jurisdiction
<p>92,292 State of Kansas, Appellee v. Tony R. Ballard, Appellant</p>	<p>Attorney General Keith E. Schroeder, D.A. Sam S. Kepfield</p>	<p>Reno</p>
<p>94,487/94,488/94,489/94,490 State of Kansas, Appellant v. Wayne R. Kirk, Appellee</p>	<p>Attorney General Thomas R. Stanton, Deputy D.A. Michael S. Holland</p>	<p>Reno</p>

Summary Calendar—No Oral Argument

(These cases shall be deemed submitted without oral argument, and an opinion may be released prior to the regularly scheduled docket without further notice. The cases will receive full consideration by the assigned panel of Judges.)

Case No. / Case Name	Attorneys	Jurisdiction
<p>93,687 State of Kansas, Appellant v. Garland John White, Appellee</p>	<p>Attorney General Steven J. Obermeier, Asst. D.A. Michael J. Bartee</p>	<p>Johnson</p>
<p>94,875 State of Kansas, Appellee v. Steven R. Morris, Appellant</p>	<p>Attorney General Chris Oakley, C.A. Patrick H. Dunn, Asst. A.D.</p>	<p>Rice</p>
<p>94,165 William Gilkey, Appellant v. State of Kansas, Appellee</p>	<p>Michael P. Whalen Attorney General Kristi L. Barton, Asst. D.A.</p>	<p>Sedgwick</p>
<p>94,692 Larry D. Edmond, Appellant v. State of Kansas, Appellee</p>	<p>Michael P. Whalen Attorney General Matt J. Maloney, Asst. D.A.</p>	<p>Sedgwick</p>
<p>94,483 State of Kansas, Appellee v. Scott R. Grothe, Appellant</p>	<p>Attorney General Robert D. Hecht, D.A. Samantha Harrington</p>	<p>Shawnee</p>
<p>94,675 Clark Leslie Brown, Appellant v. State of Kansas, Appellee</p>	<p>B. Joyce Yeager Attorney General Heather R. Jones, C.A.</p>	<p>Franklin</p>

(continued)

95,082/95,083/95,084 State of Kansas, Appellee v. James McDaniel, Appellant	Attorney General Thomas R. Stanton, Deputy D.A. Sam S. Kepfield	Reno
95,262 The Sherwin-Williams Company, Appellant v. Cornerstone Painting, Inc., Dan Funkhouser, and Kent Funkhouser, Appellees	James T. Lorenzetti Stephanie R. Tucker Timothy J. Muir	Johnson
95,449 State of Kansas, Appellee v. Christopher E. Zvolanek, Appellant	Attorney General Vernon E. Buck, Asst. C.A. Dawn Porter	Lyon
93,398 State of Kansas, Appellee v. Kevin D. Williams, Appellant	Attorney General Boyd K. Isherwood, Asst. D.A. Michelle Davis, Asst. A.D.	Sedgwick
94,653 State of Kansas, Appellee v. William E. Brake, Appellant	Attorney General Frank G. Spurney, Jr., C.A. Gerald Wells	Republic
95,258 State of Kansas, Appellee v. Terry Slick, Appellant	Attorney General Jeffery Ebel, Asst. C.A. James L. Sweet	Saline
95,241 In the Interest of B.K.R., Born in 2000, Child Under Eighteen (18) Years of Age	Michael Peloquin E. Jolene Rooney	Sedgwick
94,762 Brett D. Wheeler, Appellant v. State of Kansas, Appellee	B. Joyce Yeager Attorney General Robert D. Hecht, D.A.	Shawnee
94,403 State of Kansas, Appellee v. Patricia A. Black, Appellant	Attorney General Jeffrey E. Evans, Asst. D.A. Sandra Carr	Sedgwick

**Kansas Court of Appeals
U.S. Courthouse
Courtroom 643
500 State Ave.
Kansas City, Kansas**

Before Marquardt, P.J.; Elliott and Pierron, JJ.

**Tuesday, June 20, 2006
9:00 a.m.**

Case No. / Case Name	Attorneys	Jurisdiction
95,139 Wesley C. Prue, Appellee v. Asplundh Tree Expert Co. and Lumbermen's Mutual Casualty, Appellants	Dennis L. Horner Timothy G. Lutz	Work Comp.
93,666 Roberto Honeycutt, Appellant v. State of Kansas, Appellee	Stephen B. Chapman Attorney General Steven J. Obermeier, Asst. D.A.	Johnson

<p>93,747/93,748 State of Kansas, Appellee v. David Crowther, Appellant</p>	<p>Attorney General Steven J. Obermeier, Asst. D.A. Virginia A. Girard, Asst. A.D.</p>	<p>Johnson</p>
<p>93,955/93,956 State of Kansas, Appellee v. Charles T. Camp, Appellant</p>	<p>Attorney General Constance M. Alvey, Asst. D.A. Heather Cessna, Asst. A.D.</p>	<p>Wyandotte</p>
<p>93,373 Ronald Carter, Appellant v. Roger Werholtz, et al., Appellees</p>	<p>Rhonda Keylon Levinson Libby K. Snider, Special Asst. A.G.</p>	<p>Leavenworth</p>

1:30 p.m.

<p>95,227 Mark Oberzan, Appellee v. Calibrated Forms Co., Inc. and Western Guaranty Fund Services, Appellants</p>	<p>David L. McLane Gary R. Terrill</p>	<p>Work Comp.</p>
<p>94,671 State of Kansas, Appellee v. George Brian Ball, Appellant</p>	<p>Attorney General Steven J. Obermeier, Asst. D.A. Ezra J. Ginzburg</p>	<p>Johnson</p>
<p>94,563 State of Kansas, Appellee v. Allan L. Tryon, Appellant</p>	<p>Attorney General Gerald R. Kuckelman, Special Prosecutor Ezra J. Ginzburg</p>	<p>Doniphan</p>
<p>93,980 State of Kansas, Appellant v. Tyrone K. Thomas, Appellee</p>	<p>Attorney General Jacqueline J. Spradling, Asst. D.A. Matthew J. Edge, Asst. A.D.</p>	<p>Johnson</p>

Wednesday, June 21, 2006

Summary Calendar—No Oral Argument

(These cases shall be deemed submitted without oral argument, and an opinion may be released prior to the regularly scheduled docket without further notice. The cases will receive full consideration by the assigned panel of Judges.)

Case No. / Case Name	Attorneys	Jurisdiction
<p>94,593 In the Matter of the Estate of Avis A. Tracy, Deceased</p>	<p>Martin J. Peck Troy Dierking</p>	<p>Sumner</p>
<p>94,947 Stanley Jones and Mary A. Jones, Appellants v. George T. Chandler, Jr., Appellee</p>	<p>Michael G. Coash Wallace F. "Rusty" Davis</p>	<p>Butler</p>
<p>94,685 Tony Caldwell, Appellant v. State of Kansas, Appellee</p>	<p>Michael P. Whalen Attorney General Jeffrey E. Evans, Asst. D.A.</p>	<p>Sedgwick</p>
<p>94,009 Effrem Z. Miller, Appellant v. State of Kansas, Appellee</p>	<p>Shirla R. McQueen Attorney General Matt J. Maloney, Asst. D.A.</p>	<p>Sedgwick</p>
<p>95,567 State of Kansas, Appellee v. Edward O. Thurman, Appellant</p>	<p>Frank E. Kohl, C.A. Gary L. Fuller</p>	<p>Leavenworth</p>
<p>94,278/94,279/94,280/94,281 State of Kansas, Appellee v. David N. Hamblin, Appellant</p>	<p>Attorney General Paul F. Kitzke, Asst. C.A. Douglas M. Crotty III</p>	<p>Stevens</p>

(continued)

94,623 State of Kansas, Appellee v. Jess A. Plaster, Appellant	Attorney General Deborah L. Moody, Legal Intern Brenda J. Clary, Asst. D.A. Gerald Wells	Douglas
94,989 Charles A. Burnett, Appellant v. State of Kansas, Appellee	Grant D. Griffiths Attorney General Mellissa K. Rundus, Asst. C.A.	Riley
94,214 State of Kansas, Appellee v. Richard Beatty, Appellant	Attorney General Jeffrey E. Evans, Asst. D.A. Sandra Carr	Sedgwick
94,892 Charles D. Brown, Appellant v. State of Kansas, Appellee	Sam S. Kepfield Attorney General Kristi L. Barton, Asst. D.A.	Sedgwick
93,916 Keith Crawford, Appellant v. State of Kansas, Appellee	Michael P. Whalen Attorney General Matt J. Maloney, Asst. D.A.	Sedgwick
95,113 In the Matter of the Marriage of Michelle R. Becker (Previously Markus), Appellee and Dustin T. Markus, Appellant	Jody M. Meyer	Franklin
94,461 State of Kansas, Appellee v. Ralph Benjamin Figueroa, Appellant	Attorney General Nola F. Wright, Asst. A.G. Gerald Wells	Wabaunsee
94,879 Celesta C. Baska, Appellant v. Harry Scherzer, Jr., and Calvin Madrigal, Appellees	James M. Sheeley James H. Ensz Jeffrey S. Nichols	Wyandotte
94,590 Jason Dobrinski, Appellant v. State of Kansas, Appellee	Nathan Webb, Asst. A.D. Attorney General David Lowden, Deputy D.A.	Sedgwick
		Carol G. Green Clerk of the Appellate Courts

Doc. No. 033185

State of Kansas
Department of Administration
Division of Purchases

Notice to Bidders

Sealed bids for items listed will be received by the Director of Purchases until 2 p.m. on the date indicated. For more information, call (785) 296-2376:

06/05/2006	09436	Security Guard Services
06/06/2006	09482	Control Station Combiners
06/06/2006	09504	Remove and Replace Asphalt Drive
06/07/2006	09468	Articulated Wheel Loaders
06/07/2006	09469	Rock Salt for Snow and Ice Removal
06/07/2006	09493	Physics High Bay Lab MOCVD Install
06/07/2006	09475	Furnish and Install Chain Link Fence
06/08/2006	09487	Bituminous Plant Mixture (District #2)
06/09/2006	09488	Bakery Products

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

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

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

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

Contractors wishing to bid on the project listed below must be prequalified. For more information about the prequalification process or to obtain the following bid documents, call (785) 296-8899:

06/13/2006 A-010118 Tuckpoint/Waterproof Area Office/
Shop, El Dorado

Chris Howe
Director of Purchases

Doc. No. 033204

State of Kansas

Social and Rehabilitation Services

Request for Proposals

The Department of Social and Rehabilitation Services announces the release of a request for proposals by the Division of Health Care Policy to provide therapeutic and consultative services for the Transitional House Services program at Osawatomie State Hospital in order to serve individuals committed to state custody under the Violent Sexual Predator Act. Vendors interested in receiving a request for proposal should contact Leslie Huss at SRS-Health Care Policy, 10th Floor, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612, (785) 296-3773.

Gary Daniels
Secretary of Social and
Rehabilitation Services

Doc. No. 033179

(Published in the Kansas Register May 25, 2006.)

**Summary Notice of Bond Sale
City of North Newton, Kansas
\$982,000**

**General Obligation Bonds, Series 2006
(General obligation bonds payable from
unlimited ad valorem taxes)**

Bids

Subject to the notice of bond sale dated May 8, 2006, written and electronic bids will be received on behalf of the clerk of the city of North Newton, Kansas (the issuer), in the case of written bids, at the address set forth below, and in the case of electronic bids, through *PARITY*, until 1:30 p.m. June 12, 2006, for the purchase of the above-referenced bonds. No bid of less than 100 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof, except one bond in the denomination of \$7,000 (or such amount added to \$5,000 or any integral multiple thereof). The bonds will be dated July 1, 2006, and will become due on December 1 in the years as follows:

Year	Principal Amount
2007	\$27,000
2008	50,000
2009	55,000
2010	55,000
2011	55,000
2012	55,000
2013	65,000
2014	65,000
2015	65,000
2016	70,000
2017	35,000
2018	35,000
2019	35,000

2020	40,000
2021	40,000
2022	45,000
2023	45,000
2024	45,000
2025	50,000
2026	50,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on June 1 and December 1 in each year, beginning June 1, 2007.

Book-Entry-Only System

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

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

Good Faith Deposit

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$19,640 (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about July 6, 2006, to DTC for the account of the successful bidder.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 2005 is \$9,169,176. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, but excluding temporary notes to be retired in conjunction therewith, is \$2,152,000.

Approval of Bonds

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

Additional Information

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

Written Bid and Good Faith Deposit

Delivery Address:

City Hall
2601 N. Main
P.O. Box 87
North Newton, KS 67117-0087
(316) 283-7633
Fax (316) 283-6660
E-mail: nncity@northnewton.org

(continued)

Financial Advisor - Facsimile Bid and Good Faith

Deposit Delivery Address:

George K. Baum & Company
 100 N. Main, Suite 810
 Wichita, KS 67202
 Attn: Charles M. Bouilly
 (316) 264-9351
 Fax (316) 264-9370
 E-mail: bouilly@gkbaum.com

Dated May 8, 2006.

City of North Newton, Kansas
 By Sher Klassen, Clerk

Doc. No. 033192

(Published in the Kansas Register May 25, 2006.)

Revised Summary Notice of Bond Sale

City of Valley Center, Kansas

\$1,885,000

General Obligation Bonds, Series 2006-1

(General obligation bonds payable from unlimited ad valorem taxes)

Bids

Subject to the notice of bond sale dated May 16, 2006, written and electronic bids will be received on behalf of the clerk of the city of Valley Center, Kansas (the issuer), in the case of written bids, at the address set forth below, and in the case of electronic bids, through *PARITY*, until 2 p.m. June 6, 2006, for the purchase of the above-referenced bonds. No bid of less than 100 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated June 1, 2006, and will become due on December 1 in the years as follows:

Year	Principal Amount
2007	\$ 30,000
2008	75,000
2009	75,000
2010	85,000
2011	85,000
2012	90,000
2013	90,000
2014	100,000
2015	100,000
2016	105,000
2017	110,000
2018	115,000
2019	115,000
2020	125,000
2021	130,000
2022	85,000
2023	85,000
2024	90,000
2025	95,000
2026	100,000

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

nually on June 1 and December 1 in each year, beginning June 1, 2007.

Book-Entry-Only System

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

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

Good Faith Deposit

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$37,700 (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about June 15, 2006, to DTC for the account of the successful bidder.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 2006 is \$36,617,883. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, but excluding temporary notes to be retired in conjunction therewith, is \$11,420,000.

Approval of Bonds

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

Additional Information

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

Written and Facsimile Bids and Good Faith Deposit

Delivery Address:

City Hall, 116 S. Park
 Valley Center, KS 67147
 (316) 755-7310
 Fax (316) 755-7319
 E-mail: cityclerk@valleycenterks.org

Financial Advisor - Good Faith Deposit

Delivery Address:

Piper Jaffray & Co.
 11150 Overbrook, Suite 300
 Leawood, KS 66211
 Attn: Greg Vahrenberg
 (913) 345-3274
 Fax (913) 345-3293
 E-mail: gregory.m.vahrenberg@pjc.com

Dated May 16, 2006.

City of Valley Center, Kansas
 By Kristine A. Polian, Clerk

Doc. No. 033191

(Published in the Kansas Register May 25, 2006.)

**Summary Notice of Bond Sale
City of Wathena, Kansas
\$1,000,000
General Obligation Bonds, Series 2006
(General obligation bonds payable
from ad valorem taxes)**

Sealed Bids

Subject to a notice of bond sale dated May 15, 2006, sealed or telefacsimile bids will be received by the clerk of the city of Wathena, Kansas (the issuer), on behalf of the governing body at City Hall, 206 St. Joseph, Wathena, KS 66090, until 7 p.m. Monday, June 5, 2006, for the purchase of \$1,000,000 principal amount of General Obligation Bonds, Series 2006. No bid of less than par value of the bonds and accrued interest thereon from the dated date to the delivery date shall be considered.

Bond Details

The Series 2006 Bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof not exceeding the principal amount of bonds maturing in each year. The bonds will be dated June 15, 2006, and will become due on September 1 in the years as follows:

Series 2006	
Maturity September 1	Principal Amount
2007	\$25,000
2008	\$35,000
2009	\$35,000
2010	\$35,000
2011	\$40,000
2012	\$40,000
2013	\$40,000
2014	\$45,000
2015	\$45,000
2016	\$50,000
2017	\$50,000
2018	\$50,000
2019	\$55,000
2020	\$55,000
2021	\$60,000
2022	\$60,000
2023	\$65,000
2024	\$70,000
2025	\$70,000
2026	\$75,000

The bonds will bear interest from their dated date at rates to be determined when the bonds are sold, which interest will be payable semiannually on March 1 and September 1 in each year, beginning March 1, 2007.

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

Optional Book-Entry-Only System

The successful bidder may elect to have the bonds registered under a book-entry-only system administered through the Depository Trust Company (DTC), New York, New York, at the bidder's expense.

Security

The bonds and the interest thereon constitute general obligations of the city, and the full faith, credit and resources of the city will be pledged to the payment thereof. (Reference is made to the official notice of bond sale and the city's preliminary official statement for a further discussion of the security for the bonds.)

Redemption

Certain of the bonds are subject to redemption as set forth in the official notice of bond sale.

Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States or a financial surety bond in a form that complies with the requirements set forth in the notice of sale in the amount of \$20,000 for the Series 2006 Bonds (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about June 22, 2006. The issuer will deliver the bonds to DTC for the account of the successful bidder or at such bank or trust company in the contiguous United States as may be specified by the successful bidder, or elsewhere at the expense of the successful bidder.

Assessed Valuation and Indebtedness

The 2005 equalized assessed tangible valuation for computation of bonded debt limitations is \$8,118,028. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$1,000,000.

Official Statement

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

Approval of Bonds

The bonds will be sold subject to the legal opinion of Cosgrove, Webb & Oman, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the issuer, printed on the bonds and delivered to the successful bidder when the bonds are delivered.

Additional Information

Additional information regarding the bonds may be obtained from Jim Richardson, city clerk of the issuer, (785) 989-4711, fax (785) 989-4830; or from the financial advisor, Cooper Malone McClain, Inc., P.O. Box 23565,

(continued)

Overland Park, KS 66283, Attention: Rick Ensz, (913) 681-8185, fax (913) 681-8185, e-mail: rick-ensz@kc.rr.com.

City of Wathena, Kansas
 By Jim Richardson
 City Clerk
 206 St. Joseph
 P.O. Box 27
 Wathena, KS 66090

Doc. No. 033189

(Published in the Kansas Register May 25, 2006.)

**Summary Notice of Sale
 City of Hays, Kansas
 \$5,745,000*
 General Obligation Bonds
 Series 2006-A
 (General obligation bonds payable from
 unlimited ad valorem taxes)**

Bids

Subject to the notice of sale and preliminary official statement, sealed, facsimile and electronic bids for the purchase of \$5,745,000* principal amount of General Obligation Bonds, Series 2006-A, of the city of Hays, Kansas, will be received (1) in the case of sealed and facsimile bids, by the city clerk at the address and fax number hereinafter set forth, and (2) in the case of electronic bids, through *PARITY* electronic bid submission system, until 2 p.m. Thursday, June 8, 2006, at which time such bids will be publicly read. No bid of less than 100.00 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will initially be registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York, to which payments of principal of and interest on the bonds will be made. Individual purchases of bonds will be made in book-entry form only. Purchasers will not receive certificates representing their interest in bonds purchased. The bonds will be dated June 15, 2006, and will become due on September 1 in the years as follows:

Year	Principal Amount*
2007	\$130,000
2008	190,000
2009	200,000
2010	210,000
2011	220,000
2012	230,000
2013	245,000
2014	255,000
2015	265,000
2016	275,000
2017	290,000
2018	300,000
2019	315,000
2020	325,000

2021	340,000
2022	355,000
2023	375,000
2024	390,000
2025	410,000
2026	425,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on March 1 and September 1 in each year, beginning March 1, 2007.

Redemption Prior to Maturity

The bonds will be subject to optional and mandatory redemption prior to maturity as provided in the notice of sale and preliminary official statement.

Paying Agent and Registrar

The Kansas State Treasurer, Topeka, Kansas, will be paying agent and registrar for the bonds.

Good Faith Deposit

Each bid for the bonds shall be accompanied by a cashier's or certified check drawn on a bank located in the United States or a financial surety bond in the amount of 2 percent of the principal amount of the bonds.

Delivery

The city will pay for preparing the bonds. The city will deliver the bonds in book-entry form only through the facilities of the Depository Trust Company, New York, New York, on or about June 29, 2006.

Assessed Valuation and Indebtedness

The total assessed valuation of the taxable tangible property within the city for the computation of bonded debt limitations is \$177,802,042. The total general obligation bonded indebtedness of the city as of the date of the bonds, including the bonds but excluding temporary notes to be retired with proceeds of the bonds, is \$21,702,494.

Approval of Bonds

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

Additional Information

Additional information regarding the bonds may be obtained from the city clerk, (785) 628-7300, or from the city's financial advisor, George K. Baum & Company, Kansas City, Missouri, (816) 474-1100.

Dated May 11, 2006.

City of Hays, Kansas
 Mark Loughry
 Director of Finance/City Clerk
 1507 Main St.
 Hays, KS 67601
 Fax (785) 628-7323

*Preliminary; subject to change.

Doc. No. 033199

(Published in the Kansas Register May 25, 2006.)

**Summary Notice of Bond Sale
Morton County, Kansas
\$4,500,000
General Obligation Bonds
Series 2006**

Details of the Sale

Subject to the terms and requirements of the official notice of bond sale dated May 22, 2006, of Morton County, Kansas, bids to purchase the county's General Obligation Bonds, Series 2006, will be received at the office of the county clerk at the County Courthouse, 1025 Morton St., Elkhart, KS 67950, or electronically through the *PARITY* electronic bid submission system, until 11 a.m. Monday, June 5, 2006. The bids will be considered by the governing body at its meeting held immediately after the sale.

No oral or auction bids for the bonds shall be considered, and no bids for less than 100 percent of the total principal amount of the bonds and accrued interest to the date of delivery shall be considered.

Good Faith Deposit

Each bidder must submit a good faith deposit in the form of a certified or cashier's check made payable to the order of the county or a financial surety bond in an amount equal to 2 percent of the principal amount of the bonds.

Details of the Bonds

The bonds are dated June 15, 2006, and will be issued as registered bonds in the denomination of \$5,000 or any integral multiple thereof. Interest on the bonds is payable semiannually on March 1 and September 1 of each year, beginning March 1, 2007. Principal of the bonds becomes due on September 1 in the years and amounts as shown below:

Maturity Schedule	
Principal Amount	Maturity Date
\$345,000	2007
395,000	2008
410,000	2009
425,000	2010
440,000	2011
460,000	2012
475,000	2013
495,000	2014
515,000	2015
540,000	2016

Payment of Principal and Interest

The Kansas State Treasurer will serve as the bond registrar and paying agent for the bonds.

Book-Entry Bonds

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

Delivery of the Bonds

The county will prepare the bonds at its expense and will deliver the registered bonds to the successful bidder

on or about June 27, 2006, through the facilities of DTC. Delivery elsewhere shall be made at the expense of the successful bidder.

Legal Opinion

The bonds will be sold subject to the legal opinion of Triplett, Woolf & Garretson, LLC, Wichita, Kansas, bond counsel, whose fees will be paid by the county.

Financial Matters

The county's current assessed valuation for purposes of calculating statutory debt limitations is \$164,263,369. As of June 15, 2006, the county's total outstanding general obligation debt (including the bonds), is \$4,500,000. The bonds are exempt from the county's statutory debt limitations, and the county has no other outstanding indebtedness subject to debt limitation.

Additional Information

For additional information, contact the county clerk at the address and telephone number shown below, or the financial advisor, Greg Vahrenberg, Piper Jaffray & Co., 11150 Overbrook Road, Suite 300, Leawood, KS 66211-2298, (913) 345-3274.

Morton County, Kansas
By Mary Gilmore, County Clerk
County Courthouse
1025 Morton St.
Elkhart, KS 67950
(620) 697-2157
Fax (620) 697-2159
mgilmore@elkhart.com

Doc. No. 033200

State of Kansas

Governmental Ethics Commission

Opinion No. 2006-10

Written May 17, 2006, to Karen L. Griffiths, Sebelius & Griffiths, LLP, Norton.

This opinion is in response to your letter of April 18, 2006, requesting an opinion from the Kansas Governmental Ethics Commission concerning local government conflict of interest laws, K.S.A. 75-4301 *et seq.* We note at the outset that the Commission's jurisdiction concerning your question is limited to the application of K.S.A. 75-4301 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement

You request this opinion in your capacity as attorney for the Norton Housing Authority (Authority), an agency of the City of Norton created pursuant to K.S.A. 17-2340 *et seq.* You state that the board of directors of the Authority hired an executive director in 2003 and a director of maintenance in 2004. The director of maintenance is the husband of the executive director. The minutes of the Authority's board of directors meeting on May 18, 2004 states that the board directly supervises the director of maintenance. The Authority has guidelines regarding nepotism in their personnel policy. The Authority's board

(continued)

of directors adopted a waiver of their nepotism policy on May 18, 2004.

Your request is a result of issues raised by the Federal Department of Housing and Urban Development (HUD). HUD believes that there is a conflict of interest under K.S.A. 75-4301a because HUD interprets "business" under K.S.A. 75-4301a (b) to include the employment contract of the spouse.

Questions 1. Is it a violation of K.S.A. 75-4301 *et seq.* for the husband of the executive director of the Norton Housing Authority to be employed as the director of maintenance for the same Authority?

2. Does the hiring of a director of maintenance for the Norton Housing Authority constitute the making of a contract with any person or business which would be a conflict of interest under K.S.A. 75-4304?

Opinion

Regarding your first question, there are no statutes under the jurisdiction of the Kansas Governmental Ethics Commission that address or prohibit nepotism in the hiring of local governmental employees. The board of directors of the Norton Housing Authority hired a husband and wife to serve in different positions for the Authority. K.S.A. 75-4301 *et seq.* does not prohibit the hiring of spouses by the board of directors of the Authority.

Turning to your second question, K.S.A. 75-4301a (g) defines "contracts" to include "agreements for the performance of services." Additionally, K.S.A. 75-4304 states in pertinent part as follows:

(a) No local governmental officer or employee shall, in the capacity of such an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest.

(b) No person or business shall enter into any contract where any local governmental officer or employee, acting in that capacity, is a signatory to or a participant in the making of the contract and is employed by or has a substantial interest in the person or business. . . .

K.S.A. 75-4301a defines "substantial interest" in pertinent part as follows:

(a) "Substantial interest" means any of the following:

. . .

(2) If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$2,000 from any *business or combination of businesses*, the individual has a substantial interest in that business or combination of businesses.

. . .

(4) If an individual or an individual's spouse holds the position of officer, director, associate partner or proprietor of any *business*, other than an organization exempt from federal taxation of corporations . . . , the individual has a substantial interest in that *business*, irrespective of the amount of compensation received by the individual or individual's spouse. . . . (Emphasis added.)

It should be noted that this statute limits "substantial interest" to an interest held by an individual or individual's spouse in a "business." K.S.A. 75-4301a defines "business" as follows:

(b) "Business" means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income.

The Norton Housing Authority is a "governmental subdivision" as defined in K.S.A. 75-4301a (f). This Commission has consistently held that local subdivisions of government, including housing authorities, are not included in the term "business" under K.S.A. 75-4301a; and therefore, a "substantial interest" cannot be held in a local subdivision of government. (See Opinions 1995-17; 1996-6; 1997-37.) Thus, under the local government conflict of interest laws, neither spouse has a substantial interest in the Authority. Further, the board of directors of the Authority hired the director of maintenance. Assuming that the hiring of the director of maintenance constituted the making of a contract for purposes of K.S.A. 75-4304, that contract was made between the board members of the Authority and the director of maintenance. K.S.A. 75-4304 (a) would prohibit a member of the board of directors of the Authority from participating in making a contract with the director of maintenance if that board member had a substantial interest in the director of maintenance. Conversely, K.S.A. 75-4304 (b) would prohibit the director of maintenance from entering into a contract with the board of directors of the Authority only if a member of the board of directors who participated in making that contract had a substantial interest in the director of maintenance.

In conclusion, it is not a violation of the local conflict of interest statutes for the husband of the executive director of the Norton Housing Authority to be employed as the director of maintenance for the same Authority. While the hiring of a maintenance director by the Authority may constitute making a contract under the local government conflict of interest statutes, under the facts provided, the making of that contract between the Authority's board of directors and the maintenance director does not violate K.S.A. 75-4301 *et seq.*

Sabrina K. Standifer
Chairwoman

Doc. No. 033197

State of Kansas

Secretary of State

Certification of New State Laws

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

Ron Thornburgh
Secretary of State

(Published in the Kansas Register May 25, 2006.)

HOUSE BILL No. 2432

AN ACT concerning real property; relating to recreational trails; liability of adjacent property owners; amending K.S.A. 58-3214 and 58-3215 and repealing the existing sections.

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

Section 1. K.S.A. 58-3214 is hereby amended to read as follows: 58-3214. An adjacent property owner has no duty of care to: (a) Any person using a recreational trail, except that this ~~section~~ *subsection* shall not relieve an adjacent property owner from liability for injury to another that is a direct result of such property owner's gross negligence or willful or wanton misconduct; or (b) *any person entering such adjacent property owner's land by way of the recreational trail without implied or expressed permission or consent of the adjacent property owner, except that this subsection shall not relieve an adjacent property owner from liability for injury to another that is a direct result of an intentional or unlawful act of the adjacent property owner.*

Sec. 2. K.S.A. 58-3215 is hereby amended to read as follows: 58-3215. ~~A city or county may institute procedures for recourse against the responsible party pursuant to 16 U.S.C. 1247 (1983) and 49 C.F.R. 1152.29 (1986) upon the failure of the responsible party to comply with the provisions of this act. If the responsible party fails to comply with the provisions of this act, any adjacent property owner, city or county aggrieved by the noncompliance may bring an action in the district court to enforce the provisions of this act. Upon a finding that the responsible party has failed to comply with the provisions of this act, the court may enter an order requiring the responsible party to comply with the provisions of this act.~~

Sec. 3. K.S.A. 58-3214 and 58-3215 are hereby repealed.

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

(Published in the Kansas Register May 25, 2006.)

SENATE BILL No. 332

AN ACT concerning postsecondary education; relating to the state board of regents and postsecondary educational institutions; relating to the powers and duties thereof; relating to postsecondary savings programs; amending K.S.A. 75-4101 and K.S.A. 2005 Supp. 75-6501 and repealing the existing sections.

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

Section 1. K.S.A. 75-4101 is hereby amended to read as follows: 75-4101. (a) There is hereby created a committee on surety bonds and insurance, which shall consist of the state treasurer, the attorney general and the commissioner of insurance or their respective designees. The commissioner of insurance shall be the chairperson of the committee and the director of purchases or the director's designee shall be ex officio secretary. The committee shall meet on call of the chairperson and at such other times as the committee shall determine but at least once each month on the second Monday in each month. Meetings shall be held in the office of the commissioner of insurance. The members of the committee shall serve without compensation. The secretary shall be the custodian of all property, records and proceedings of the committee. Except as provided in ~~subsections (b) and (c) and in K.S.A. 74-4925 and 74-4927, and amendments thereto, and in K.S.A. 75-6501 to 75-6511, inclusive, and amendments thereto, and in this section and K.S.A. 74-4925, 74-4927, 75-6501 through 75-6511 and K.S.A. 76-749, and amendments thereto,~~ no state agency shall purchase any insurance of any kind or nature or any surety bonds upon state officers or employees, except as provided in this act. Except as otherwise provided in this section, health care coverage and health care services of a health maintenance

organization for state officers and employees designated under subsection (c) of K.S.A. 75-6501, and amendments thereto, shall be provided in accordance with the provisions of K.S.A. 75-6501 ~~to 75-6511, inclusive through 75-6511,~~ and amendments thereto.

(b) The Kansas turnpike authority may purchase group life, health and accident insurance or health care services of a health maintenance organization for its employees or members of the highway patrol assigned, by contract or agreement entered pursuant to K.S.A. 68-2025, and amendments thereto, to police toll or turnpike facilities, independent of the committee on surety bonds and insurance and of the provisions of K.S.A. 75-6501 ~~to 75-6511, inclusive through 75-6511,~~ and amendments thereto. Such authority may purchase liability insurance covering all or any part of its operations and may purchase liability and related insurance upon all vehicles owned or operated by the authority independent of the committee on surety bonds and insurance and such insurance may be purchased without complying with K.S.A. 75-3738 ~~to 75-3744, inclusive through 75-3744,~~ and amendments thereto. Any board of county commissioners may purchase such insurance or health care services, independent of such committee, for district court officers and employees any part of whose total salary is payable by the county. Nothing in any other provision of the laws of this state shall be construed as prohibiting members of the highway patrol so assigned to police toll or turnpike facilities from receiving compensation in the form of insurance or health maintenance organization coverage as herein authorized.

(c) The agencies of the state sponsoring a foster grandparent or senior companion program, or both, shall procure a policy of accident, personal liability and excess automobile liability insurance insuring volunteers participating in such programs against loss in accordance with specifications of federal grant guidelines. Such agencies may purchase such policy of insurance independent of the committee on surety bonds and insurance and without complying with K.S.A. 75-3738 ~~to 75-3744, inclusive through 75-3744,~~ and amendments thereto.

(d) *Any postsecondary educational institution as defined by K.S.A. 74-3201b, and amendments thereto, may purchase insurance of any kind or nature except employee health insurance. Such insurance shall be purchased on a competitively bid or competitively negotiated basis in accordance with procedures prescribed by the state board of regents. Such insurance may be purchased independent of the committee on surety bonds and insurance and without complying with K.S.A. 75-3738 through 75-3744, and amendments thereto. Such insurance shall be purchased from an insurance company authorized to transact business in the state of Kansas.*

(e) *The state board of regents may enter into one or more group insurance contracts to provide health and accident insurance coverage or health care services of a health maintenance organization for all students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, and such students' dependents, except that such insurance shall not provide coverage for elective procedures that are not medically necessary as determined by a treating physician. The participation by a student in such coverage shall be voluntary. In the case of students who are employed by a state educational institution in a student position, the level of employer contributions toward such coverage shall be determined by the board of regents. The board of regents may adopt rules and regulations necessary to administer and implement the provisions of this section.*

Sec. 2. K.S.A. 2005 Supp. 75-6501 is hereby amended to read as follows: 75-6501. (a) Within the limits of appropriations made or available therefor and subject to the provisions of appropriation acts relating thereto, the Kansas state employees health care commission shall develop and provide for the implementation and administration of a state health care benefits program.

(b) The state health care benefits program may provide benefits for persons qualified to participate in the program for hospitalization, medical services, surgical services, nonmedical remedial care and treatment rendered in accordance with a religious method of healing

(continued)

and other health services. The program may include such provisions as are established by the Kansas state employees health care commission, including but not limited to qualifications for benefits, services covered, schedules and graduation of benefits, conversion privileges, deductible amounts, limitations on eligibility for benefits by reason of termination of employment or other change of status, leaves of absence, military service or other interruptions in service and other reasonable provisions as may be established by the commission.

(c) The Kansas state employees health care commission shall designate by rules and regulations those persons who are qualified to participate in the state health care benefits program, including active and retired public officers and employees and their dependents as defined by rules and regulations of the commission. *Such rules and regulations shall not apply to students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto.* In designating persons qualified to participate in the state health care benefits program, the commission may establish such conditions, restrictions, limitations and exclusions as the commission deems reasonable. Such conditions, restrictions, limitations and exclusions shall include the conditions contained in subsection (d) of K.S.A. 75-6506, and amendments thereto. Each person who was formerly elected or appointed and qualified to an elective state office and who was covered immediately preceding the date such person ceased to hold such office by the provisions of group health insurance or a health maintenance organization plan under the law in effect prior to August 1, 1984, or the state health care benefits program in effect after that date, shall continue to be qualified to participate in the state health care benefits program and shall pay the cost of participation in the program as established and in accordance with the procedures prescribed by the commission if such person chooses to participate therein.

~~(d) The state health care benefits program established under this act shall be effective on and after August 1, 1984.~~

(d) *The commission shall have no authority to assess charges for employer contributions under the student health care benefits component of the state health care benefits program for persons who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto.*

(e) *Nothing in this act shall be construed to permit the Kansas state employees health care commission to discontinue the student health care benefits component of the state health care benefits program until the state board of regents has contracts in effect that provide student coverage pursuant to the authority granted therefor in K.S.A. 75-4101, and amendments thereto.*

New Sec. 3. (a) As used in this section:

(1) "Federal poverty level" means the most recent poverty income guidelines published in the calendar year by the United States department of health and human services.

(2) "Program" means the low-income family postsecondary savings accounts incentive program established by this section.

(3) "Qualified individual or family" means an individual or family who resides within the state of Kansas and whose household income is not more than 200% of the federal poverty level at the time of application.

(4) "Participant" means a qualified individual or family who has been approved for participation in the program.

(5) "District" means a congressional district of the state of Kansas.

(6) Words and phrases have the meanings provided by K.S.A. 75-643, and amendments thereto, unless otherwise provided by this section.

(b) There is hereby established the low-income family postsecondary savings accounts incentive program. The purpose of the program is to encourage the establishment of family postsecondary sav-

ings accounts pursuant to K.S.A. 75-640, and amendments thereto, by qualified individuals and families.

(c) The treasurer shall:

(1) Implement and administer the program;

(2) develop marketing plans and promotional material for the program;

(3) prescribe the procedure for, and requirements relating to, the submission and approval of applications;

(4) do all things necessary and proper to carry out the purposes of this act; and

(5) adopt any rules and regulations and policies deemed necessary for implementation and administration of the program.

(d) Applications for participation in the program shall be submitted to the treasurer in the manner and form required by the treasurer. Applications shall be accompanied by any information deemed necessary by the treasurer.

(e) During fiscal year 2007, the treasurer may approve no more than 400 applications. Each fiscal year thereafter, the treasurer may approve up to 400 applications in addition to those approved in the previous fiscal year. In each fiscal year, the treasurer shall approve no more than 100 applications from residents of a single district. If 100 applications from residents of a district are not approved in any fiscal year, the treasurer may approve additional applications submitted by residents of the remaining districts. The treasurer shall provide written notice, to an applicant, of the approval or nonapproval of such person's application. No application shall be approved after June 30, 2009.

(f) The provisions of this subsection shall be subject to the limitations of appropriations. The amount of contributions made to an account by a participant who establishes a family postsecondary savings account pursuant to K.S.A. 75-640 et seq., and amendments thereto, shall be matched by the state on a dollar-for-dollar basis if the participant contributes at least \$100 in each calendar year in which the account is open. The aggregate of all matching amounts for any participant shall not exceed \$600 in any calendar year. No moneys shall be appropriated for the purpose of marketing or administering this program in an amount which exceeds \$50,000. No moneys shall be appropriated for the purpose of matching contributions after June 30, 2009.

(g) Between January 1 and January 31 of each year, the director of accounts and reports shall transfer from the state general fund to the Kansas postsecondary education savings program trust fund the amount, as certified by the treasurer, necessary to meet the matching obligations under subsection (f) for the preceding calendar year. On or before January 31 of each year, the treasurer shall transfer from the Kansas postsecondary education savings program trust fund to the account of each participant the amount determined by the treasurer to meet the matching obligation due to such participant under subsection (f) for the preceding calendar year.

(h) The treasurer shall ensure that all withdrawals of matching funds are used for qualified withdrawals under K.S.A. 75-640 et seq., and amendments thereto.

(i) On or before January 15, 2009, the treasurer shall prepare and submit to the governor and legislature a report on the program. Such report shall include the number of accounts opened under the program, the amount of moneys contributed to such accounts by participants, the amount of matching moneys transferred by the treasurer pursuant to subsection (g), the average income of the participants, an analysis of the success of the program in meeting the purpose of the program and any other information deemed appropriate by the treasurer.

(j) The provisions of this section shall be part of and supplemental to the Kansas postsecondary education savings program.

Sec. 4. K.S.A. 75-4101 and K.S.A. 2005 Supp. 75-6501 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 25, 2006.)

Substitute for SENATE BILL No. 323

AN ACT concerning eminent domain; relating to restriction of government authority to take property; performance of certain land surveys; amending K.S.A. 12-1306, 24-438, 24-467, 26-201, 26-501, 26-505, 26-507 and 72-8212a and K.S.A. 2005 Supp. 12-1773, 19-101a, as amended by section 16 of 2006 House Bill No. 2590, and 26-508 and repealing the existing sections.

WHEREAS, The Kansas and United States Supreme Courts have ruled that the taking and transferring of private property from one private party to another is a valid use of the power of eminent domain; and

WHEREAS, the people of Kansas support the protection of private property rights and seek to heighten the protection of private property rights from the level expressed by recent court rulings; and

WHEREAS, the people of Kansas agree that the use of eminent domain for the taking and transferring of private property from one private party to another should only be allowed in extraordinary and limited situations and with explicit procedural safeguards: Now therefore,

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

New Section 1. On and after July 1, 2007: (a) Private property shall not be taken by eminent domain except for public use and private property shall not be taken without just compensation.

(b) The taking of private property by eminent domain for the purpose of selling, leasing or otherwise transferring such property to any private entity is prohibited except as provided in section 2, and amendments thereto.

(c) This section shall be part of and supplemental to the eminent domain procedure act.

New Sec. 2. On and after July 1, 2007, the taking of private property by eminent domain for the purpose of selling, leasing, or otherwise transferring such property to any private entity is authorized if the taking is:

(a) By the Kansas department of transportation or a municipality and the property is deemed excess real property that was taken lawfully and incidental to the acquisition of right-of-way for a public road, bridge or public improvement project including, but not limited to a public building, park, recreation facility, water supply project, wastewater and waste disposal project, storm water project and flood control and drainage project;

(b) by any public utility, as defined in K.S.A. 66-104, and amendments thereto, gas gathering service, as defined in K.S.A. 55-1,101, and amendments thereto, pipe-line companies, railroads and all persons and associations of persons, whether incorporated or not, operating such agencies for public use in the conveyance of persons or property within this state, but only to the extent such property is used for the operation of facilities necessary for the provision of services;

(c) by any municipality when the private property owner has acquiesced in writing to the taking;

(d) by any municipality for the purpose of acquiring property which has defective or unusual conditions of title including, but not limited to, clouded or defective title or unknown ownership interests in the property;

(e) by any municipality for the purpose of acquiring property which is unsafe for occupation by humans under the building codes of the jurisdiction where the structure is situated;

(f) expressly authorized by the legislature on or after July 1, 2007, by enactment of law that identifies the specific tract or tracts to be taken. If the legislature authorizes eminent domain for private economic development purposes, the legislature shall consider requiring compensation of at least 200% of fair market value to property owners.

(g) This section shall be part of and supplemental to the eminent domain procedure act.

Sec. 3. On and after July 1, 2007, K.S.A. 2005 Supp. 12-1773 is hereby amended to read as follows: 12-1773. (a) Any city which has adopted a redevelopment project plan in accordance with the provisions of this act may purchase or otherwise acquire real property in connection with such project plan. Upon a $\frac{2}{3}$ vote of the members of the governing body thereof a city may acquire by condemnation any interest in real property, including a fee simple title thereto, which it deems necessary for or in connection with any project plan of an area located within the redevelopment district; *however, eminent domain may be used only as authorized by section 2, and amendments thereto.* Prior to the exercise of such eminent domain power, the city shall offer to the owner of any property which will be subject to condemnation with respect to any redevelopment project, other than one which includes an auto race track facility or a special bond project, compensation in an amount equal to the highest appraised valuation amount determined for property tax purposes by the county appraiser for any of the three most recent years next preceding the year of condemnation, except that, if in the year next preceding the year of condemnation any such property had been damaged or destroyed by fire, flood, tornado, lightning, explosion or other catastrophic event, the amount offered should be equal to the appraised valuation of the property which would have been determined taking into account such damage or destruction unless such property has been restored, renovated or otherwise improved. However no city shall exercise such eminent domain power to acquire real property in a conservation area. Any such city may exercise the power of eminent domain in the manner provided by K.S.A. 26-501 et seq., and amendments thereto. In addition to the compensation or damage amount finally awarded thereunder with respect to any property subject to proceedings thereunder as a result of the construction of an auto race track facility or a special bond project, such city shall provide for the payment of an amount equal to 25% of such compensation or damage amount. In addition to any compensation or damages allowed under the eminent domain procedure act, such city shall also provide for the payment of relocation assistance as provided in K.S.A. 12-1777, and amendments thereto.

(b) Any property acquired by a city under the provisions of this act may be sold, transferred or leased to a developer, in accordance with the redevelopment project plan and under such other conditions as may be agreed upon.

Sec. 4. On and after July 1, 2007, K.S.A. 2005 Supp. 19-101a, as amended by section 16 of 2006 House Bill No. 2590, is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

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

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

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

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

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

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

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

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments

(continued)

thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance

and production of any mineral or other material from the earth or water.

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

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

(31) Counties may not exempt from or effect changes in K.S.A. 2005 Supp. 80-121, and amendments thereto.

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

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

(34) Counties may not exempt from or effect changes in K.S.A. 2005 Supp. 26-601, and amendments thereto.

(35) (A) From and after November 15, 2005, counties may not exempt from or effect changes in the Kansas liquor control act except as provided by paragraph (B).

(B) From and after November 15, 2005, counties may adopt resolutions which are not in conflict with the Kansas liquor control act.

(36) (A) From and after November 15, 2005, counties may not exempt from or effect changes in the Kansas cereal malt beverage act except as provided by paragraph (B).

(B) From and after November 15, 2005, counties may adopt resolutions which are not in conflict with the Kansas cereal malt beverage act.

(37) *Counties may neither exempt from nor effect changes to the eminent domain procedure act.*

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

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

Sec. 5. On and after July 1, 2007, K.S.A. 26-501 is hereby amended to read as follows: 26-501. (a) The procedure for exercising eminent domain, as set forth in K.S.A. 26-501 to ~~26-516, inclusive through 26-518 and sections 1 and 2, and amendments thereto,~~ shall be followed in all *eminent domain* proceedings.

(b) The proceedings shall be brought by filing a verified petition in the district court of the county in which the real estate is situated, except if it be an entire tract situated in two ~~(2)~~ or more counties, the proceedings may be brought in any county in which any tract or parts thereof is situated.

(c) *For the purposes of the eminent domain procedure act, unless the context clearly indicates a different meaning, the following terms shall have the following respective meanings:*

(1) "Municipality" means city, county or unified government.

(2) "Taking" means the use by any authorized entity of the power of eminent domain to acquire any interest in private real property.

Sec. 6. On and after July 1, 2007, K.S.A. 26-505 is hereby amended to read as follows: 26-505. After such appointment, the appraisers shall take an oath to faithfully discharge their duties as appraisers. The judge shall instruct the appraisers on matters including, but not limited to, the following: (1) That they are officers of the court and not representatives of the plaintiff or any other party, (2)

that they are to receive their instructions only from the judge, (3) the nature of their duties and authority, (4) the basis, manner and measure of ascertaining the value of the land taken and damages resulting from such taking, (5) that, except for incidental contact for the purpose of verifying factual information relating to the subject real estate or to discuss scheduling matters, appraisers shall refrain from any *ex parte* meetings or discussions with representatives of the plaintiff or property owner without first advising the adverse party and providing such party with the opportunity to be present, and (6) that all written material provided to an appraiser or appraisers by a party shall be provided forthwith to the adverse party. The instructions shall be in writing. Upon the completion of their work the appraisers shall file the report in the office of the clerk of the district court and shall notify the condemner of such filing. The condemner, within three days after receiving such notice, shall mail a written notice of the filing of such report to every person who owns any interest in any of the property being taken, if the address of such person is known, and shall file in the office of the clerk of the district court an affidavit showing proof of the mailing of such notice. The fees and expenses of the appraisers shall be determined and ~~allowed~~ assessed by the court against the plaintiff.

Sec. 7. On and after July 1, 2006, K.S.A. 12-1306 is hereby amended to read as follows: 12-1306. Whenever it shall become necessary in any city to condemn or appropriate land within or without the limits of ~~said~~ the city for public parks for the use and benefit of the people of ~~said~~ city, and shall be so declared necessary by the council or by any board of city commissioners of ~~said~~ city ~~the city and the governing body of the city declares it necessary to condemn or appropriate any private property, where for which the purchase price cannot be agreed upon with the owner of said such property, said council or city commissioners shall then~~ the governing body of the city shall cause a survey to be made by ~~some competent engineer and said~~ a licensed land surveyor or a professional engineer who is competent to conduct a land survey, and such survey and description of ~~said~~ the land so required shall be filed with the city clerk, ~~and~~. Thereupon ~~said council or board of city commissioners,~~ the governing body of the city shall make an order declaring the necessity of such appropriation and the purposes for which the ~~same~~ land is to be condemned or appropriated and a description of the ~~same~~ land as shown by ~~said~~ the survey, and all other and further proceedings necessary for the condemnation and appropriation of ~~said~~ the land shall be had and conducted as provided by law.

Sec. 8. On and after July 1, 2006, K.S.A. 24-438 is hereby amended to read as follows: 24-438. Whenever it shall be deemed necessary to construct any levee across the right of way of any railroad company, and such railroad company shall be entitled to compensation therefor, the board of directors shall have the power to make such crossing or to condemn and appropriate so much of such right of way or land as may be necessary for that purpose in the manner hereinafter provided; and whenever it shall be deemed necessary to appropriate any private property for use by the district in widening, deepening or otherwise improving any natural watercourse to prevent the overflow thereof, or for the construction of any levee, canal, drain, or other work, the board of directors shall cause a survey and description of the land so required out of the right of way or lands of such railroad company or out of the lands of any private owner to be made by ~~some competent engineer~~ a licensed land surveyor or a professional engineer who is competent to conduct a land survey and filed with its secretary, and thereupon shall make an order declaring that the appropriation of such land is necessary and setting forth for what purpose the same is to be used. The board of directors, as soon as practicable thereafter, shall proceed to exercise the power of eminent domain in accordance with ~~K.S.A. 26-501 to 26-516, inclusive~~ the eminent domain procedure act.

Sec. 9. On and after July 1, 2006, K.S.A. 24-467 is hereby amended to read as follows: 24-467. Whenever it shall be deemed necessary to construct any ditch, levee, dike, jetty, riprap or other

protective structure across or upon the land of any individual or corporation whether within or outside the territorial limits of the drainage district and such individual or corporation shall be entitled to compensation therefor, the board of directors shall have the power to construct such ditch, levee, dike, jetty, riprap or other protective structure or to condemn and appropriate so much of such land as may be necessary for that purpose in the manner hereinafter provided; and whenever it shall be deemed necessary to appropriate any private property for use by the district in widening, deepening or otherwise improving any natural watercourse to prevent the overflow thereof or for the construction of any ditch, dike, levee, jetty, riprap, canal, drain or other work, the board of directors shall cause a survey and description of the land so required out of the lands of any private owner (individual or corporation) to be made by ~~some competent engineer~~ a licensed land surveyor or a professional engineer who is competent to conduct a land survey and filed with its secretary, and thereupon shall make an order declaring that the appropriation of such land is necessary and setting forth for what purpose the same is to be used; and shall then proceed to exercise the power of eminent domain in accordance with ~~K.S.A. 26-501 to 26-516, inclusive~~ the eminent domain procedure act.

Sec. 10. On and after July 1, 2006, K.S.A. 26-201 is hereby amended to read as follows: 26-201. A city shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto. ~~Provided, but~~ cities shall not have the right to acquire a fee simple title to property condemned solely for street purposes. Whenever it shall be deemed necessary by the governing body of any city to appropriate private property for the use of the city for any purpose whatsoever, the governing body shall by resolution declare such necessity and authorize a survey and description of the land or interest to be condemned to be made by ~~some competent engineer~~ a licensed land surveyor or a professional engineer who is competent to conduct a land survey and filed with the city clerk. Such resolution shall be published once in the official city newspaper. Upon the filing of the survey and description of the land or interest to be condemned the governing body shall by ordinance authorize and provide for the acquisition of such land or interest, setting forth such condemnation, the interest to be taken and for what purpose the same is to be used. If in the opinion of the governing body any property is specially benefited by the proposed improvement such property shall be designated as the benefit district and the same shall be fixed by the ordinance authorizing and providing for the acquisition of the land or interest. The governing body, as soon as practicable after passage of the ordinance authorizing and providing for the appropriation of such land or interest and the fixing of the benefit district, if any is fixed, shall proceed to exercise the power of eminent domain in accordance with ~~K.S.A. 26-501 to 26-516 inclusive and amendments thereto~~ the eminent domain procedure act.

Sec. 11. On and after July 1, 2006, K.S.A. 72-8212a is hereby amended to read as follows: 72-8212a. (a) A unified school district may acquire by condemnation, for school purposes, any interest in real property, including fee simple title. If, within 10 years after entry of final judgment under K.S.A. 26-511, ~~and amendments thereto,~~ the school district fails to construct substantial buildings or improvements that are used for school purposes on any real property acquired under this subsection, the school district shall notify the original owners or their heirs or assigns that they have an option to purchase the property from the school district for an amount equal to the compensation awarded for the property under the eminent domain procedures act. Such option shall expire if not exercised within a period of six months after the date of the expiration of the ~~ten-year~~ 10-year period.

(b) A unified school district may acquire by condemnation, for any purpose whatsoever, any reversionary interest held by others in real property which the school district has previously acquired by condemnation, deed or contract if:

(continued)

(1) The district, or its predecessor districts, has constructed substantial improvements on the property; and

(2) the school district, or its predecessor districts, has held an interest in the property for at least 20 years.

(c) When the board of education of a unified school district considers it necessary to condemn a property interest pursuant to this section, the board shall declare the necessity by resolution and shall authorize a ~~competent engineer~~ *licensed land surveyor or a professional engineer who is competent to conduct a land survey* to make a survey and description of the property and the interest to be condemned and to file them with the clerk of the board. The resolution shall be published once in a newspaper having general circulation in the school district. Upon the filing of the survey and description, the board of education shall provide by resolution for the acquisition of the property interest by condemnation. The resolution shall set forth a description of the property, the interest to be condemned and the purpose for which the property is and will be used. The board of education, as soon as practicable after the passage of the resolution, shall proceed to exercise the power of eminent domain in the manner provided by ~~article 5 of chapter 26 of the Kansas Statutes Annotated~~ *the eminent domain procedure act*.

Sec. 12. On and after July 1, 2007, K.S.A. 26-507 is hereby amended to read as follows: 26-507. (a) *Payment of award; vesting of rights.* If the plaintiff desires to continue with the proceeding as to particular tracts ~~it shall the plaintiff,~~ within ~~thirty (30)~~ 30 days from the time the appraisers' report is filed, shall pay to the clerk of the district court the amount of the appraisers' award as to those particular tracts and court costs accrued to date, including appraisers' fees. Such payment shall be without prejudice to plaintiff's right to appeal from the appraisers' award. *Except as provided further,* upon such payment being made, the title, easement or interest appropriated in the land condemned shall thereupon immediately vest in the plaintiff, and it shall be entitled to the immediate possession of the land to the extent necessary for the purpose for which taken and consistent with the title, easement or interest condemned. *If such property contains a defendant's personal property, a defendant shall have 10 days from the date such payment is made to the clerk of the district court to remove such personal property from the premises.* The plaintiff shall be entitled to all the remedies provided by law for the securing of such possession. *The clerk of the district court shall notify the interested parties that the appraisers' award has been paid and that the defendant shall have 10 days from the payment date to remove personal property from the premises.*

(b) *Abandonment.* If the plaintiff does not make the payment prescribed in subsection (a) ~~hereof~~ for any of the tracts described in the petition, within ~~thirty (30)~~ 30 days, from the time the appraisers' report is filed, the condemnation is abandoned as to those tracts, and judgment for costs, including the appraisers' fees together with judgment in favor of the defendant for ~~his~~ the reasonable expenses incurred in defense of the action, shall be entered against the plaintiff. After such payment is made by the plaintiff to the clerk of the court, as provided in subsection (a) ~~hereof~~, the proceedings as to those tracts for which payment has been made can only be abandoned by the mutual consent of the plaintiff and the parties interested in the award.

Sec. 13. K.S.A. 2005 Supp. 26-508 is hereby amended to read as follows: 26-508. (a) If the plaintiff, or any defendant, is dissatisfied with the award of the appraisers, such party, within 30 days after the filing of the appraisers' report, may appeal from the award by filing a written notice of appeal with the clerk of the district court ~~and paying the docket fee of a new court action.~~ *The appeal shall be deemed perfected upon the filing of the notice of appeal.* In the event any parties shall perfect an appeal, copies of such notice of appeal shall be mailed to all parties affected by such appeal, within three days after the date of the perfection thereof. An appeal by the plaintiff or any defendant shall bring the issue of damages to all interests in the tract before the court for trial *de novo*. The appeal shall be

docketed as a new civil action ~~and, the docket fee of a new court action shall be collected and the appeal shall be~~ tried as any other civil action. The only issue to be determined therein shall be the compensation required by K.S.A. 26-513, and amendments thereto.

(b) *This section, as amended by this act, shall be construed and applied prospectively, as well as retroactively to July 1, 2003, and shall apply to all eminent domain proceedings pending on or commenced after July 1, 2003.*

New Sec. 14. The provisions of sections 1 through 6 and 12 are expressly declared to be nonseverable. If any provision of sections 1 through 6 and 12 is held to be invalid or unconstitutional, the entirety of such sections shall be null and void.

Sec. 15. K.S.A. 2005 Supp. 26-508 is hereby repealed.

Sec. 16. On July 1, 2006, K.S.A. 12-1306, 24-438, 24-467, 26-201 and 72-8212a are hereby repealed.

Sec. 17. On July 1, 2007, K.S.A. 26-501, 26-505 and 26-507 and K.S.A. 2005 Supp. 12-1773 and 19-101a, as amended by section 16 of 2006 House Bill No. 2590, are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 25, 2006.)

HOUSE Substitute for SENATE BILL No. 435

AN ACT concerning sales taxation; relating to authority for countywide retailers' sales tax in certain counties; amending K.S.A. 2005 Supp. 12-187, as amended by section 1 of 2006 House Bill No. 2698, 12-189, as amended by section 2 of 2006 House Bill No. 2698, and 12-192 and repealing the existing sections.

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

Section 1. K.S.A. 2005 Supp. 12-187, as amended by section 1 of 2006 House Bill No. 2698, is hereby amended to read as follows: 12-187. (a) (1) No city shall impose a retailers' sales tax under the provisions of this act without the governing body of such city having first submitted such proposition to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. The governing body of any city may submit the question of imposing a retailers' sales tax and the governing body shall be required to submit the question upon submission of a petition signed by electors of such city equal in number to not less than 10% of the electors of such city.

(2) The governing body of any class B city located in any county which does not impose a countywide retailers' sales tax pursuant to paragraph (5) of subsection (b) may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city, county or district hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home health care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(b) (1) The board of county commissioners of any county may submit the question of imposing a countywide retailers' sales tax to the electors at an election called and held thereon, and any such board shall be required to submit the question upon submission of a petition signed by electors of such county equal in number to not less than 10% of the electors of such county who voted at the last

preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than $\frac{2}{3}$ of the membership of the governing body of each of one or more cities within such county which contains a population of not less than 25% of the entire population of the county, or upon receiving resolutions requesting such an election passed by $\frac{2}{3}$ of the membership of the governing body of each of one or more taxing subdivisions within such county which levy not less than 25% of the property taxes levied by all taxing subdivisions within the county.

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

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

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

(C) Except as otherwise provided in this paragraph, the result of the election held on November 2, 2004, on the question submitted by the board of county commissioners of Sedgwick county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be used only to pay the costs of: (i) Acquisition of a site and constructing and equipping thereon a new regional events center, associated parking and infrastructure improvements and related appurtenances thereto, to be located in the downtown area of the city of Wichita, Kansas, (the "downtown arena"); (ii) design for the Kansas coliseum complex and construction of improvements to the pavilions; and (iii) establishing an operating and maintenance reserve for the downtown arena and the Kansas coliseum complex. The tax imposed pursuant to this paragraph shall commence on July 1, 2005, and shall terminate not later than 30 months after the commencement thereof.

(4) The board of county commissioners of Finney and Ford counties may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing all or any portion of the cost to be paid by Finney or Ford county for construction of highway projects identified as system enhancements under the provisions of paragraph (5) of subsection (b) of K.S.A. 68-2314, and amendments thereto, to the electors at an election called and held thereon. Such election shall be called and held in the manner provided by the general bond law. The tax imposed pursuant to this paragraph shall expire upon

the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Finney or Ford county pursuant to this paragraph to exceed the maximum rate prescribed in K.S.A. 12-189, and amendments thereto. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Finney county, the state treasurer shall remit such funds to the treasurer of Finney county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Ford county, the state treasurer shall remit such funds to the treasurer of Ford county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund.

(5) The board of county commissioners of any county may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. Whenever any county imposes a tax pursuant to this paragraph, any tax imposed pursuant to paragraph (2) of subsection (a) by any city located in such county shall expire upon the effective date of the imposition of the countywide tax, and thereafter the state treasurer shall remit to each such city that portion of the countywide tax revenue collected by retailers within such city as certified by the director of taxation. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city or county hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(6) The board of county commissioners of Allen county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% and pledging the revenue received therefrom for the purpose of financing the costs of operation and construction of a solid waste disposal area or the modification of an existing landfill to comply with federal regulations to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs incurred in the financing of the project undertaken. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Allen county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189 and amendments thereto.

(7) The board of county commissioners of Clay, Dickinson and Miami county may submit the question of imposing a countywide retailers' sales tax at the rate of .50% in the case of Clay and Dickinson county and at a rate of up to 1% in the case of Miami county, and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. Except as otherwise provided, the tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected. The result of the election held on November 2, 2004, on the question submitted by the board of county commissioners of Miami county for the purpose of extending for an additional five-year period the countywide retailers' sales tax imposed pursuant to this subsection in Miami county is hereby declared valid. The countywide retailers' sales tax imposed pursuant to this subsection in Clay and Miami county may be extended or reenacted for additional five-year periods upon the board of county commissioners of Clay and Miami county submitting

(continued)

such question to the electors at an election called and held thereon for each additional five-year period as provided by law.

(8) The board of county commissioners of Sherman county may submit the question of imposing a countywide retailers' sales tax at the rate of 1% and pledging the revenue received therefrom for the purpose of financing the costs of street and roadway improvements to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(9) The board of county commissioners of Cowley, *Crawford*, Russell and Woodson county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% in the case of *Crawford*, Russell and Woodson county and at a rate of up to .25%, in the case of Cowley county and pledging the revenue received therefrom for the purpose of financing economic development initiatives or public infrastructure projects. The tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected.

(10) The board of county commissioners of Franklin county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing recreational facilities. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such facilities.

(11) The board of county commissioners of Douglas county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purposes of preservation, access and management of open space, and for industrial and business park related economic development.

(12) The board of county commissioners of Shawnee county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom to the city of Topeka for the purpose of financing the costs of rebuilding the Topeka boulevard bridge and other public infrastructure improvements associated with such project to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such project.

(13) The board of county commissioners of Jackson county may submit the question of imposing a countywide retailers' sales tax at a rate of .4% and pledging the revenue received therefrom as follows: 50% of such revenues for the purpose of financing for economic development initiatives; and 50% of such revenues for the purpose of financing public infrastructure projects to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after seven years from the date such tax is first collected.

(14) The board of county commissioners of Neosho county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(15) *The board of county commissioners of Saline county may submit the question of imposing a countywide retailers' sales tax at the rate of up to .5% and pledging the revenue received therefrom for the purpose of financing the costs of construction and operation of an expo center to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected.*

(16) *The board of county commissioners of Harvey county may submit the question of imposing a countywide retailers' sales tax at the rate of 1.0% and pledging the revenue received therefrom for the purpose of financing the costs of property tax relief, economic devel-*

opment initiatives and public infrastructure improvements to the electors at an election called and held thereon.

(17) *The board of county commissioners of Atchison county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing the costs of construction and maintenance of sports and recreational facilities to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such facilities.*

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

(d) Any city retailers' sales tax in the amount of .5% being levied by a city on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax or until repealed by the adoption of an ordinance so providing. In addition to any city retailers' sales tax being levied by a city on July 1, 1990, any such city may adopt an additional city retailers' sales tax in the amount of .25% or .5%, provided that such additional tax is adopted and approved in the manner provided for the adoption and approval of a city retailers' sales tax. Any countywide retailers' sales tax in the amount of .5% or 1% in effect on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax.

(e) A class D city shall have the same power to levy and collect a city retailers' sales tax that a class A city is authorized to levy and collect and in addition, the governing body of any class D city may submit the question of imposing an additional city retailers' sales tax in the amount of .125%, .25%, .5% or .75% and pledging the revenue received therefrom for economic development initiatives, strategic planning initiatives or for public infrastructure projects including buildings to the electors at an election called and held thereon. Any additional sales tax imposed pursuant to this paragraph shall expire no later than five years from the date of imposition thereof, except that any such tax imposed by any class D city after the effective date of this act shall expire no later than 10 years from the date of imposition thereof.

(f) Any city or county proposing to adopt a retailers' sales tax shall give notice of its intention to submit such proposition for approval by the electors in the manner required by K.S.A. 10-120, and amendments thereto. The notices shall state the time of the election and the rate and effective date of the proposed tax. If a majority of the electors voting thereon at such election fail to approve the proposition, such proposition may be resubmitted under the conditions and in the manner provided in this act for submission of the proposition. If a majority of the electors voting thereon at such election shall approve the levying of such tax, the governing body of any such city or county shall provide by ordinance or resolution, as the case may be, for the levy of the tax. Any repeal of such tax or any reduction or increase in the rate thereof, within the limits prescribed by K.S.A. 12-189, and amendments thereto, shall be accomplished in the man-

ner provided herein for the adoption and approval of such tax except that the repeal of any such city retailers' sales tax may be accomplished by the adoption of an ordinance so providing.

(g) The sufficiency of the number of signers of any petition filed under this section shall be determined by the county election officer. Every election held under this act shall be conducted by the county election officer.

(h) The governing body of the city or county proposing to levy any retailers' sales tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition.

Sec. 2. K.S.A. 2005 Supp. 12-189, as amended by section 2 of 2006 House Bill No. 2698, is hereby amended to read as follows: 12-189. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class A, class B or class C city retailers' sales tax shall be fixed in the amount of .25%, .5%, .75% or 1% which amount shall be determined by the governing body of the city. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class D city retailers' sales tax shall be fixed in the amount of .10%, .25%, .5%, .75%, 1%, 1.125%, 1.25%, 1.5% or 1.75%. The rate of any countywide retailers' sales tax shall be fixed in an amount of either .25%, .5%, .75% or 1% which amount shall be determined by the board of county commissioners, except that:

(a) The board of county commissioners of Wabaunsee county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%; the board of county commissioners of Osage *or Reno* county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25% or 1.5%; the board of county commissioners of Cherokee, Crawford, Ford, Saline, Seward or Wyandotte county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%; the board of county commissioners of Atchison county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5% or 1.75% ~~and~~; the board of county commissioners of Anderson, Barton, Jefferson or Ottawa county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%; *and the board of county commissioners of Marion county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2.5%;*

(b) the board of county commissioners of Jackson county, for the purposes of paragraph (3) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(c) the boards of county commissioners of Finney and Ford counties, for the purposes of paragraph (4) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at .25%;

(d) the board of county commissioners of any county for the purposes of paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at a percentage which is equal to the sum of the rate allowed to be imposed by a board of county commissioners on the effective date of this act plus .25%, .5%, .75% or 1%, as the case requires;

(e) the board of county commissioners of Dickinson county, for the purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%, and the board of county commissioners of Miami county, for the purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%, 1.5%, 1.75% or 2%;

(f) the board of county commissioners of Sherman county, for the purposes of paragraph (8) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2.25%;

(g) the board of county commissioners of *Crawford or Russell* county for the purposes of paragraph (9) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%;

(h) the board of county commissioners of Franklin county, for the purposes of paragraph (10) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.75%;

(i) the board of county commissioners of Douglas county, for the purposes of paragraph (11) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%;

(j) the board of county commissioners of Jackson county, for the purposes of subsection (b)(13) of K.S.A. 12-187 and amendments thereto, may fix such rate at 1.4%;

(k) the board of county commissioners of Sedgwick county, for the purposes of paragraph (3)(C) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%; ~~or~~

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

(m) the board of county commissioners of Saline county, for the purposes of subsection (15) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at up to 1.5%;

(n) the board of county commissioners of Harvey county, for the purposes of paragraph (16) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2.0%; and

(o) the board of county commissioners of Atchison county, for the purpose of paragraph (17) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at a percentage which is equal to the sum of the rate allowed to be imposed by the board of county commissioners of Atchison county on the effective date of this act plus .25%.

Any county or city levying a retailers' sales tax is hereby prohibited from administering or collecting such tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect such tax. Except as otherwise specifically provided in K.S.A. 12-189a, and amendments thereto, such tax shall be identical in its application, and exemptions therefrom, to the Kansas retailers' sales tax act and all laws and administrative rules and regulations of the state department of revenue relating to the Kansas retailers' sales tax shall apply to such local sales tax insofar as such laws and rules and regulations may be made applicable. The state director of taxation is hereby authorized to administer, enforce and collect such local sales taxes and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement thereof.

Upon receipt of a certified copy of an ordinance or resolution authorizing the levy of a local retailers' sales tax, the director of taxation shall cause such taxes to be collected within or without the boundaries of such taxing subdivision at the same time and in the same manner provided for the collection of the state retailers' sales tax. Such copy shall be submitted to the director of taxation within 30 days after adoption of any such ordinance or resolution. All moneys collected by the director of taxation under the provisions of this section shall be credited to a county and city retailers' sales tax fund which fund is hereby established in the state treasury. Any refund due on any county or city retailers' sales tax collected pursuant to this act shall be paid out of the sales tax refund fund and reimbursed by the director of taxation from collections of local retailers' sales tax revenue. Except for local retailers' sales tax revenue required to be deposited in the redevelopment bond fund established under K.S.A. 74-8927, and amendments thereto, all local retailers' sales tax revenue collected within any county or city pursuant to this act shall be apportioned and remitted at least quarterly by the state treasurer, on instruction from the director of taxation, to the treasurer of such county or city.

Revenue that is received from the imposition of a local retailers' sales tax which exceeds the amount of revenue required to pay the costs of a special project for which such revenue was pledged shall be credited to the city or county general fund, as the case requires.

The director of taxation shall provide, upon request by a city or county clerk or treasurer or finance officer of any city or county

(continued)

levying a local retailers' sales tax, monthly reports identifying each retailer doing business in such city or county or making taxable sales sourced to such city or county, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month and identifying each business location maintained by the retailer and such retailer's sales or use tax registration or account number. Such report shall be made available to the clerk or treasurer or finance officer of such city or county within a reasonable time after it has been requested from the director of taxation. The director of taxation shall be allowed to assess a reasonable fee for the issuance of such report. Information received by any city or county pursuant to this section shall be confidential, and it shall be unlawful for any officer or employee of such city or county to divulge any such information in any manner. Any violation of this paragraph by a city or county officer or employee is a class A misdemeanor, and such officer or employee shall be dismissed from office. Reports of violations of this paragraph shall be investigated by the attorney general. The district attorney or county attorney and the attorney general shall have authority to prosecute violations of this paragraph.

Sec. 3. K.S.A. 2005 Supp. 12-192 is hereby amended to read as follows: 12-192. (a) Except as otherwise provided by subsection (b), (d) or (h), all revenue received by the director of taxation from a countywide retailers' sales tax shall be apportioned among the county and each city located in such county in the following manner: (1) One-half of all revenue received by the director of taxation shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year, and (2) $\frac{1}{2}$ of all revenue received by the director of taxation from such countywide retailers' sales tax shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county, except that no persons residing within the Fort Riley military reservation shall be included in the determination of the population of any city located within Riley county. All revenue apportioned to a county shall be paid to its county treasurer and shall be credited to the general fund of the county.

(b) (1) As an alternative and in lieu of the apportionment formula provided in subsection (a), all revenue received by the director of taxation from a countywide retailers' sales tax imposed within Johnson county at the rate of .75% or 1% after the effective date of this act may be apportioned among the county and each city located in such county in the following manner: (A) The revenue received from the first .5% rate of tax shall be apportioned in the manner prescribed by subsection (a) and (B) the revenue received from the rate of tax exceeding .5% shall be apportioned as follows: (i) One-fourth shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year and (ii) one-fourth shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county and (iii) one-half shall be retained by the county for its sole use and benefit.

(2) In lieu of the apportionment formula provided in subsection (a), all money received by the director of taxation from a countywide sales tax imposed within Montgomery county pursuant to the election held on November 8, 1994, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged. All revenue appor-

tioned and paid from the imposition of such tax to the treasurer of any city prior to the effective date of this act shall be remitted to the county treasurer and expended only for the purpose for which the revenue received from the tax was pledged.

(3) *In lieu of the apportionment formula provided in subsection (a), on and after the effective date of this act, all moneys received by the director of taxation from a countywide retailers' sales tax imposed within Phillips county pursuant to the election held on September 20, 2005, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.*

(c) (1) Except as otherwise provided by paragraph (2) of this subsection, for purposes of subsections (a) and (b), the term "total tangible property tax levies" means the aggregate dollar amount of tax revenue derived from ad valorem tax levies applicable to all tangible property located within each such city or county. The ad valorem property tax levy of any county or city district entity or subdivision shall be included within this term if the levy of any such district entity or subdivision is applicable to all tangible property located within each such city or county.

(2) For the purposes of subsections (a) and (b), any ad valorem property tax levied on property located in a city in Johnson county for the purpose of providing fire protection service in such city shall be included within the term "total tangible property tax levies" for such city regardless of its applicability to all tangible property located within each such city. If the tax is levied by a district which extends across city boundaries, for purposes of this computation, the amount of such levy shall be apportioned among each city in which such district extends in the proportion that such tax levied within each city bears to the total tax levied by the district.

(d) (1) All revenue received from a countywide retailers' sales tax imposed pursuant to paragraphs (2), (3)(C), (6), (7), (8), (9), (12) ~~or~~, (14) ~~or~~, (15) ~~or~~, (16) ~~or~~ (17) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(2) Except as otherwise provided in paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, all revenues received from a countywide retailers' sales tax imposed pursuant to paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(e) All revenue apportioned to the several cities of the county shall be paid to the respective treasurers thereof and deposited in the general fund of the city. Whenever the territory of any city is located in two or more counties and any one or more of such counties do not levy a countywide retailers' sales tax, or whenever such counties do not levy countywide retailers' sales taxes at a uniform rate, the revenue received by such city from the proceeds of the countywide retailers' sales tax, as an alternative to depositing the same in the general fund, may be used for the purpose of reducing the tax levies of such city upon the taxable tangible property located within the county levying such countywide retailers' sales tax.

(f) Prior to March 1 of each year, the secretary of revenue shall advise each county treasurer of the revenue collected in such county from the state retailers' sales tax for the preceding calendar year.

(g) Prior to December 31 of each year, the clerk of every county imposing a countywide retailers' sales tax shall provide such information deemed necessary by the secretary of revenue to apportion and remit revenue to the counties and cities pursuant to this section.

(h) The provisions of subsections (a) and (b) for the apportionment of countywide retailers' sales tax shall not apply to any revenues received pursuant to a county or countywide retailers' sales tax levied or collected under K.S.A. 74-8929, and amendments thereto. All such revenue collected under K.S.A. 74-8929, and amendments thereto, shall be deposited into the redevelopment bond fund estab-

lished by K.S.A. 74-8927, and amendments thereto, for the period of time set forth in K.S.A. 74-8927, and amendments thereto.

Sec. 4. K.S.A. 2005 Supp. 12-187, as amended by section 1 of 2006 House Bill No. 2698, 12-189, as amended by section 2 of 2006 House Bill No. 2698, and 12-192 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 25, 2006.)

SENATE BILL No. 164

AN ACT concerning the unification of certain cities and counties; amending K.S.A. 2005 Supp. 19-205 and repealing the existing section.

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

New Section 1. As used in sections 2 through 8, and amendments thereto:

- (a) "Commission" means the unification commission appointed pursuant to section 2, and amendments thereto.
- (b) "City" means any city located in Greeley county.
- (c) "County" means Greeley county.

New Sec. 2. (a) Within 10 days of the effective date of this act, a unification commission shall be appointed. One member shall be appointed by the governing body of the city of Tribune, one member shall be appointed by the governing body of the city of Horace and two members shall be appointed by the board of county commissioners of the county. The fifth member shall be appointed by the members of the unification commission appointed by the cities and county and such member shall serve as the chairperson of the commission. Members of the commission shall include, but not be limited to, persons with experience in accounting, business management, municipal finance, law, education, political science or public administration. Members of the commission shall be residents of Greeley county.

(b) Members of the commission may be paid compensation, subsistence allowances, mileage and other expenses as provided by K.S.A. 75-3223, and amendments thereto.

(c) The members of the unification commission may appoint an executive director of the commission. The executive director may be paid compensation in an amount determined by the commission. If approved by the commission, the executive director may employ other staff and may contract with consultants, as the executive director deems necessary to carry out the functions of the commission. Staff employed by the executive director shall receive compensation established by the executive director.

(d) Within 30 days following the appointment of all members of the commission, the commission shall meet and organize by the election of a vice-chairperson and other officers deemed necessary. The commission may adopt rules governing the conduct of its meetings.

New Sec. 3. (a) The commission shall prepare and adopt a plan addressing the unification of the city and county or certain city and county offices, functions, services and operations. The commission shall conduct such studies and investigations as it deems appropriate to complete its work. Such studies and investigations shall include, but not be limited to, studies of the costs and benefits of unifying the city and county or certain city and county offices, functions, services and operations.

(b) The commission shall hold public hearings for the purpose of receiving information and materials which will aid in the drafting of the plan.

(c) Within one year following the appointment of all members of the commission, the commission shall prepare and adopt a preliminary plan addressing the unification of the city and county or certain city and county offices, functions, services and operations it deems advisable. Copies of the preliminary plan shall be filed with the county election officer, city clerk, each public library within the

county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall hold at least two public hearings to obtain citizen views concerning the preliminary plan. Notice of such hearings shall be published at least twice in a newspaper of general circulation within the county. Following the public hearings on the preliminary plan, the commission may adopt, or modify and adopt, the preliminary plan as the final plan.

(d) Within 30 days of the last public hearing held on the preliminary plan, the commission shall adopt its final plan. The final plan shall include the full text and an explanation of the proposed plan, and comments deemed desirable by the commission, a written opinion by an attorney admitted to practice law in the state of Kansas and retained by the executive director for such purpose that the proposed plan is not in conflict with the constitution or the laws of the state, and any minority reports. Copies of the final plan shall be filed with the county election officer, city clerk, each public library within the county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall continue in existence at least 90 days following the submission of the final plan pursuant to this subsection.

(e) (1) The final plan shall be submitted to the qualified electors of the county at the next regular general election held in November of an even-numbered year. If the statutorily mandated duties of an elective office are to be eliminated or if the office is to be eliminated and the duties transferred to a nonelective office, the question of elimination of such duties or office shall be submitted to the voters as a separate ballot question. Such election shall be called and held by the county election officer in the manner provided by the general election law. Such election may be conducted by mail ballot. A summary of the final plan shall be prepared by the commission and shall be published once each week for two consecutive weeks in a newspaper of general circulation within the county. If a majority of the qualified electors voting on the plan who reside within the corporate limits of the city and a majority of the qualified electors voting on the plan who reside outside of the corporate limits of the city vote in favor thereof, the unification plan shall be implemented in the manner provided by the plan. If a majority of the electors who reside within the corporate limits of the city or a majority of the qualified electors who reside outside of the corporate limits of the city vote against such plan, the proposed unification plan shall not be implemented.

(2) Any proposed unification which eliminates an elective office shall provide that the elimination of such office shall become effective upon the date of normal expiration of the term of such office.

(3) If the final plan provides for the unification of the city of Horace with the county or the unification or elimination of any of the offices or powers, duties and functions of such offices of the city of Horace and a majority of the qualified electors of the city of Horace voting on the plan do not vote in favor thereof, the city of Horace and officers thereof shall continue in existence and operation as if no unification had occurred.

(4) If the commission submits a final plan which does not recommend the unification of the city and county or certain city and county offices, functions, services and operations, the provisions of this subsection shall not apply.

New Sec. 4. (a) Any plan submitted by the commission shall provide for the exercise of powers of local legislation and administration not inconsistent with the constitution or other laws of this state.

(b) If the commission submits a plan providing for the unification of certain city and county offices, functions, services and operations, the plan shall:

(1) Include a description of the form, structure, functions, powers and officers and the duties of such officers recommended in the plan.

(continued)

- (2) Provide for the method of amendment of the plan.
- (3) Specify the effective date of the unification.
- (4) Include other provisions determined necessary by the commission.

(c) If the plan provides for the unification of the city and county, in addition to the requirements of subsection (b) the plan shall:

(1) Provide that the members of the governing body be elected on an at-large basis and fix the number, term and initial compensation of the governing body of the unified city-county and the method of election.

(2) Determine whether elections of the governing body of the unified city-county shall be partisan or nonpartisan elections and the time at which such elections shall be held.

(3) Determine the distribution of legislative and administrative duties of the unified city-county officials, provide for unification or expansion of services as necessary, authorize the appointment of a city-county administrator or manager, if deemed advisable, and prescribe the general structure of the unified city-county government.

(4) Provide for the official name of the unified city-county.

(5) Provide for the transfer or other disposition of property and other rights, claims and assets of the county and city.

(6) Fix the rate of the retailers' sales tax, if any.

New Sec. 5. Greeley county is hereby designated an urban area, as authorized under the provisions of section 17 of article 2 of the constitution of the state of Kansas, for the purpose of granting to such county and urban area powers of local government and unification of local government.

New Sec. 6. (a) If the voters approve a plan which provides for the unification of the city and county, such unified city-county shall be subject to the provisions of this section.

(b) The unified city-county shall be subject to the cash-basis and budget laws of the state of Kansas.

(c) Except as provided in subsection (e), and in any other statute which specifically exempts bonds from the statutory limitations on bonded indebtedness, the limitation on bonded indebtedness of the unified city-county under this act shall be 30% of the assessed value of all tangible taxable property within such county on the preceding August 25.

(d) The following shall not be included in computing the total bonded indebtedness of the unified city-county for the purposes of determining the limitations on bonded indebtedness:

(1) Bonds issued for the purpose of refunding outstanding debt, including outstanding bonds and matured coupons thereof, or judgments thereon.

(2) Bonds issued pursuant to the provisions of article 46 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto.

(3) Bonds issued for the purpose of financing the construction or remodeling of a courthouse, jail or law enforcement center facility, which bonds are payable from the proceeds of a retailers' sales tax.

(4) Bonds issued for the purpose of acquiring, enlarging, extending or improving any storm or sanitary sewer system.

(5) Bonds issued for the purpose of acquiring, enlarging, extending or improving any municipal utility.

(6) Bonds issued to pay the cost of improvements to intersections of streets and alleys or that portion of any street immediately in front of city or school district property.

(e) Any bonded indebtedness and interest thereon incurred by the city or county prior to unification shall remain an obligation of the property subject to taxation for the payment thereof prior to such unification.

(f) Upon the effective date of the unification of the city and county, any retailers' sales tax levied by the city or county in accordance with K.S.A. 12-187 et seq., and amendment thereto, prior to such date shall remain in full force and effect, except that part of the rate attributable to the former city of Tribune shall not apply to retail sales in any other city located in the county.

(g) Upon the effective date of the unification of the city and county, the territory of the unified city-county shall include:

(1) All of the territory of the county for purposes of exercising the powers, duties and functions of a county.

(2) (A) Except as provided by paragraph (B), all of the territory of the county, except the territory of cities located in the county other than the former city of Tribune and the unincorporated area of the county, for purposes of exercising the powers, duties and functions of a city; or

(B) all the territory of the county located within the incorporated areas of the county, for the purpose of exercising the powers, duties and functions of a city. The provisions of this paragraph shall apply only if the final plan provides for the unification of the city of Horace with the county and a majority of the qualified electors of the county and a majority of the qualified electors of the city of Horace voting on the plan vote in favor thereof.

(h) For the purposes of section 1 of article 5 of the constitution of the state of Kansas, the "voting area" for the governing body of the unified city-county shall include all the territory within the county.

(i) Except for the unified city-county and unless otherwise provided by law, other political subdivisions of the county shall not be affected by unification of the city and county. Such other political subdivisions shall continue in existence and operation.

(j) Unless otherwise provided by law, the unified city-county shall be eligible for the distribution of any funds from the state and federal government as if no unification had occurred. Except as provided in this subsection, the population and assessed valuation of the territory of the unified city-county shall be considered its population and assessed valuation for purposes of the distribution of moneys from the state or federal government.

(k) The unified city-county shall be a county. The governing body of the unified city-county shall be considered county commissioners for the purposes of section 2 of article 4 of the constitution of the state of Kansas and shall have all the powers, functions and duties of a county and may exercise home rule powers in the manner and subject to the limitations provided by K.S.A. 19-101a, and amendments thereto, and other laws of this state.

The governing body of the unified city-county shall be responsible for any duties or functions imposed by the constitution of the state of Kansas and other laws of this state upon any county office abolished by the unification plan. Such duties may be delegated by the governing body or as provided in the unification plan.

(l) The unified city-county shall be a city of the first class. The governing body of the unified city-county shall have all the powers, functions and duties of a city of the first class and may exercise home rule powers in the manner and subject to the limitations provided by article 12 of section 5 of the constitution of the state of Kansas and other laws of this state.

(m) The governing body of the unified city-county may create special service districts within the city-county and may levy taxes for services provided in such districts.

(n) Changes in the form of government approved by the voters in accordance with the unification plan are hereby declared to be legislative matters and subject to initiative and referendum in accordance with K.S.A. 12-3013 et seq., and amendments thereto.

New Sec. 7. (a) The governing body of the unified city-county may not annex any land located outside the county.

(b) The governing body of the unified city-county may not initiate annexation procedures of land located within the county, but may annex land upon petition of the owners of any such land.

New Sec. 8. All costs incurred or authorized by the unification commission and all other costs incurred by the city and county pursuant to this act shall be paid by the city and county.

New Sec. 9. (a) Until a special election is held at which a final plan is submitted for approval to the electors or until a final plan which does not recommend unification of the city and county is

adopted by a unification commission, the governing body of any city which is the subject of a study considering the unification of such city with the county in which such city is located may not initiate pursuant to K.S.A. 12-520, and amendments thereto, annexation procedures of land located within the county, but may annex land upon petition of the owners of any such land.

(b) As used in this section, "city" means any city located within Kansas.

(c) The provisions of this section shall expire on June 30, 2007.

New Sec. 10. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

Sec. 11. K.S.A. 2005 Supp. 19-205 is hereby amended to read as follows: 19-205. Except as provided by K.S.A. 12-344 and 12-345, sections 4 and 6, and amendments thereto, no person holding any state, county, township or city office shall be eligible to the office of county commissioner in any county in this state.

Nothing in this section shall prohibit the appointment of any county commissioner to any state board, committee, council, commission or similar body which is established pursuant to statutory authority, so long as any county commissioner so appointed is not entitled to receive any pay, compensation, subsistence, mileage or expenses for serving on such body other than that which is provided by law to be paid in accordance with the provisions of K.S.A. 75-3223, and amendments thereto.

Sec. 12. K.S.A. 2005 Supp. 19-205 is hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 25, 2006.)

Substitute for SENATE BILL No. 486

AN ACT concerning the task force on racial profiling; amending K.S.A. 2005 Supp. 22-4607 and repealing the existing section.

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

Section 1. K.S.A. 2005 Supp. 22-4607 is hereby amended to read as follows: 22-4607. A 15-member task force *on racial profiling* shall be appointed by the governor ~~to design a method for the uniform collection of data~~. The task force shall include representatives of the Kansas attorney general's office, the Kansas highway patrol, city and county law enforcement agencies, the Hispanic and Latino American affairs commission, the advisory commission on African-American affairs, the department of revenue, Kansas human rights commission, Kansas district courts, Kansas civil rights advocates and others who can assist in the ~~uniform collection of data~~. ~~The task force shall make a final report and recommendations to the governor and the legislature not later than November 1, 2005 performance of the functions of the task force.~~

(b) *The governor's task force on racial profiling shall work in partnership with local and state law enforcement agencies to review current policies and make recommendations for future policies and procedures statewide for the full implementation of the provisions of K.S.A. 2005 Supp. 22-4606 through 22-4611, and amendments thereto. The task force shall hold public hearings and meetings as needed to involve and inform the public on issues related to racial profiling.*

(c) *Members of the task force serving on the effective date of this act shall continue to serve terms until July 1, 2007. Thereafter, members shall be appointed for terms of two years. Vacancies shall be filled by appointment for the unexpired term. Upon expiration of a member's term, the member shall serve until a successor is appointed and qualifies. No member shall serve more than two consecutive full terms.*

(d) *The chairperson of the task force shall be designated by the governor. The task force shall meet at the call of the chairperson at least quarterly or as often as necessary to carry out the functions of the task force.*

(e) *The staff of the Kansas advisory commission on African-American affairs and the Kansas Hispanic/Latino American affairs commission shall provide administrative support to the task force and its chairperson.*

(f) *Members of the task force attending a meeting of the task force, or any subcommittee meeting authorized by the task force, shall receive amounts provided for in subsection (e) of K.S.A. 75-3223, and amendments thereto.*

(g) *The task force shall make a report of its activity to the public each calendar year.*

(h) *The provisions of this section shall expire on July 1, 2009.*

Sec. 2. K.S.A. 2005 Supp. 22-4607 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 25, 2006.)

SENATE Substitute for HOUSE BILL No. 2105

AN ACT concerning abuse, neglect and exploitation of persons; creating a unit to investigate such abuse in the office of the attorney general.

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

Section 1. (a) There is hereby created in the office of the attorney general an abuse, neglect and exploitation of persons unit.

(b) Except as provided by subsection (h), the information obtained and the investigations conducted by the unit shall be confidential as required by state or federal law. Upon request of the unit, the unit shall have access to all records of reports, investigation documents and written reports of findings related to confirmed cases of abuse, neglect or exploitation of persons or cases in which there is reasonable suspicion to believe abuse, neglect or exploitation of persons has occurred which are received or generated by the department of social and rehabilitation services, department on aging or department of health and environment.

(c) Except for reports alleging only self-neglect, such state agency receiving reports of abuse, neglect or exploitation of persons shall forward to the unit:

(1) Within 10 days of confirmation, reports of findings concerning the confirmed abuse, neglect or exploitation of persons; and

(2) within 10 days of such denial, each report of an investigation in which such state agency was denied the opportunity or ability to conduct or complete a full investigation of abuse, neglect or exploitation of persons.

(d) On or before the first day of the regular legislative session each year, the unit shall submit to the legislature a written report of the unit's activities, investigations and findings for the preceding fiscal year.

(e) The attorney general shall adopt rules and regulations as deemed appropriate for the administration of this section.

(f) No state funds appropriated to support the provisions of the abuse, neglect or exploitation of persons unit and expended to contract with any third party shall be used by a third party to file any civil action against the state of Kansas or any agency of the state of Kansas. Nothing in this section shall prohibit the attorney general from initiating or participating in any civil action against any party.

(g) The attorney general may contract with other agencies or organizations to provide services related to the investigation or litigation of findings related to abuse, neglect or exploitation of persons.

(h) Notwithstanding any other provision of law, nothing shall prohibit the attorney general or the unit from distributing or utilizing only that information obtained pursuant to a confirmed case of abuse,

(continued)

neglect or exploitation or cases in which there is reasonable suspicion to believe abuse, neglect or exploitation has occurred pursuant to this section with any third party contracted with by the attorney general to carry out the provisions of this section.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 25, 2006.)

SENATE BILL No. 366

An Act concerning crimes, punishment and criminal procedure; relating to justified use of force; departure sentencing; criminal street gangs; loss of value of the crime; controlled substances; warrantless searches; amending K.S.A. 16-305, 19-3519, 21-3211, 21-3212, 21-3720, 21-3729, 21-3734, 21-3902, 21-3904, 21-3905, 21-4111, 39-717, 40-247, 40-2,118, as amended by section 1 of 2006 House Substitute for Senate Bill No. 207, 44-5,125, and 65-4150 and K.S.A. 2005 Supp. 21-3437, 21-3763, 21-3846, 21-4716, 22-3901, 32-1005, 40-5013, 47-1827 and 65-7006 and repealing the existing sections; also repealing K.S.A. 22-2501.

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

New Section 1. (a) A person who is not engaged in an unlawful activity and who is attacked in a place where such person has a right to be has no duty to retreat and has the right to stand such person's ground and meet force with force.

(b) This section shall be part of and supplemental to the Kansas criminal code.

New Sec. 2. (a) A person who uses force which, subject to the provisions of K.S.A. 21-3214, and amendments thereto, is justified pursuant to K.S.A. 21-3211, 21-3212 or 21-3213, and amendments thereto, is immune from criminal prosecution and civil action for the use of such force, unless the person against whom force was used is a law enforcement officer who was acting in the performance of such officer's official duties and the officer identified the officer's self in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, "criminal prosecution" includes arrest, detention in custody and charging or prosecution of the defendant.

(b) A law enforcement agency may use standard procedures for investigating the use of force as described in subsection (a), but the agency shall not arrest the person for using force unless it determines that there is probable cause for the arrest.

Sec. 3. K.S.A. 21-3211 is hereby amended to read as follows: 21-3211. (a) A person is justified in the use of force against ~~an aggressor~~ another when and to the extent it appears to ~~him and he~~ such person and such person reasonably believes that such ~~conduct~~ force is necessary to defend ~~himself or another~~ such person or a third person against such ~~aggressor's~~ other's imminent use of unlawful force.

(b) A person is justified in the use of deadly force under circumstances described in subsection (a) if such person reasonably believes deadly force is necessary to prevent imminent death or great bodily harm to such person or a third person.

(c) Nothing in this section shall require a person to retreat if such person is using force to protect such person or a third person.

Sec. 4. K.S.A. 21-3212 is hereby amended to read as follows: 21-3212. (a) A person is justified in the use of force against another when and to the extent that it appears to ~~him and he~~ such person and such person reasonably believes that such ~~conduct~~ force is necessary to prevent or terminate such other's unlawful entry into or attack upon ~~his~~ such person's dwelling or occupied vehicle.

(b) A person is justified in the use of deadly force to prevent or terminate unlawful entry into or attack upon any dwelling or occupied vehicle if such person reasonably believes deadly force is nec-

essary to prevent imminent death or great bodily harm to such person or another.

(c) Nothing in this section shall require a person to retreat if such person is using force to protect such person's dwelling or occupied vehicle.

New Sec. 5. Sections 5 through 9, and amendments thereto, shall be known and may be cited as the criminal street gang prevention act.

New Sec. 6. As used in sections 5 through 9, and amendments thereto:

(a) "Criminal street gang" means any organization, association or group, whether formal or informal:

(1) Consisting of three or more persons;

(2) having as one of its primary activities the commission of one or more person felonies, person misdemeanors, felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors;

(3) which has a common name or common identifying sign or symbol; and

(4) whose members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies, person misdemeanors, felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors or any substantially similar offense from another jurisdiction.

(b) "Criminal street gang member" is a person who:

(1) Admits to criminal street gang membership; or

(2) meets three or more of the following criteria:

(A) Is identified as a criminal street gang member by a parent or guardian.

(B) Is identified as a criminal street gang member by a state, county or city law enforcement officer or correctional officer or documented reliable informant.

(C) Is identified as a criminal street gang member by an informant of previously untested reliability and such identification is corroborated by independent information.

(D) Resides in or frequents a particular criminal street gang's area and adopts such gang's style of dress, color, use of hand signs or tattoos, and associates with known criminal street gang members.

(E) Has been arrested more than once in the company of identified criminal street gang members for offenses which are consistent with usual criminal street gang activity.

(F) Is identified as a criminal street gang member by physical evidence including, but not limited to, photographs or other documentation.

(G) Has been stopped in the company of known criminal street gang members two or more times.

(H) Has participated in or undergone activities self-identified or identified by a reliable informant as a criminal street gang initiation ritual.

(c) "Criminal street gang activity" means the commission or attempted commission of, or solicitation or conspiracy to commit, one or more person felonies, person misdemeanors, felony violations of the uniform controlled substances act, K.S.A. 65-4101, *et seq.*, and amendments thereto, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors on separate occasions.

(d) "Criminal street gang associate" means a person who:

(1) Admits to criminal street gang association; or

(2) meets two or more defining criteria for criminal street gang membership described in subsection (b)(2).

(e) For purposes of law enforcement identification and tracking only "gang-related incident" means an incident that, upon investigation, meets any of the following conditions:

(1) The participants are identified as criminal street gang members or criminal street gang associates, acting, individually or collectively, to further any criminal purpose of the gang;

(2) a state, county or city law enforcement officer or correctional officer or reliable informant identifies an incident as criminal street gang activity; or

(3) an informant of previously untested reliability identifies an incident as criminal street gang activity and it is corroborated by independent information.

New Sec. 7. (a) Recruiting criminal street gang membership is causing, encouraging, soliciting or recruiting another person to join a criminal street gang that requires, as a condition of membership or continued membership, the commission of any crime or membership initiation by submission to a sexual or physical assault that is criminal in nature, or would be criminal absent consent by the initiated.

(b) Recruiting criminal street gang membership is a severity level 6, person felony.

New Sec. 8. (a) Criminal street gang intimidation is the communication, directly or indirectly with another, any threat of personal injury or actual personal injury to another or any threat of damage or actual damage to property of another with the intent to:

(1) Deter such person from assisting a criminal street gang member or associate to withdraw from such criminal street gang; or

(2) punish or retaliate against such person for having withdrawn from a criminal street gang.

(b) Criminal street gang intimidation is a severity level 5, person felony.

New Sec. 9. When a criminal street gang member, as defined in section 6, and amendments thereto, is arrested for a person felony, bail shall be at least \$50,000 cash or surety, unless the court determines on the record that the defendant is not likely to reoffend, an appropriate intensive pre-trial supervision program is available and the defendant agrees to comply with the mandate of such pre-trial supervision.

New Sec. 10. Sections 5 through 9, and amendments thereto, shall be a part of and supplemental to the Kansas criminal code.

Sec. 11. K.S.A. 2005 Supp. 22-3901 is hereby amended to read as follows: 22-3901. The following unlawful activities and the use of real or personal property in maintaining and carrying on such activities are hereby declared to be common nuisances:

(a) Commercial gambling;

(b) dealing in gambling devices;

(c) possession of gambling devices;

(d) promoting obscenity;

(e) promoting prostitution;

(f) habitually promoting prostitution;

(g) violations of any law regulating controlled substances;

(h) habitual violations of any law regulating the sale or exchange of alcoholic liquor or cereal malt beverages, by any person not licensed pursuant to chapter 41 of the Kansas Statutes Annotated;

(i) habitual violations of any law regulating the sale or exchange of cigarettes or tobacco products, by any person not licensed pursuant to article 33 of chapter 79 of the Kansas Statutes Annotated;

(j) any felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal:

(1) Consisting of three or more persons;

(2) having as one of its primary activities the commission of one or more person felonies or, person misdemeanors, felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors;

(3) which has a common name or common identifying sign or symbol; and

(4) whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or, person misdemeanors, felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors, or any substantially similar offense from another jurisdiction; or

(k) use of pyrotechnics, pyrotechnic devices or pyrotechnic materials in violation of K.S.A. 2005 Supp. 31-170, and amendments thereto.

Any real property used as a place where any such activities are carried on or permitted to be carried on and any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property designed for and used on such premises in connection with such unlawful activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-3904, and amendments thereto.

New Sec. 12. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 13. K.S.A. 2005 Supp. 21-4716 is hereby amended to read as follows: 21-4716. (a) Except as provided in subsection (b), the sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines for crimes committed on or after July 1, 1993, unless the judge finds substantial and compelling reasons to impose a departure. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) Subject to the provisions of subsection (b) of K.S.A. 21-4718, and amendments thereto, any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.

(c) (1) Subject to the provisions of ~~subsection (b)(3)~~ subsections (c)(3) and (e), the following nonexclusive list of mitigating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction.

(B) The offender played a minor or passive role in the crime or participated under circumstances of duress or compulsion. This factor is not sufficient as a complete defense.

(C) The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants, drugs or alcohol does not fall within the purview of this factor.

(D) The defendant, or the defendant's children, suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(E) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(2) Subject to the provisions of subsection ~~(b)(3)~~ (c)(3), the following nonexclusive list of aggravating factors may be considered in determining whether substantial and compelling reasons for departure exist:

(A) The victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity which was known or should have been known to the offender.

(B) The defendant's conduct during the commission of the current offense manifested excessive brutality to the victim in a manner not normally present in that offense.

(C) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the

(continued)

victim or the offense was motivated by the defendant's belief or perception, entirely or in part, of the race, color, religion, ethnicity, national origin or sexual orientation of the victim whether or not the defendant's belief or perception was correct.

(D) The offense involved a fiduciary relationship which existed between the defendant and the victim.

(E) The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to commit or assist in avoiding detection or apprehension for commission of any person felony or any attempt, conspiracy or solicitation as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto to commit any person felony regardless of whether the defendant knew the age of the individual under 16 years of age.

(F) The defendant's current crime of conviction is a crime of extreme sexual violence and the defendant is a predatory sex offender. As used in this subsection:

(i) "Crime of extreme sexual violence" is a felony limited to the following:

(a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;

(b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization; or

(c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is less than 14 years of age.

(ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:

(a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or

(b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.

(iii) "Mental condition or personality disorder" means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the capacity of the person to control impulses to commit crimes of extreme sexual violence.

(G) The defendant was incarcerated during the commission of the offense.

(H) *The crime involved two or more participants in the criminal conduct, and the defendant played a major role in the crime as the organizer, leader, recruiter, manager or supervisor.*

In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

(3) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the crime severity scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

(↔) (d) In determining aggravating or mitigating circumstances, the court shall consider:

(1) Any evidence received during the proceeding;

(2) the presentence report;

(3) written briefs and oral arguments of either the state or counsel for the defendant; and

(4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

(e) *Upon motion of the prosecutor stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense, the court*

may consider such mitigation in determining whether substantial and compelling reasons for a departure exist. In considering this mitigating factor, the court may consider the following:

(i) *The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the prosecutor's evaluation of the assistance rendered;*

(ii) *the truthfulness, completeness and reliability of any information or testimony provided by the defendant;*

(iii) *the nature and extent of the defendant's assistance;*

(iv) *any injury suffered, or any danger or risk of injury to the defendant or the defendant's family resulting from such assistance; and*

(v) *the timeliness of the defendant's assistance.*

Sec. 14. K.S.A. 16-305 is hereby amended to read as follows: 16-305. Every person who violates any provision of this act: (a) Other than by misappropriating funds in violation of an agreement shall be guilty of a misdemeanor, and, upon conviction shall be fined not less than \$100 nor more than \$500, or shall be imprisoned for not less than 10 days nor more than 90 days, or both; and (b) by misappropriating funds in violation of an agreement in an amount:

(1) Of \$25,000 or more shall be guilty of a severity level 7, non-person felony;

(2) of at least ~~\$500~~ \$1,000 but less than \$25,000 shall be guilty of a severity level 9, nonperson felony; or

(3) of less than ~~\$500~~ \$1,000 shall be guilty of a class A nonperson misdemeanor.

Sec. 15. K.S.A. 19-3519 is hereby amended to read as follows: 19-3519. (a) All claims, accounts and necessary expenses of the water district lawfully incurred and approved shall be paid from appropriate available funds in bank accounts of the water district by voucher check supported by an appropriate purchase order or statement of service. All such claims shall be presented in writing with a full account of the items and may be the usual statement of account of the vendor or party rendering a service or other written statement showing the required information.

(b) (1) Any person who obtains money from the district by intentionally making a fraudulent claim for a sum of less than ~~\$500~~ \$1,000 is guilty of a class A nonperson misdemeanor.

(2) Any person who obtains money from the district by intentionally making a fraudulent claim for at least ~~\$500~~ \$1,000 but less than \$25,000 is guilty of a severity level 9, nonperson felony.

(3) Any person who obtains money from the district by intentionally making a fraudulent claim for \$25,000 or more is guilty of a severity level 7, nonperson felony.

(c) The water district board shall see that there is kept a correct record of all voucher checks issued showing the number, date and amount thereof and the name of the person or persons to whom such checks are made payable and with appropriate reference to the applicable purchase order or other claim, account or expense record, including payroll records. Any employee or officer authorized to sign or countersign voucher checks shall be covered by a surety bond in the form and amount as determined by the board.

Sec. 16. K.S.A. 2005 Supp. 21-3437 is hereby amended to read as follows: 21-3437. (a) Mistreatment of a dependent adult is knowingly and intentionally committing one or more of the following acts:

(1) Infliction of physical injury, unreasonable confinement or cruel punishment upon a dependent adult;

(2) taking unfair advantage of a dependent adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person; or

(3) omitting or depriving treatment, goods or services by a caretaker or another person which are necessary to maintain physical or mental health of a dependent adult.

(b) No dependent adult is considered to be mistreated for the sole reason that such dependent adult relies upon or is being fur-

nished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adult is a member or adherent.

(c) For purposes of this section: "Dependent adult" means an individual 18 years of age or older who is unable to protect their own interest. Such term shall include:

(1) Any resident of an adult care home including but not limited to those facilities defined by K.S.A. 39-923 and amendments thereto;

(2) any adult cared for in a private residence;

(3) any individual kept, cared for, treated, boarded or otherwise accommodated in a medical care facility;

(4) any individual with mental retardation or a developmental disability receiving services through a community mental retardation facility or residential facility licensed under K.S.A. 75-3307b and amendments thereto;

(5) any individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform act; or

(6) any individual kept, cared for, treated, boarded or otherwise accommodated in a state psychiatric hospital or state institution for the mentally retarded.

(d) (1) Mistreatment of a dependent adult as defined in subsection (a)(1) is a severity level 6, person felony.

(2) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 7, person felony if the aggregate amount of the value of the resources is \$25,000 or more.

(3) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 9, person felony if the aggregate amount of the value of the resources is at least ~~\$500~~ \$1,000 but less than \$25,000.

(4) Mistreatment of a dependent adult as defined in subsection (a)(2) is a class A person misdemeanor if the aggregate amount of the value of the resources is less than ~~\$500~~ \$1,000.

(5) Mistreatment of a dependent adult as defined in subsection (a)(3) is a class A person misdemeanor.

(6) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 9, person felony if the aggregate amount of the value of the resources is less than ~~\$500~~ \$1,000 and committed by a person who has, within five years immediately preceding commission of the crime, been convicted of mistreatment of a dependent adult two or more times.

Sec. 17. K.S.A. 21-3720 is hereby amended to read as follows: 21-3720. (a) Criminal damage to property is by means other than by fire or explosive:

(1) Intentionally injuring, damaging, mutilating, defacing, destroying, or substantially impairing the use of any property in which another has an interest without the consent of such other person; or

(2) injuring, damaging, mutilating, defacing, destroying, or substantially impairing the use of any property with intent to injure or defraud an insurer or lienholder.

(b) (1) Criminal damage to property is a severity level 7, nonperson felony if the property is damaged to the extent of \$25,000 or more.

(2) Criminal damage to property is a severity level 9, nonperson felony if the property is damaged to the extent of at least ~~\$500~~ \$1,000 but less than \$25,000.

(3) Criminal damage to property is a class B nonperson misdemeanor if the property damaged is of the value of less than ~~\$500~~ \$1,000 or is of the value of ~~\$500~~ \$1,000 or more and is damaged to the extent of less than ~~\$500~~ \$1,000.

Sec. 18. K.S.A. 21-3729 is hereby amended to read as follows: 21-3729. (a) Criminal use of a financial card is any of the following acts done with intent to defraud and for the purpose of obtaining money, goods, property, services or communication services:

(1) Using a financial card without the consent of the cardholder; or

(2) knowingly using a financial card, or the number or description thereof, which has been revoked or canceled; or

(3) using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof.

(b) For the purposes of this section:

(1) "Financial card" means an identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property, services or communication services or to conduct other financial transactions.

(2) "Cardholder" means the person or entity to whom or for whose benefit a financial card is issued.

(c) For the purposes of subsection (a)(2), a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.

(d) (1) Criminal use of a financial card is a severity level 7, nonperson felony if the money, goods, property, services or communication services obtained within any seven-day period are of the value of \$25,000 or more.

(2) Criminal use of a financial card is a severity level 9, nonperson felony if the money, goods, property, services or communication services obtained within any seven-day period are of the value of at least ~~\$500~~ \$1,000 but less than \$25,000.

(3) Criminal use of a financial card is a class A nonperson misdemeanor if the money, goods, property, services or communication services obtained within a seven-day period are of the value of less than ~~\$500~~ \$1,000.

Sec. 19. K.S.A. 21-3734 is hereby amended to read as follows: 21-3734. (a) Impairing a security interest is:

(1) Damaging, destroying or concealing any personal property subject to a security interest with intent to defraud the secured party;

(2) selling, exchanging or otherwise disposing of any personal property subject to a security interest without the written consent of the secured party, where such sale, exchange or other disposition is not authorized by the secured party under the terms of the security agreement; or

(3) failure to account to the secured party for the proceeds of the sale, exchange or other disposition of any personal property subject to a security interest, where such sale, exchange or other disposition is authorized and such accounting for proceeds is required by the secured party under the terms of the security agreement or otherwise.

(b) (1) Impairing a security interest is a severity level 7, nonperson felony when the personal property subject to the security interest is of the value of \$25,000 or more and is subject to a security interest of \$25,000 or more.

(2) Impairing a security interest is a severity level 9, nonperson felony when the personal property subject to the security interest is of the value of at least ~~\$500~~ \$1,000 and is subject to a security interest of at least ~~\$500~~ \$1,000 and either the value of the property or the security interest is less than \$25,000.

(3) Impairing a security interest is a class A nonperson misdemeanor when the personal property subject to the security interest is of the value of less than ~~\$500~~ \$1,000, or of the value of ~~\$500~~ \$1,000 or more but subject to a security interest of less than ~~\$500~~ \$1,000.

Sec. 20. K.S.A. 2005 Supp. 21-3763 is hereby amended to read as follows: 21-3763. (a) Counterfeiting is intentionally manufacturing, using, displaying, advertising, distributing, offering for sale, selling or possessing with intent to sell or distribute any item or services bearing or identified by a counterfeit mark.

(b) A person having possession, custody or control of more than 25 items bearing a counterfeit mark shall be presumed to possess such items with intent to sell or distribute.

(c) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

(continued)

(d) As used in this section:

(1) "Counterfeit mark" means:

(A) Any unauthorized reproduction or copy of intellectual property; or

(B) intellectual property affixed to any item knowingly sold, offered for sale, manufactured or distributed, or identifying services offered or rendered, without the authority of the owner of the intellectual property.

(2) "Intellectual property" means any trademark, service mark or trade name as such terms are defined in K.S.A. 2005 Supp. 81-202, and amendments thereto.

(3) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

(4) The quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses.

(e) (1) Counterfeiting of the retail value of less than ~~\$500~~ \$1,000 is a class A nonperson misdemeanor.

(2) Counterfeiting of the retail value of at least ~~\$500~~ \$1,000 but less than \$25,000; that involves more than 100 but less than 1,000 items bearing a counterfeit mark; or on a second violation is a severity level 9, nonperson felony.

(3) Counterfeiting of the retail value of \$25,000 or more; that involves 1,000 or more items bearing a counterfeit mark; or on a third or subsequent violation is a severity level 7, nonperson felony.

(f) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 21. K.S.A. 2005 Supp. 21-3846 is hereby amended to read as follows: 21-3846. (a) Making a false claim, statement, or representation to the medicaid program is, knowingly and with intent to defraud, engaging in a pattern of making, presenting, submitting, offering or causing to be made, presented, submitted or offered:

(1) Any false or fraudulent claim for payment for any goods, service, item, facility, accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(2) any false or fraudulent statement or representation for use in determining payments which may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(3) any false or fraudulent report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation, for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(4) any false or fraudulent statement or representation made in connection with any report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(5) any statement or representation for use by another in obtaining any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, knowing the statement or representation to be false, in whole or in part, by commission or omission, whether or not the claim is allowed or allowable;

(6) any claim for payment, for any goods, service, item, facility, or accommodation, which is not medically necessary in accordance with professionally recognized parameters or as otherwise required by law, for which payment may be made, in whole or in part, under

the medicaid program, whether or not the claim is allowed or allowable; or

(7) any wholly or partially false or fraudulent book, record, document, data or instrument, which is required to be kept or which is kept as documentation for any goods, service, item, facility or accommodation or of any cost or expense claimed for reimbursement for any goods, service, item, facility or accommodation for which payment is, has been, or can be sought, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable.

(8) Any wholly or partially false or fraudulent book, record, document, data or instrument to any properly identified law enforcement officer, any properly identified employee or authorized representative of the attorney general, or to any properly identified employee or agent of the department of social and rehabilitation services, or its fiscal agent, in connection with any audit or investigation involving any claim for payment or rate of payment for any goods, service, item, facility or accommodation payable, in whole or in part, under the medicaid program.

(9) Any false or fraudulent statement or representation made, with the intent to influence any acts or decision of any official, employee or agent of a state or federal agency having regulatory or administrative authority over the Kansas medicaid program.

(b) (1) As defined by subsection (a)(1) through (a)(7), making a false claim, statement or representation to the medicaid program where the aggregate amount of payments illegally claimed is \$25,000 or more is a severity level 7, nonperson felony.

(2) As defined by subsection (a)(1) through (a)(7), making a false claim, statement or representation to the medicaid program where the aggregate amount of payments illegally claimed is at least ~~\$500~~ \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.

(3) As defined by subsection (a)(1) through (a)(7), making a false claim, statement or representation to the medicaid program where the aggregate amount of payments illegally claimed is less than ~~\$500~~ \$1,000 is a class A misdemeanor.

(4) As defined by subsections (a)(8) and (a)(9), making a false claim, statement or representation to the medicaid program is a severity level 9, nonperson felony.

(c) In determining what is medically necessary pursuant to subsection (a)(6) of this section the attorney general may contract with or consult with qualified health care providers and other qualified individuals to identify professionally recognized parameters for the diagnosis or treatment of the recipient's condition, illness or injury.

Sec. 22. K.S.A. 21-3902 is hereby amended to read as follows: 21-3902. (a) Official misconduct is any of the following acts committed by a public officer or employee in the officer or employee's public capacity or under color of the officer or employee's office or employment:

(1) Using or authorizing the use of any aircraft, as defined by K.S.A. 3-201, and amendments thereto, vehicle, as defined by K.S.A. 8-1485, and amendments thereto, or vessel, as defined by K.S.A. 32-1102, and amendments thereto, under the officer's or employee's control or direction, or in the officer's or employee's custody, exclusively for the private benefit or gain of the officer or employee or another.

(2) Knowingly and willfully failing to serve civil process when required by law.

(3) Using confidential information acquired in the course of and related to the officer's or employee's office or employment for the private benefit or gain of the officer or employee or another or to maliciously cause harm to another. As used in this section, "confidential" means any information that is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and amendments thereto.

(4) Except as authorized by law, knowingly, willfully and with the intent to reduce or eliminate competition among bidders or prospective bidders on any contract or proposed contract: (A) Disclosing confidential information regarding proposals or communications from bidders or prospective bidders on any contract or proposed contract; (B) accepting any bid or proposal on a contract or proposed

contract after the deadline for acceptance of such bid or proposal; or (C) altering any bid or proposal submitted by a bidder on a contract or proposed contract.

(5) Except as authorized by law, knowingly destroying, tampering with or concealing evidence of a crime.

(6) Knowingly and willfully submitting to a governmental entity a claim for expenses which is false or duplicates expenses for which a claim is submitted to such governmental entity, another governmental or private entity.

(b) The provisions of subsection (a)(1) shall not apply to any use of persons or property which:

(1) At the time of the use, is authorized by law or by formal written policy of the governmental entity; or

(2) constitutes misuse of public funds, as defined in K.S.A. 21-3910 and amendments thereto.

(c) (1) Official misconduct as defined in subsections (a)(1) through (a)(4) is a class A nonperson misdemeanor.

(2) Official misconduct as defined in subsection (a)(5) is: (A) A severity level 8, nonperson felony if the evidence is evidence of a crime which is a felony; and (B) a class A nonperson misdemeanor if the evidence is evidence of a crime which is a misdemeanor.

(3) Official misconduct as defined in subsection (a)(6) is: (A) A severity level 7, nonperson felony if the claim is for \$25,000 or more; (B) a severity level 9, nonperson felony if the claim is for at least ~~\$500~~ \$1,000 but less than \$25,000; and (C) a class A nonperson misdemeanor for a claim of less than ~~\$500~~ \$1,000.

(4) Upon conviction of official misconduct a public officer or employee shall forfeit such officer or employee's office or employment.

Sec. 23. K.S.A. 21-3904 is hereby amended to read as follows: 21-3904. (a) Presenting a false claim is knowingly and with intent to defraud presenting a claim or demand which is false in whole or in part, to a public officer or body authorized to audit, allow or pay such claim.

(b) (1) Presenting a false claim for \$25,000 or more is a severity level 7, nonperson felony.

(2) Presenting a false claim for at least ~~\$500~~ \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.

(3) Presenting a false claim for less than ~~\$500~~ \$1,000 is a class A nonperson misdemeanor.

Sec. 24. K.S.A. 21-3905 is hereby amended to read as follows: 21-3905. (a) Permitting a false claim is the auditing, allowing, or paying of any claim or demand made upon the state or any subdivision thereof or other governmental instrumentality within the state by a public officer or public employee who knows such claim or demand is false or fraudulent in whole or in part.

(b) (1) Permitting a false claim for \$25,000 or more is a severity level 7, nonperson felony.

(2) Permitting a false claim for at least ~~\$500~~ \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.

(3) Permitting a false claim for less than ~~\$500~~ \$1,000 is a class A nonperson misdemeanor.

(4) Upon conviction of permitting a false claim, a public officer or public employee shall forfeit the officer or employee's office or employment.

Sec. 25. K.S.A. 21-4111 is hereby amended to read as follows: 21-4111. (a) Criminal desecration is:

(1) Obtaining or attempting to obtain unauthorized control of a dead body or remains of any human being or the coffin, urn or other article containing a dead body or remains of any human being;

(2) by means other than by fire or explosive:

(A) Damaging, defacing or destroying the flag, ensign or other symbol of the United States or this state in which another has a property interest without the consent of such other person;

(B) damaging, defacing or destroying any public monument or structure;

(C) damaging, defacing or destroying any tomb, monument, memorial, marker, grave, vault, crypt gate, tree, shrub, plant or any other property in a cemetery; or

(D) damaging, defacing or destroying any place of worship.

(b) (1) Criminal desecration as described in subsections (a)(2)(B), (a)(2)(C) and (a)(2)(D) is:

(A) A severity level 7, nonperson felony if the property is damaged to the extent of \$25,000 or more;

(B) a severity level 9, nonperson felony if the property is damaged to the extent of at least ~~\$500~~ \$1,000 but less than \$25,000; and

(C) a class A nonperson misdemeanor if the property is damaged to the extent of less than ~~\$500~~ \$1,000.

(2) Criminal desecration as described in subsections (a)(1) and (a)(2)(A) is a class A nonperson misdemeanor.

Sec. 26. K.S.A. 2005 Supp. 32-1005 is hereby amended to read as follows: 32-1005. (a) Commercialization of wildlife is knowingly committing any of the following, except as permitted by statute or rules and regulations:

(1) Capturing, killing or possessing, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(2) selling, bartering, purchasing or offering to sell, barter or purchase, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(3) shipping, exporting, importing, transporting or carrying; causing to be shipped, exported, imported, transported or carried; or delivering or receiving for shipping, exporting, importing, transporting or carrying all or any part of any wildlife protected by this section, for profit or commercial purposes; or

(4) purchasing, for personal use or consumption, all or any part of any wildlife protected by this section.

(b) The wildlife protected by this section and the minimum value thereof are as follows:

(1) Eagles, ~~\$500~~ \$1,000;

(2) deer or antelope, \$400;

(3) elk or buffalo, \$600;

(4) furbearing animals, \$25;

(5) wild turkey, \$75;

(6) owls, hawks, falcons, kites, harriers or ospreys, \$200;

(7) game birds, migratory game birds, resident and migratory nongame birds, game animals and nongame animals, \$20 unless a higher amount is specified above;

(8) fish and mussels, the value for which shall be no less than the value listed for the appropriate fish or mussels species in the monetary values of freshwater fish or mussels and fish kill counting guidelines of the American fisheries society, special publication number 30;

(9) turtles, \$10 each for unprocessed turtles or \$8 per pound or fraction of a pound for processed turtle parts;

(10) bullfrogs, \$2, whether dressed or not dressed;

(11) any wildlife classified as threatened or endangered, \$200 unless a higher amount is specified above; and

(12) any other wildlife not listed above, \$10.

(c) Possession of wildlife, in whole or in part, captured or killed in violation of law and having an aggregate value of ~~\$500~~ \$1,000 or more, as specified in subsection (b), is prima facie evidence of possession for profit or commercial purposes.

(d) Commercialization of wildlife having an aggregate value of ~~\$500~~ \$1,000 or more, as specified in subsection (b), is a severity level 10, nonperson felony. Commercialization of wildlife having an aggregate value of less than ~~\$500~~ \$1,000, as specified in subsection (b), is a class A nonperson misdemeanor.

(e) In addition to any other penalty provided by law, a court convicting a person of the crime of commercialization of wildlife may:

(1) Confiscate all equipment used in the commission of the crime and may revoke for a period of up to 10 years all licenses and permits issued to the convicted person by the Kansas department of wildlife and parks; and

(continued)

(2) order restitution to be paid to the Kansas department of wild- and parks for the wildlife taken, which restitution shall be in an amount not less than the aggregate value of the wildlife, as specified in subsection (b).

(f) The provisions of this section shall apply only to wildlife illegally harvested and possessed by any person having actual knowledge that such wildlife was illegally harvested.

Sec. 27. K.S.A. 39-717 is hereby amended to read as follows: 39-717. (a) Assistance granted under the provisions of this act shall not:

(1) Be sold or otherwise disposed of to others by the client or by anyone else except under the rules and regulations of the secretary of social and rehabilitation services; or

(2) knowingly be purchased, acquired or possessed by anyone unless the purchase, acquisition or possession is authorized by the rules and regulations of the secretary of social and rehabilitation services or the laws under which the assistance was granted.

(b) (1) Any person convicted of violating the provisions of this section shall be guilty of a class A nonperson misdemeanor if the value of the assistance sold or otherwise disposed of, purchased, acquired or possessed was less than ~~\$500~~ \$1,000.

(2) Any person convicted of violating the provisions of this section shall be guilty of a severity level 9, nonperson felony if the value of the assistance sold or otherwise disposed of, purchased, acquired or possessed was at least ~~\$500~~ \$1,000 but less than \$25,000.

(3) Any person convicted of violating the provisions of this section shall be guilty of a severity level 7, nonperson felony if the value of the assistance sold or otherwise disposed of, purchased, acquired or possessed was \$25,000 or more.

(c) None of the money paid, payable, or to be paid, or any tangible assistance received under this act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Sec. 28. K.S.A. 40-247 is hereby amended to read as follows: 40-247. (a) An insurance agent or broker who acts in negotiating or renewing or continuing a contract of insurance including any type of annuity by an insurance company lawfully doing business in this state, and who receives any money or substitute for money as a premium for such a contract from the insured, whether such agent or broker shall be entitled to an interest in same or otherwise, shall be deemed to hold such premium in trust for the company making the contract. If such agent or broker fails to pay the same over to the company after written demand made upon such agent or broker, less such agent's or broker's commission and any deductions, to which by the written consent of the company such agent or broker may be entitled, such failure shall be prima facie evidence that such agent or broker has used or applied the premium for a purpose other than paying the same over to the company.

(b) (1) An agent or broker who violates the provisions of this section shall be guilty of a:

(A) Severity level 7, nonperson felony if the value of the insurance premium is \$25,000 or more;

(B) severity level 9, nonperson felony if the value of the insurance premium is at least ~~\$500~~ \$1,000 but less than \$25,000; or

(C) class A nonperson misdemeanor if the value of the insurance premium is less than ~~\$500~~ \$1,000.

(2) If the value of the insurance premium is less than ~~\$500~~ \$1,000 and such agent or broker has, within five years immediately preceding commission of the crime, been convicted of violating this section two or more times shall be guilty of a severity level 9, nonperson felony.

Sec. 29. K.S.A. 40-2,118, as amended by section 1 of 2006 House Substitute for Senate Bill No. 207, is hereby amended to read as follows: 40-2,118. (a) For purposes of this act a "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an

insurer, purported insurer, broker or any agent thereof, any written statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto.

(b) An insurer that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed shall provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may require.

(c) Any other person that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed may provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may request.

(d) (1) Each insurer shall have antifraud initiatives reasonably calculated to detect fraudulent insurance acts. Antifraud initiatives may include: fraud investigators, who may be insurer employees or independent contractors; or an antifraud plan submitted to the commissioner no later than July 1, 2007. Each insurer that submits an antifraud plan shall notify the commissioner of any material change in the information contained in the antifraud plan within 30 days after such change occurs. Such insurer shall submit to the commissioner in writing the amended antifraud plan.

The requirement for submitting any antifraud plan, or any amendment thereof, to the commissioner shall expire on the date specified in paragraph (2) of this subsection unless the legislature reviews and reenacts the provisions of paragraph (2) pursuant to K.S.A. 45-229 and amendments thereto.

(2) Any antifraud plan, or any amendment thereof, submitted to the commissioner for informational purposes only shall be confidential and not be a public record and shall not be subject to discovery or subpoena in a civil action unless following an in camera review, the court determines that the antifraud plan is relevant and otherwise admissible under the rules of evidence set forth in article 4, chapter 60 of the Kansas Statutes Annotated, and amendments thereto. The provisions of this paragraph shall expire on July 1, 2011, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2011.

(e) Except as otherwise specifically provided in K.S.A. 21-3718 and amendments thereto and K.S.A. 44-5,125 and amendments thereto, a fraudulent insurance act shall constitute a severity level 6, nonperson felony if the amount involved is \$25,000 or more; a severity level 7, nonperson felony if the amount is at least \$5,000 but less than \$25,000; a severity level 8, nonperson felony if the amount is at least \$1,000 but less than \$5,000; ~~a severity level 9, nonperson felony if the amount is at least \$500 but less than \$1,000;~~ and a class C nonperson misdemeanor if the amount is less than ~~\$500~~ \$1,000.

(f) In addition to any other penalty, a person who violates this statute shall be ordered to make restitution to the insurer or any other person or entity for any financial loss sustained as a result of such violation. An insurer shall not be required to provide coverage or pay any claim involving a fraudulent insurance act.

(g) This act shall apply to all insurance applications, ratings, claims and other benefits made pursuant to any insurance policy.

Sec. 30. K.S.A. 2005 Supp. 40-5013 is hereby amended to read as follows: 40-5013. (a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of this act, the Kansas insurance statutes or any rule and regulation or order thereunder, the commissioner may in the exercise of discretion, order any one or more of the following:

(1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, unless the person knew or reasonably

should have known such person was in violation of this act, the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be not more than \$2,000 for each and every act or violation;

(2) suspension or revocation of the person's license or certificate if such person knew or reasonably should have known that such person was in violation of this act, the Kansas insurance statutes or any rule and regulation or order thereunder; or

(3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision.

(b) If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, may impose a penalty of up to \$500 for each violation or act, along with an additional penalty of up to \$100 for each week thereafter that such report or other information is not provided to the commissioner.

(c) If the commissioner makes written findings of fact that there is a situation involving an immediate danger to the public health, safety or welfare or the public interest will be irreparably harmed by delay in issuing an order under paragraph (3) of subsection (a), the commissioner may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto. Upon the entry of such an order, the commissioner shall promptly notify the person subject to the order that: (1) It has been entered; (2) the reasons therefor; and (3) that upon written request within 15 days after service of the order the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to the person subject to the order, by written findings of fact and conclusions of law, shall vacate, modify or make permanent the order.

(d) (1) Any person who violates the provisions of this act shall be guilty of a:

(A) Severity level 7, nonperson felony if the value of the viatical settlement contract is \$25,000 or more;

(B) severity level 9, nonperson felony if the value of the viatical settlement contract is at least ~~\$500~~ \$1,000 but less than \$25,000; or

(C) class A nonperson misdemeanor if the value of the viatical settlement contract is less than ~~\$500~~ \$1,000.

(2) If the value of the insurance premium is less than ~~\$500~~ \$1,000 and such agent or broker has, within five years immediately preceding commission of the crime, been convicted of violating this section two or more times shall be guilty of a severity level 9, nonperson felony.

(e) Restitution may be ordered in addition to, but not in lieu of, any other penalty imposed under this act.

Sec. 31. K.S.A. 44-5,125 is hereby amended to read as follows: 44-5,125. (a) (1) Any person who obtains or attempts to obtain workers compensation benefits for such person or another, or who denies or attempts to deny the obligation to make any payment of workers compensation benefits by knowingly or intentionally: (A) Making a false or misleading statement, (B) misrepresenting or concealing a material fact, (C) fabricating, altering, concealing or destroying a document; (D) receiving temporary total disability benefits or permanent total disability benefits to which they are not entitled, while employed, or (E) conspiring with another person to commit any act described by paragraph (1) of this subsection (a), shall be guilty of:

(i) A class A nonperson misdemeanor, if the amount received as a benefit or other payment under the workers compensation act as a result of such act or the amount that the person otherwise benefited

monetarily as a result of a violation of this subsection (a) is ~~\$500~~ \$1,000 or less;

(ii) a severity level 9, nonperson felony, if such amount is more than ~~\$500~~ \$1,000 but less than \$25,000;

(iii) a severity level 7, nonperson felony, if the amount is more than \$25,000, but less than \$50,000;

(iv) a severity level 6, nonperson felony if the amount is more than \$50,000, but less than \$100,000; or

(v) a severity level 5, nonperson felony if the amount is more than \$100,000.

(b) Any person who knowingly and intentionally presents a false certificate of insurance that purports that the presenter is insured under the workers compensation act, shall be guilty of a level 8, nonperson felony.

(c) A health care provider under the workers compensation act who knowingly and intentionally submits a charge for health care that was not furnished, shall be guilty of a level 9, nonperson felony.

(d) Any person who obtains or attempts to obtain a more favorable workers compensation insurance premium rate than that to which the person is entitled, who prevents, reduces, avoids or attempts to prevent, reduce or avoid the payment of any compensation under the workers compensation act, or who fails to communicate a settlement offer or similar information to a claimant under the workers compensation act, by, in any such case knowingly or intentionally: (1) Making a false or misleading statement; (2) misrepresenting or concealing a material fact; (3) fabricating, concealing or destroying a document; or (4) conspiring with another person or persons to commit the acts described in clause (1), (2) or (3) of this subsection shall be guilty of a level 9, nonperson felony.

(e) Any person who has received any amount of money as a benefit or other payment under the workers compensation act as a result of a violation of subsection (a) or (c) and any person who has otherwise benefited monetarily as a result of a violation of subsection (a) or (c) shall be liable to repay an amount equal to the amount so received by such person or the amount by which such person has benefited monetarily, with interest thereon. Any such amount, plus any accrued interest thereon, shall bear interest at the current rate of interest prescribed by law for judgments under subsection (e)(1) of K.S.A. 16-204 and amendments thereto per month or fraction of a month until repayment of such amount, plus any accrued interest thereon. The interest shall accrue from the date of overpayment or erroneous payment of any such amount or the date such person benefited monetarily.

(f) Any person aggrieved by a violation of subsection (a), (b), (c) or (d) shall have a cause of action against any other person to recover any amounts of money erroneously paid as benefits or any other amounts of money paid under the workers compensation act, and to seek relief for other monetary damages, for which liability has accrued under this section against such other person. Relief under this subsection is to be predicated upon exhaustion of administrative remedies available in K.S.A. 44-5,120 and amendments thereto.

(g) Nothing in this section shall prohibit an employer from exercising a right to reimbursement under K.S.A. 44-534a, 44-556 or 44-569a and amendments thereto.

(h) Prosecution for any crime under this section shall be commenced within five years subject to the time period set forth in subsection (8) of K.S.A. 21-3106 and amendments thereto.

Sec. 32. K.S.A. 2005 Supp. 47-1827 is hereby amended to read as follows: 47-1827. (a) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility, damage or destroy an animal facility or any animal or property in or on an animal facility.

(b) No person shall, without the effective consent of the owner, acquire or otherwise exercise control over an animal facility, an animal from an animal facility or other property from an animal facility, with the intent to deprive the owner of such facility, animal or property and to damage the enterprise conducted at the animal facility.

(continued)

(c) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility:

(1) Enter an animal facility, not then open to the public, with intent to commit an act prohibited by this section;

(2) remain concealed, with intent to commit an act prohibited by this section, in an animal facility;

(3) enter an animal facility and commit or attempt to commit an act prohibited by this section; or

(4) enter an animal facility to take pictures by photograph, video camera or by any other means.

(d) (1) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility, enter or remain on an animal facility if the person:

(A) Had notice that the entry was forbidden; or

(B) received notice to depart but failed to do so.

(2) For purposes of this subsection (d), "notice" means:

(A) Oral or written communication by the owner or someone with apparent authority to act for the owner;

(B) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or

(C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

(e) No person shall, without the effective consent of the owner and with the intent to damage or destroy the field crop product, damage or destroy any field crop product that is grown in the context of a product development program in conjunction or coordination with a private research facility or a university or any federal, state or local governmental agency.

(f) No person shall, without the effective consent of the owner and with the intent to damage or destroy the field crop product, enter any property, with the intent to damage or destroy any field crop product that is grown in the context of a product development program in conjunction or coordination with a private research facility or a university or any federal, state or local governmental agency.

(g) (1) Violation of subsection (a) or (e) is a severity level 7, nonperson felony if the facility, animals, field crop product or property is damaged or destroyed to the extent of \$25,000 or more. Violation of subsection (a) or (e) is a severity level 9, nonperson felony if the facility, animals, field crop product or property is damaged or destroyed to the extent of at least ~~\$500~~ \$1,000 but less than \$25,000. Violation of subsection (a) or (e) is a class A nonperson misdemeanor if the facility, animals, field crop product or property damaged or destroyed is of the value of less than ~~\$500~~ \$1,000 or is of the value of ~~\$500~~ \$1,000 or more and is damaged to the extent of less than ~~\$500~~ \$1,000.

(2) Violation of subsection (b) is a severity level 10, nonperson felony.

(3) Violation of subsection (c) is a class A, nonperson misdemeanor.

(4) Violation of subsection (d) or (f) is a class B nonperson misdemeanor.

(h) The provisions of this section shall not apply to lawful activities of any governmental agency or employees or agents thereof carrying out their duties under law.

Sec. 33. K.S.A. 65-4150 is hereby amended to read as follows: 65-4150. As used in this act:

(a) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(b) "Deliver" or "delivery" means actual, constructive or attempted transfer from one person to another, whether or not there is an agency relationship.

(c) "Drug paraphernalia" means all equipment, ~~products~~ and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, com-

pounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the uniform controlled substances act. "Drug paraphernalia" shall include, but is not limited to:

(1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

(3) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances used or intended for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances.

(7) Separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marihuana.

(8) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances.

(9) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances.

(10) Containers and other objects used or intended for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body.

(12) Objects used or intended for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(B) water pipes;

(C) carburetion tubes and devices;

(D) smoking and carburetion masks;

(E) roach clips (objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand);

(F) miniature cocaine spoons and cocaine vials;

(G) chamber pipes;

(H) carburetor pipes;

(I) electric pipes;

(J) air-driven pipes;

(K) chillums;

(L) bongs; and

(M) ice pipes or chillers.

(d) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association or other legal entity.

(e) "Simulated controlled substance" means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

Sec. 34. K.S.A. 2005 Supp. 65-7006 is hereby amended to read as follows: 65-7006. (a) It shall be unlawful for any person to possess ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phen-

ylpropranolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance.

(b) It shall be unlawful for any person to market, sell, distribute, advertise, or label any drug product containing ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropranolamine, or their salts, isomers or salts of isomers if the person knows or reasonably should know that the purchaser will use the product to manufacture a controlled substance.

(c) It shall be unlawful for any person to market, sell, distribute, advertise or label any drug product containing ephedrine, pseudoephedrine, or phenylpropranolamine, or their salts, isomers or salts of isomers for indication of stimulation, mental alertness, weight loss, appetite control, energy or other indications not approved pursuant to the pertinent federal over-the-counter drug final monograph or tentative final monograph or approved new drug application.

(d) For persons arrested and charged under this section, bail shall be at least \$50,000 cash or surety, unless the court determines on the record that the defendant is not likely to re-offend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

(e) A violation of this section shall be a drug severity level \pm 2 felony.

Sec. 35. K.S.A. 16-305, 19-3519, 21-3211, 21-3212, 21-3720, 21-3729, 21-3734, 21-3902, 21-3904, 21-3905, 21-4111, 22-2501, 39-717, 40-247, 40-2,118, as amended by section 1 of 2006 House Substitute for Senate Bill No. 207, 44-5,125, and 65-4150 and K.S.A. 2005 Supp. 21-3437, 21-3763, 21-3846, 21-4716, 22-3901, 32-1005, 40-5013, 47-1827 and 65-7006 are hereby repealed.

Sec. 36. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 25, 2006.)

HOUSE Substitute for SENATE BILL No. 337

AN ACT concerning courts; relating to compensation for certain judicial personnel; evaluating the performance of judges and justices; establishing the commission on judicial performance; increasing fees; employment of retired judges; providing employer contribution for health insurance; court of appeals; child exchange and visitation centers; amending K.S.A. 20-2622, 59-104, 60-1621, 60-2001, 60-2005, 61-4001, 75-3120h and 75-3120l and K.S.A. 2005 Supp. 20-367, 20-3002, 28-110, 28-172a, 75-3120g and 75-3120k and K.S.A. 61-2704, as amended by section 1 of 2006 House Bill No. 2704, and K.S.A. 2005 Supp. 21-4619, as amended by section 21 of 2006 Senate Bill No. 418 and 22-2410, as amended by section 8 of 2006 Senate Bill No. 196 and repealing the existing sections.

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

New Section 1. On and after July 1, 2006: (a) The commission on judicial performance is hereby established as an independent committee of the Kansas judicial council. The budget of the commission shall be a part of the budget of the judicial council. The judicial council shall provide administrative assistance to the commission. The commission on judicial qualifications and the office of judicial administration shall assist the commission, if requested by the commission.

(b) The provisions of sections 1 through 7, and amendments thereto shall expire on June 30, 2010.

New Sec. 2. On and after July 1, 2006: (a) The commission shall consist of thirteen members appointed by the judicial council. The council shall appoint commission members of outstanding competence and reputation. Six members of the commission shall be non-lawyers and six members of the commission shall be lawyers, justices or judges. The judicial council shall appoint the chair of the commission, who shall be a lawyer, justice or judge. At least one non-lawyer commission member and at least one lawyer, justice or judge commission member shall reside in each congressional district. The

rules of the commission shall provide that the terms of the commission members are staggered.

(b) For the purposes of sections 1 through 7, and amendments thereto, the commission shall not be subject to the Kansas open meetings act as provided in K.S.A. 75-4317 et seq., and amendments thereto.

(c) As used in sections 1 through 7, and amendments thereto:

(1) "Lawyer" means an attorney registered as active pursuant to supreme court rule.

(2) "Judge" means a current or retired Kansas judge of the district court and a current or retired judge of the Kansas court of appeals.

(3) "Justice" means a current or retired justice of the Kansas supreme court.

New Sec. 3. On and after July 1, 2006, the goals of the judicial performance evaluation process are:

(a) To improve the judicial performance of individual judges and justices and thereby improve the judiciary as a whole;

(b) where judges and justices are subject to retention elections, to disseminate the results from the judicial performance evaluation process to enable voters to make informed decisions about continuing judges and justices in office; and

(c) to protect judicial independence while promoting public accountability of the judiciary.

New Sec. 4. On and after July 1, 2006, the commission shall, with the aid of professionals where appropriate:

(a) Create surveys of court users who have directly observed the judge's or justice's performance or interacted with the judge or justice, including attorneys, litigants, jurors and other persons the commission deems appropriate. The surveys shall be dispersed, collected and tabulated by an independent organization or in any other manner that insures confidentiality. The surveys shall ask those surveyed to evaluate the judges and justices on such judge's or justice's ability, integrity, impartiality, communication skills, professionalism, temperament and administrative capacity suitable to the jurisdiction and level of court;

(b) develop clear, measurable performance standards upon which the survey questions are based;

(c) develop dissemination plans that:

(1) Protect confidentiality when the judicial performance evaluation is used only for self-improvement;

(2) make the judicial performance evaluation results widely available when they are to be used to assist voters in evaluating the performance of judges and justices subject to retention elections; and

(3) make public recommendations regarding whether or not to retain judges and justices subject to retention elections;

(d) develop a procedure for judges and justices to receive and respond to survey results before such results are made public;

(e) establish a mechanism to incorporate evaluation results in designing judicial education programs; and

(f) adopt rules for implementation of the judicial performance evaluation process, subject to approval by the Kansas supreme court.

New Sec. 5. On and after July 1, 2006, the surveys of court users, survey results and judicial performance evaluation results are confidential and shall not be disclosed except in accordance with the rules of the commission or the Kansas supreme court. The evaluation of judges subject to political elections shall be used solely for self-improvement. A judge subject to political elections shall not reveal data from any portion of the survey or the results of the survey.

New Sec. 6. On and after July 1, 2006, upon certification by the commission to the judicial council that: (a) Funding is not adequate to support a judicial evaluation program of high quality; (b) the Kansas supreme court has failed to adopt appropriate rules as set forth in this act; or (c) in the opinion of the commission the program is no longer of appropriate value, then the program may be reduced in scope or discontinued as determined by the judicial council.

(continued)

New Sec. 7. On and after July 1, 2006, there is hereby established in the state treasury the judicial performance fund. All moneys credited to the fund shall be used for the judicial performance evaluation process. All expenditures from the judicial performance fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the chairperson of the Kansas judicial council or by the person or persons designated by the chairperson of the Kansas judicial council.

Sec. 8. On and after July 1, 2006, K.S.A. 2005 Supp. 20-367 is hereby amended to read as follows: 20-367. (a) *On and after July 1, 2006 through June 30, 2010*, of the remittance of the balance of docket fees received by the state treasurer from clerks of the district court pursuant to subsection (f) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit to the *judicial performance fund*, a sum equal to ~~3.54%~~ 3.54% of the remittances of docket fees; to the access to justice fund, a sum equal to ~~5.90%~~ 4.92% of the remittances of docket fees; to the juvenile detention facilities fund, a sum equal to ~~3.27%~~ 2.73% of the remittances of docket fees; to the judicial branch education fund, the state treasurer shall deposit and credit a sum equal to ~~2.52%~~ 2.10% of the remittances of docket fees; to the crime victims assistance fund, the state treasurer shall deposit and credit a sum equal to ~~.67%~~ .56% of the remittances of the docket fees; to the protection from abuse fund, the state treasurer shall deposit and credit a sum equal to ~~3.22%~~ 2.68% of the remittances of the docket fees; to the judiciary technology fund, the state treasurer shall deposit and credit a sum equal to ~~5.10%~~ 4.25% of the remittances of docket fees; to the dispute resolution fund, the state treasurer shall deposit and credit a sum equal to ~~.41%~~ .34% of the remittances of docket fees; to the Kansas juvenile delinquency prevention trust fund, the state treasurer shall deposit and credit a sum equal to ~~1.49%~~ 1.24% of the remittances of docket fees; to the permanent families account in the family and children investment fund, the state treasurer shall deposit and credit a sum equal to ~~.25%~~ .21% of the remittances of docket fees; to the trauma fund, a sum equal to ~~1.77%~~ 1.48% of the remittance of docket fees; to the judicial council fund, a sum equal to ~~1.33%~~ 1.11% of the remittance of docket fees; to the child exchange and visitation centers fund, a sum equal to .67% of the remittance of docket fees; and to the judicial branch nonjudicial salary initiative fund, the state treasurer shall deposit and credit a sum equal to ~~21.41%~~ 17.85% of the remittance of docket fees. The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.

(b) *On and after July 1, 2010*, of the remittance of the balance of docket fees received by the state treasurer from clerks of the district court pursuant to subsection (f) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit to the access to justice fund, a sum equal to 5.10% of the remittances of docket fees; to the juvenile detention facilities fund, a sum equal to 2.83% of the remittances of docket fees; to the judicial branch education fund, the state treasurer shall deposit and credit a sum equal to 2.18% of the remittances of docket fees; to the crime victims assistance fund, the state treasurer shall deposit and credit a sum equal to .58% of the remittances of the docket fees; to the protection from abuse fund, the state treasurer shall deposit and credit a sum equal to 2.78% of the remittances of the docket fees; to the judiciary technology fund, the state treasurer shall deposit and credit a sum equal to 4.41% of the remittances of docket fees; to the dispute resolution fund, the state treasurer shall deposit and credit a sum equal to .35% of the remittances of docket fees; to the Kansas juvenile delinquency prevention trust fund, the state treasurer shall deposit and credit a sum equal to 1.29% of the remittances of docket fees; to the permanent families account in the family and children investment fund, the state treasurer shall deposit and credit a sum equal to .22% of the remittances of docket fees; to the trauma fund, a sum equal to 1.53% of the remittance of docket fees; to the judicial council fund, a sum equal to 1.15% of the remittance of docket fees; to the child exchange and visitation centers fund, a sum equal to .69% of the remittance of

docket fees; and to the judicial branch nonjudicial salary initiative fund, the state treasurer shall deposit and credit a sum equal to 18.51% of the remittance of docket fees. The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.

Sec. 9. On and after July 1, 2006, K.S.A. 20-2622 is hereby amended to read as follows: 20-2622. (a) On and after the effective date of this act, a retirant who retires as provided in K.S.A. 20-2608 and amendments thereto, may return to temporary judicial duties while receiving service retirement benefits. Upon written agreement with the Kansas supreme court prior to retirement, such retirant shall be available to perform assigned judicial duties for not more than 104 days or 40% of each year. Notwithstanding the provisions of law in effect on the retirement date of a retirant, such retirant shall receive a stipend, payable monthly, equal to 25% of the current monthly salary of judges or justices serving in the same position as that held by the retirant at the time of retirement. Such agreement shall be for a period of not more than two years. A retirant may enter into subsequent agreements, except that the aggregate of these agreements shall not exceed 12 years. *The supreme court is hereby authorized and may pay on behalf of such retirant the amount specified by the Kansas state employees health care commission under K.S.A. 75-6508, and amendments thereto, as if the retirant is serving as a full-time employee of the judicial branch and participating in the state health care benefits program to provide for such participation of the retirant. Any retirant entering into a written agreement with the Kansas supreme court to be available to perform assigned judicial duties for less than 104 days or 40% of each year for a proportionally reduced stipend shall be considered as if the retirant is serving under a part-time appointment as an employee of the judicial branch and participating in the state health care benefits program to provide for such participation of the employee and the supreme court may pay on behalf of the retirant the amount specified by the Kansas state employees health care commission and K.S.A. 75-6508, and amendments thereto.*

(b) Within five years after retirement, a retirant who did not enter into an agreement as provided for in subsection (a) prior to retirement may enter into such a written agreement within 30 days prior to any anniversary date of retirement. Agreements shall be signed by the chief justice with the approval of a majority of the justices of the Kansas supreme court.

(c) If a written agreement is entered into pursuant to the provisions of subsection (a), and notice is received by the chief justice of the refusal of the retirant to accept a temporary assignment without just cause, the written agreement shall be terminated.

(d) Nothing in this act shall be construed to require a retirant of the retirement system for judges to enter into an agreement to perform temporary judicial duties.

(e) Nothing in this act shall be construed to limit the supreme court's ability to make judicial assignments pursuant to the provisions of K.S.A. 20-310b and 20-2616 and amendments thereto; and the stipend provided by this act shall not be counted toward the annual limitation on compensation provided in K.S.A. 20-2616 and amendments thereto.

(f) Any retirant who has fulfilled the requirements of an agreement entered into pursuant to this act may continue to accept judicial assignments and shall be compensated for such subsequent assignments in accordance with the provisions of K.S.A. 20-310b and 20-2616 and amendments thereto.

(g) If an assignment given to a retirant in accordance with this act will require the retirant to exceed the 104 day limitation provided in subsection (a), the retirant shall be compensated in accordance with the provisions of K.S.A. 20-2616 and amendments thereto.

(h) For purposes of this act, "retirant" shall include any justice of the Kansas supreme court, judge of the Kansas court of appeals, and district judge of any district court of Kansas who retired

pursuant to the provisions of the retirement system for judges. Retiree shall not include any district magistrate judge.

Sec. 10. On and after July 1, 2006, K.S.A. 2005 Supp. 20-3002 is hereby amended to read as follows: 20-3002. (a) On and after January 1, 2003, through December 31, 2004, the court of appeals shall consist of 11 judges whose positions shall be numbered one to 11. On and after January 1, 2005, through December 31, 2006 2007, the court of appeals shall consist of 12 judges whose positions shall be numbered one to 12. On and after January 1, 2007 2008, through December 31, 2007 2008, the court of appeals shall consist of 13 judges whose positions shall be numbered one to 13. On and after January 1, 2008 2009, the court of appeals shall consist of 14 judges whose positions shall be numbered one to 14. Judges of the court of appeals shall possess the qualifications prescribed by law for justices of the supreme court.

(b) Judges of the court of appeals shall be selected in the manner provided by K.S.A. 20-3003 through 20-3010, and amendments thereto. Each judge of the court of appeals shall receive an annual salary in the amount prescribed by law. No judge of the court of appeals may receive additional compensation for official services performed by the judge. Each such judge shall be reimbursed for expenses incurred in the performance of such judge's official duties in the same manner and to the same extent justices of the supreme court are reimbursed for such expenses.

(c) The supreme court may assign a judge of the court of appeals to serve temporarily on the supreme court.

(d) Any additional court of appeals judge position created by this section shall be considered a position created by the supreme court and not a civil appointment to a state office pursuant to K.S.A. 46-234, and amendments thereto.

Sec. 11. On and after July 1, 2006, K.S.A. 2005 Supp. 21-4619 as amended by Section 21 of 2006 Senate Bill No. 418 is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, non-drug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

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

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

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

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or

as prohibited by any law of another state which is in substantial conformity with that statute;

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

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

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

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

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

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

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in the first degree as defined in K.S.A. 21-3401, and amendments thereto; (14) murder in the second degree as defined in K.S.A. 21-3402, and amendments thereto; (15) voluntary manslaughter as defined in K.S.A. 21-3403, and amendments thereto; (16) involuntary manslaughter as defined in K.S.A. 21-3404, and amendments thereto; (17) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 2005 Supp. 21-3442, and amendments thereto; (18) sexual battery as defined in K.S.A. 21-3517, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed; (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amendments thereto; or (20) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

(d) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. *Except as otherwise provided by law, a petition for expungement shall be accompanied by a payment of a docket fee in the amount of \$100.* The petition shall state: (1) The defendant's full name;

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

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

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

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

(6) the identity of the convicting court, arresting law enforcement authority or diverting authority. ~~There shall be no docket fee for filing a petition pursuant to this section.~~ All petitions for expunge-

(continued)

ment shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

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

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

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

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

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

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

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

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2005 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

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

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

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

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

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

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

(H) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 2005 Supp. 17-12a102, and amendments thereto; or

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

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

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

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

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

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

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

(1) The person whose record was expunged;

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

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

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

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

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

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

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

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

(10) the Kansas sentencing commission;

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

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

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

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

(15) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act.

(j) *The docket fee collected at the time the petition for expungement is filed shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.*

Sec. 12. On and after July 1, 2006, K.S.A. 2005 Supp. 22-2410, as amended by section 8 of 2006 Senate Bill No. 196, is hereby amended to read as follows: 22-2410. (a) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

(b) When a petition for expungement is filed, the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. When a petition for expungement is filed, the official court file shall be separated from the other records of the court, and shall be disclosed only to a judge of the court and members of the staff of the court designated by a judge of the district court, the prosecuting attorney, the arresting law enforcement agency, or any other person when authorized by a court order, subject to any conditions imposed by the order. *Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100.* The petition shall state: (1) The petitioner's full name;

(2) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;

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

(4) the crime for which the petitioner was arrested;

(5) the date of the petitioner's arrest; and

(6) the identity of the arresting law enforcement agency.

~~There shall be no docket fee for filing a petition pursuant to this section. In addition, no other~~ No surcharge or fee shall be imposed to any person filing a petition pursuant to this section, who was arrested as a result of being a victim of identity theft under K.S.A. 2005 Supp. 21-4018, and amendments thereto. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(c) At the hearing on a petition for expungement, the court shall order the arrest record and subsequent court proceedings, if any, expunged upon finding: (1) The arrest occurred because of mistaken identity;

(2) a court has found that there was no probable cause for the arrest;

(3) the petitioner was found not guilty in court proceedings; or

(4) the expungement would be in the best interests of justice and (A) charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest. If an order of expungement is entered, the petitioner shall be treated as not having been arrested.

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interests of public welfare, the records should be available for any of the following purposes: (1) In any application for employment as a detective with a private detective agency, as defined in K.S.A. 75-7b01 and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01 and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services;

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

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

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

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

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

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

(8) in any other circumstances which the court deems appropriate.

(f) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(g) Whenever a petitioner's arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as directed by the order of expungement or when requested by the person whose arrest record was expunged.

(h) *The docket fee collected at the time the petition for expungement is filed shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.*

Sec. 13. On and after July 1, 2006, K.S.A. 2005 Supp. 28-110 is hereby amended to read as follows: 28-110. The ~~sheriffs~~ sheriff of each county in the state shall charge the following fees for the services required by law to be performed by them:

Serving or executing and returning any writ, process, order or notice, including a copy of the same, whenever a copy is required by law, except as otherwise provided, for the first person	\$5.00
Serving warrants and making return thereof	1.00
Making arrests as law enforcement officer	1.00
Serving order of attachment, arrest or replevin and returning same	2.00
Making levy under execution	2.00
Appraisal of property	2.00
Return of "no property found"	2.00

(continued)

Approving and returning undertaking bond or recognizance	1.00
Advertising property for sale	2.00
Offering for sale or selling property.....	2.50
Taking inventory of personal property, each day	10.00
Sheriff's deed and acknowledgment, to be paid out of the proceeds of the sale of real estate conveyed.....	5.00
Issuing certificates of sale and recording same.....	2.00
Summoning talesman, each50

The sheriff shall charge, for witnesses whose attendance is procured under attachment and who are unable to pay their fare, actual expenses and mileage in an amount set in accordance with K.S.A. 75-3203a, and amendments thereto, and rules and regulations adopted pursuant thereto. If the writ, process, order or notice contains the names of more than one person, no fee shall be taxed or allowed and no person shall be required to pay any fee unless at the time of making returns the sheriff makes and files with the returns, or as a part thereof, a statement showing the service on the first person named by the sheriff and the service on the second person named by the sheriff and so on for each person served. If more than one process is served in the same case or on the same person, not requiring more than one journey from the office, the sheriff shall charge a fee for one service only. If more than one process for the same person, or in the same case, is issued and is in the hands of the sheriff at one time, it shall be the duty of the sheriff to make service of the processes, if possible, on the one trip. Where service is not affected or timely return made pursuant to K.S.A. 60-312 or 61-3005, and amendments thereto, no fee shall be taxed or allowed on subsequent alias, writ, process, order or notice as required to effect service and the return of service. Except as provided by K.S.A. 19-269, and amendments thereto, the sheriff shall be reimbursed for the necessary transportation and board expenses incurred while serving under requisition made by the governor. All fees charged by the sheriff pursuant to this section for the same case may be paid by a single check, money order or other form of payment at the discretion of the person making such payment. The state of Kansas and all cities and counties municipalities in this state, as defined in K.S.A. 12-105a, and amendments thereto, are hereby exempt, in any civil action in which such state, city or county or municipality is involved, from paying service of process fees prescribed herein.

Sec. 14. On and after July 1, 2006, K.S.A. 2005 Supp. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

(1) *On and after July 1, 2006 through June 30, 2010:*

Murder or manslaughter.....	\$164.50 \$166.50
Other felony.....	147.00 157.00
Misdemeanor.....	112.00 122.00
Forfeited recognizance	62.50 64.50
Appeals from other courts	62.50 64.50

(2) *On and after July 1, 2010:*

Murder or manslaughter.....	\$164.50
Other felony.....	155.00
Misdemeanor.....	120.00
Forfeited recognizance	62.50
Appeals from other courts	62.50

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways (including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto), a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and amendments thereto or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, *on and after July 1, 2006 through June 30, 2010*, a docket fee of ~~\$55~~

\$60 shall be charged, and on and after July 1, 2010, a docket fee of \$58 shall be charged. When an action is disposed of under subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, whether by mail or in person, *on and after July 1, 2006 through June 30, 2010*, the docket fee to be paid as court costs shall be ~~\$55~~ \$60, *and on and after July 1, 2010, the docket fee to be paid as court costs shall be \$58.*

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, *on and after July 1, 2006 through June 30, 2010*, a docket fee of ~~\$55~~ \$60 shall be charged, *and on and after July 1, 2010, a docket fee of \$58 shall be charged.* When an action is disposed of under subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or in person, *on and after July 1, 2006 through June 30, 2010*, the docket fee to be paid as court costs shall be ~~\$55~~ \$60, *and on and after July 1, 2010, the docket fee to be paid as court costs shall be \$58.*

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund, the emergency medical services operating fund and the judiciary technology fund shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for detention facility processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees for the sexual assault evidence collection kit, fees for conducting an examination of a sexual assault victim, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

Sec. 15. On and after July 1, 2006, K.S.A. 59-104 is hereby amended to read as follows: 59-104. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated without payment of an appropriate docket fee as follows:

(1) *On and after July 1, 2006 through June 30, 2010:*

Treatment of mentally ill	25.50 27.50
Treatment of alcoholism or drug abuse.....	25.50 27.50
Determination of descent of property	40.50 42.50
Termination of life estate.....	39.50 41.50
Termination of joint tenancy	39.50 41.50
Refusal to grant letters of administration	39.50 41.50
Adoption.....	39.50 41.50

Filing a will and affidavit under K.S.A. 59-618a.....	39.50 41.50
Guardianship.....	60.50 62.50
Conservatorship.....	60.50 62.50
Trusteeship.....	60.50 62.50
Combined guardianship and conservatorship.....	60.50 62.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto.....	14.50 16.50
Decrees in probate from another state.....	99.50 101.50
Probate of an estate or of a will.....	100.50 102.50
Civil commitment under K.S.A. 59-29a01 et seq.....	24.50 26.50

(2) *On and after July 1, 2010:*

<i>Treatment of mentally ill.....</i>	<i>\$25.50</i>
<i>Treatment of alcoholism or drug abuse.....</i>	<i>25.50</i>
<i>Determination of descent of property.....</i>	<i>40.50</i>
<i>Termination of life estate.....</i>	<i>39.50</i>
<i>Termination of joint tenancy.....</i>	<i>39.50</i>
<i>Refusal to grant letters of administration.....</i>	<i>39.50</i>
<i>Adoption.....</i>	<i>39.50</i>
<i>Filing a will and affidavit under K.S.A. 59-618a.....</i>	<i>39.50</i>
<i>Guardianship.....</i>	<i>60.50</i>
<i>Conservatorship.....</i>	<i>60.50</i>
<i>Trusteeship.....</i>	<i>60.50</i>
<i>Combined guardianship and conservatorship.....</i>	<i>60.50</i>
<i>Certified probate proceedings under K.S.A. 59-213, and amendments thereto.....</i>	<i>14.50</i>
<i>Decrees in probate from another state.....</i>	<i>99.50</i>
<i>Probate of an estate or of a will.....</i>	<i>100.50</i>
<i>Civil commitment under K.S.A. 59-29a01 et seq.....</i>	<i>24.50</i>

(b) *Poverty affidavit in lieu of docket fee and exemptions.* The provisions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.

(c) *Disposition of docket fee.* Statutory charges for the law library and for the prosecuting attorneys' training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer in accordance with K.S.A. 20-362, and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 16. On and after July 1, 2006, K.S.A. 60-1621 is hereby amended to read as follows: 60-1621. (a) No post-decree motion petitioning for a *modification or termination of separate maintenance, for a change in legal custody, residency, visitation rights or parenting time, or for a modification of child support* shall be filed or docketed in the district court without payment of a docket fee in the amount of ~~\$21~~ \$33 *on and after July 1, 2006 through June 30, 2010, and \$31 on and after July 1, 2010,* to the clerk of the district court.

(b) A poverty affidavit may be filed in lieu of a docket fee as established in K.S.A. 60-2001, and amendments thereto.

(c) The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with subsection (f) of K.S.A. 20-362, and amendments thereto.

Sec. 17. On and after July 1, 2006, K.S.A. 60-2001 is hereby amended to read as follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of ~~\$106~~ \$147 *on and after July 1, 2006 through June 30, 2010, and \$145 on and after July 1, 2010,* to the clerk of the district court.

(b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in (A) the six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) *Form of affidavit.* The affidavit provided for in this subsection shall be in the following form and attached to the petition: State of Kansas, _____ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) *Disposition of fees.* The docket fees and the fees for service of process shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. For every person to be served by the sheriff, the persons requesting service of process shall provide proper payment to the clerk and the clerk of the district court shall forward the service of process fee to the sheriff in accordance with K.S.A. 28-110, and amendments thereto. The service of process fee, if paid by check or money order, shall be made payable to the sheriff. Such service of process fee shall be submitted by the sheriff at least monthly to the county treasurer for deposit in the county treasury and credited to the county general fund. The docket fee shall be disbursed in accordance with K.S.A. 20-362 and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any mileage for serving any papers or process.

Sec. 18. On and after July 1, 2006, K.S.A. 60-2005 is hereby amended to read as follows: 60-2005. The state of Kansas and all ~~cities and counties~~ *municipalities* in this state, *as defined in K.S.A. 12-105a, and amendments thereto,* are hereby exempt, in any civil action in which such state, ~~city or county~~ *or municipality* is involved, from depositing court costs or paying docket fees prescribed by any other law of this state, except that if the costs are assessed against the state of Kansas or any ~~city or county~~ *municipality* in this state in any such action, such costs shall include the amount of the docket fee prescribed by K.S.A. 60-2001, *and amendments thereto,* together with any additional courts costs accrued in the action.

Sec. 19. On and after July 1, 2006, K.S.A. 61-2704, as amended by section 1 of 2006 House Bill No. 2704, is hereby amended to read as follows: 61-2704. (a) An action seeking the recovery of a small claim shall be considered to have been commenced at the time a person files a written statement of the person's small claim with the clerk of the court if, within 90 days after the small claim is filed,

(continued)

service of process is obtained or the first publication is made for service by publication. Otherwise, the action is deemed commenced at the time of service of process or first publication. An entry of appearance shall have the same effect as service.

(b) Upon the filing of a plaintiff's small claim, the clerk of the court shall require from the plaintiff a docket fee of ~~\$26~~ \$30 on and after July 1, 2006 through June 30, 2010, and \$28 on and after July 1, 2010, if the claim does not exceed \$500; or ~~\$46~~ \$50 on and after July 1, 2006 through June 30, 2010, and \$48 on and after July 1, 2010, if the claim exceeds \$500; unless for good cause shown the judge waives the fee. The docket fee shall be the only costs required in an action seeking recovery of a small claim. No person may file more than 20 small claims under this act in the same court during any calendar year.

Sec. 20. On and after July 1, 2006, K.S.A. 61-4001 is hereby amended to read as follows: 61-4001. (a) Docket fee. No case shall be filed or docketed pursuant to the code of civil procedure for limited actions without the payment of a docket fee in the amount of ~~\$26~~ \$28 on and after July 1, 2006 through June 30, 2010, and \$26 on and after July 1, 2010, if the amount in controversy or claimed does not exceed \$500; ~~\$46~~ \$48 on and after July 1, 2006 through June 30, 2010, and \$46 on and after July 1, 2010, if the amount in controversy or claimed exceeds \$500 but does not exceed \$5,000; or ~~\$76~~ \$94 on and after July 1, 2006 through June 30, 2010, and \$92 on and after July 1, 2010, if the amount in controversy or claimed exceeds \$5,000. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff.

(b) Poverty affidavit; additional court costs. The provisions of subsections (b), (c) and (d) of K.S.A. 60-2001, and amendments thereto, shall be applicable to lawsuits brought under the code of civil procedure for limited actions.

Sec. 21. On and after June 18, 2006, K.S.A. 2005 Supp. 75-3120g is hereby amended to read as follows: 75-3120g. (a) The annual salary of district judges shall be paid in equal installments each payroll period in accordance with this section.

(b) Except as otherwise provided in K.S.A. 75-3120l and amendments thereto, the annual salary of district judges, other than district judges designated as chief judges, shall be ~~\$71,201~~ \$114,813.

(c) Except as otherwise provided in K.S.A. 75-3120l and amendments thereto, the annual salary of district judges designated as chief judges shall be ~~\$72,105~~ \$115,977.

(d) No county may supplement the salary of, or pay any compensation to, any district judge.

Sec. 22. On and after June 18, 2006, K.S.A. 75-3120h is hereby amended to read as follows: 75-3120h. (a) The annual salary of the chief judge of the court of appeals and each of the other judges of the court of appeals shall be paid in equal installments each payroll period in accordance with this section.

(b) Except as otherwise provided in K.S.A. 75-3120l and amendments thereto, the annual salary of the chief judge of the court of appeals shall be ~~\$81,235~~ \$122,062.

(c) Except as otherwise provided in K.S.A. 75-3120l and amendments thereto, the annual salary of the other judges of the court of appeals shall be ~~\$79,079~~ \$118,971.

Sec. 23. On and after June 18, 2006, K.S.A. 75-3120l is hereby amended to read as follows: 75-3120l. (a) Whenever the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act are increased for payroll periods chargeable to fiscal years commencing after June 30, 1993, the annual salary of the chief justice of the supreme court, each other justice of the supreme court, the chief judge of the court of appeals, each other judge of the court of appeals, each district judge and each district magistrate judge shall be increased by an amount, adjusted to the nearest dollar, computed by multiplying the average of the percentage increases in all monthly steps of such pay plan by the annual salary of the justice or judge which is being received as pro-

vided by law and which is in effect prior to the effective date of such increase in the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act.

(b) If increases in the monthly rates of compensation from step movements of the pay plan for persons in the classified service under the Kansas civil service act are authorized for the fiscal year ending June 30, 1995, or any fiscal year thereafter, the annual salary of the chief justice of the supreme court, each other justice of the supreme court, the chief judge of the court of appeals, each other judge of the court of appeals, each district judge and each district magistrate judge shall be increased by an amount, adjusted to the nearest dollar, computed by multiplying the average percentage increase in the monthly rate of compensation from step movements on the pay plan for persons in the classified service under the Kansas civil service act determined under subsection (c) by the annual salary of the justice or judge which is being received as provided by law and which is in effect prior to the effective date of such increase. The increase in the annual salary of each justice or judge pursuant to this subsection shall take effect on the first day of the first payroll period which is chargeable to the fiscal year in which such step movements on the pay plan are authorized to take effect.

(c) For purposes of subsection (b), the average percentage increase in the monthly rate of compensation from step movements on the pay plan for persons in the classified service under the Kansas civil service act shall be equal to the percentage certified by the secretary of administration which equals the estimated average of the percentage increases in all monthly rates of compensation from step movements on the pay plan for persons in the classified service under the Kansas civil service act which are authorized to take effect during the fiscal year in which such step movements on the pay plan are authorized to take effect.

(d) If the increase under subsection (a) takes effect on the first day of the first payroll period of the fiscal year, the percentage rate increases determined under subsections (a) and (b) shall be added together and such aggregate percentage increase of compensation under this section shall be used to increase the rate of compensation of each justice or judge instead of applying the increases under subsections (a) and (b) separately.

(e) *The provisions of this section shall not apply to the annual salary of any district judge nor the salary of any magistrate judge for any payroll period chargeable to the fiscal year ending June 30, 2007. The provisions of this section shall apply to the annual salary of each district judge or magistrate judge for payroll periods chargeable to fiscal years commencing after June 30, 2007.*

Sec. 24. On and after June 18, 2006, K.S.A. 2005 Supp. 75-3120k is hereby amended to read as follows: 75-3120k. (a) The annual salary of district magistrate judges shall be paid in equal installments each payroll period in accordance with this section.

(b) Subject to the provisions of subsection (c) and except as otherwise provided in K.S.A. 75-3120l and amendments thereto, the annual salary of district magistrate judges shall be ~~\$47,416~~ \$59,059.

(c) Within the limits of the appropriations therefor, the county or counties comprising the judicial district may supplement the salary of, or pay any compensation to, any district magistrate judge.

Sec. 25. On and after June 18, 2006, K.S.A. 75-3120h and 75-3120l and K.S.A. 2005 Supp. 75-3120g and 75-3120k are hereby repealed.

Sec. 26. On and after July 1, 2006, K.S.A. 20-2622, 59-104, 60-1621, 60-2001, 60-2005 and 61-4001 and K.S.A. 2005 Supp. 20-367, 20-3002, 28-110 and 28-172a, and K.S.A. 61-2704, as amended by section 1 of 2006 House Bill No. 2704, and K.S.A. 2005 Supp. 21-4619, as amended by Section 21 of 2006 Senate Bill No. 418, and 22-2410, as amended by section 8 of 2006 Senate Bill No. 196, are hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its publication in the Kansas register.

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the 2003 Volumes and 2005 Supplement of the *Kansas Administrative Regulations*.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Reg. No.	Action	Register
1-1-1	Amended	V. 24, p. 848
1-2-9	Amended	V. 24, p. 849
1-2-25	Amended	V. 24, p. 849
1-2-25a	New	V. 24, p. 849
1-2-30	Revoked	V. 24, p. 849
1-2-31	Amended	V. 24, p. 849
1-2-43a	New	V. 24, p. 849
1-2-44	Amended	V. 24, p. 849
1-2-46	Amended	V. 24, p. 849
1-2-74	Amended	V. 24, p. 850
1-2-84a	Revoked	V. 24, p. 850
1-2-84b	Revoked	V. 24, p. 850
1-2-97	Amended	V. 24, p. 850
1-3-2	Revoked	V. 24, p. 850
1-4-2	Amended	V. 24, p. 850
1-4-3	Amended	V. 24, p. 850
1-4-5	Amended	V. 24, p. 850
1-4-7	Amended	V. 24, p. 850
1-4-8	Amended	V. 24, p. 851
1-5-8	Amended	V. 24, p. 851
1-5-9	Amended	V. 24, p. 852
1-5-14	Amended	V. 24, p. 852
1-5-15	Amended	V. 24, p. 852
1-5-19c	Amended	V. 24, p. 853
1-5-20	Amended	V. 24, p. 853
1-5-24	Amended	V. 24, p. 853
1-5-30	Amended	V. 24, p. 855
1-6-2	Amended	V. 24, p. 855
1-6-8	Amended	V. 24, p. 855
1-6-27	Amended	V. 24, p. 856
1-6-29	Amended	V. 24, p. 856
1-6-32	Amended	V. 24, p. 857
1-7-3	Amended	V. 24, p. 858
1-7-10	Amended	V. 24, p. 858
1-7-11	Amended	V. 24, p. 858
1-7-12	Amended	V. 24, p. 859
1-8-2	Amended	V. 24, p. 859
1-8-3	Amended	V. 24, p. 859
1-8-4	Amended	V. 24, p. 859
1-8-5	Revoked	V. 24, p. 860
1-8-6	Amended	V. 24, p. 860
1-9-1	Amended	V. 24, p. 860
1-9-2	Amended	V. 24, p. 860
1-9-13	Amended	V. 24, p. 861
1-9-14	Amended	V. 24, p. 861
1-9-19	Amended	V. 24, p. 861
1-9-19a	Amended	V. 24, p. 862
1-9-20	Amended	V. 24, p. 863
1-9-23	Amended	V. 24, p. 863
1-9-27	Revoked	V. 24, p. 865
1-10-6	Revoked	V. 24, p. 865
1-10-7	Revoked	V. 24, p. 865
1-10-10	Revoked	V. 24, p. 865
1-10-11	Revoked	V. 24, p. 865
1-11-1	Amended	V. 24, p. 865
1-11-3	Revoked	V. 24, p. 865
1-12-1	Amended	V. 24, p. 865
1-12-2	Amended	V. 24, p. 865
1-13-1a	Amended	V. 24, p. 866
1-13-1b	New	V. 24, p. 866
1-14-8	Amended	V. 24, p. 866
1-14-11	Amended	V. 24, p. 868

AGENCY 4: DEPARTMENT OF AGRICULTURE

Reg. No.	Action	Register
4-8-14a	Amended (T)	V. 25, p. 379
4-8-27	Amended (T)	V. 25, p. 380
4-8-33	Amended (T)	V. 25, p. 380
4-8-34	Amended (T)	V. 25, p. 380
4-8-42	Amended (T)	V. 25, p. 380
4-15-7	Amended	V. 24, p. 550
4-15-8	Amended	V. 24, p. 550
4-28-1 through 4-28-7	New	V. 24, p. 145, 146

AGENCY 5: DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES

Reg. No.	Action	Register
5-16-1	Amended	V. 24, p. 1850
5-16-5	Amended	V. 24, p. 1850

AGENCY 7: SECRETARY OF STATE

Reg. No.	Action	Register
7-34-2	New (T)	V. 24, p. 42
7-34-2	New	V. 24, p. 332
7-41-1	Amended	V. 24, p. 1244
7-41-14 through 7-41-33	New	V. 24, p. 1245-1249
7-42-1 through 7-42-5	New	V. 24, p. 1469, 1470
7-43-1 through 7-43-6	New	V. 24, p. 1829, 1830

AGENCY 9: ANIMAL HEALTH DEPARTMENT

Reg. No.	Action	Register
9-2-32	Amended (T)	V. 24, p. 272
9-2-32	Amended	V. 24, p. 919
9-11-10	Amended (T)	V. 24, p. 272
9-11-10	Amended	V. 24, p. 919
9-18-1	Amended (T)	V. 24, p. 1144
9-18-1	Amended	V. 24, p. 1372
9-32-1 through 9-32-8	New (T)	V. 25, p. 46-48
9-32-1 through 9-32-8	New	V. 25, p. 375-378

AGENCY 10: KANSAS BUREAU OF INVESTIGATION

Reg. No.	Action	Register
10-22-1	Amended	V. 24, p. 962

AGENCY 11: STATE CONSERVATION COMMISSION

Reg. No.	Action	Register
11-3-1 through 11-3-10	Amended	V. 25, p. 250, 251
11-3-11	New	V. 25, p. 252
11-3-12	New	V. 25, p. 252
11-11-1 through 11-11-7	Revoked	V. 24, p. 1798

AGENCY 14: DEPARTMENT OF REVENUE

Reg. No.	Action	Register
14-14-12	Revoked	V. 24, p. 798

AGENCY 16: ATTORNEY GENERAL

Reg. No.	Action	Register
16-1-7	Amended	V. 24, p. 95
16-4-2	New	V. 24, p. 95
16-4-3	New	V. 24, p. 95
16-4-4	New	V. 24, p. 96
16-6-1	Amended	V. 24, p. 96
16-10-1	New (T)	V. 24, p. 1176
16-10-2	New (T)	V. 24, p. 1176
16-10-3	New (T)	V. 24, p. 1176

16-10-1	New	V. 24, p. 1690
16-10-2	New	V. 24, p. 1690
16-10-3	New	V. 24, p. 1691

AGENCY 22: STATE FIRE MARSHAL

Reg. No.	Action	Register
22-8-2	Amended	V. 25, p. 274
22-8-3	Amended	V. 25, p. 275
22-8-5	Amended	V. 25, p. 275
22-8-8 through 22-8-14	New	V. 25, p. 276, 277
22-8-17	New	V. 25, p. 277

AGENCY 26: DEPARTMENT ON AGING

Reg. No.	Action	Register
26-39-144	New	V. 24, p. 1629
26-39-243	New	V. 24, p. 1631
26-39-278	New	V. 24, p. 1632
26-39-427	New	V. 24, p. 1632
26-39-438 through 26-39-441	New	V. 24, p. 1243

AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT

Reg. No.	Action	Register
28-1-2	Amended	V. 25, p. 413
28-4-1400	New (T)	V. 24, p. 1142
28-4-1400	New	V. 24, p. 1531
28-16-28g	Amended	V. 24, p. 753
28-16-58	Amended	V. 24, p. 52
28-16-160 through 28-16-174	New	V. 24, p. 754-764
28-17-1	Amended	V. 24, p. 178
28-17-6	Amended	V. 24, p. 179
28-17-20	Amended	V. 24, p. 179
28-17-22	New	V. 24, p. 181
28-19-22	Revoked	V. 24, p. 1437
28-19-517	Amended	V. 24, p. 1437
28-19-542	Amended	V. 24, p. 1438
28-19-546	Amended	V. 24, p. 1438
28-19-561	Amended	V. 24, p. 1438
28-19-562	Amended	V. 24, p. 1439
28-19-563	Amended	V. 24, p. 1440
28-19-575 through 28-19-578	Revoked	V. 24, p. 1440
28-30-200 through 28-30-207	New	V. 24, p. 1470-1474
28-35-135	Revoked	V. 24, p. 1830
28-35-135a through 28-35-135i	New	V. 24, p. 1830
28-35-135k through 28-35-135y	New	V. 24, p. 1830
28-35-136	Revoked	V. 24, p. 1830
28-35-148	New	V. 24, p. 1830
28-35-154	Amended	V. 24, p. 1830
28-35-160	Amended	V. 24, p. 1830
28-35-162	Amended	V. 24, p. 1830
28-35-167	New	V. 24, p. 1830
28-35-168	New	V. 24, p. 1830
28-35-169	New	V. 24, p. 1830
28-35-175a	Amended	V. 24, p. 1830
28-35-176a	Amended	V. 24, p. 1830
28-35-177a	Amended	V. 24, p. 1830
28-35-178a	Amended	V. 24, p. 1830
28-35-178b	Amended	V. 25, p. 256
28-35-178j	New	V. 24, p. 1830
28-35-180a	Amended	V. 24, p. 1830
28-35-180b	New	V. 24, p. 1830
28-35-181e	Amended	V. 24, p. 1830
28-35-181g	Amended	V. 24, p. 1830
28-35-181h	Amended	V. 24, p. 1830
28-35-181i	Amended	V. 24, p. 1830
28-35-181m	Amended	V. 24, p. 1830
28-35-181s	New	V. 24, p. 1830
28-35-184a	Amended	V. 24, p. 1830
28-35-184b	Amended	V. 24, p. 1830

(continued)

AGENCY 74: BOARD OF ACCOUNTANCY

Reg. No.	Action	Register
74-4-1a	Amended	V. 25, p. 609
74-4-7	Amended	V. 25, p. 610
74-4-8	Amended	V. 25, p. 610
74-5-2	Amended	V. 25, p. 611
74-5-101	Amended	V. 25, p. 612
74-5-102	Amended	V. 25, p. 612
74-5-103	Amended	V. 24, p. 796
74-5-104	Amended	V. 24, p. 796
74-5-201	Amended	V. 24, p. 796
74-5-202	Amended	V. 25, p. 613
74-5-203	Amended	V. 25, p. 613
74-5-205	Revoked	V. 24, p. 797
74-5-301	Amended	V. 24, p. 797
74-5-401	Amended	V. 24, p. 797
74-5-403	Amended	V. 24, p. 797
74-11-6	Amended	V. 25, p. 613
74-11-7	Amended	V. 25, p. 614
74-11-15	Amended	V. 24, p. 798

AGENCY 75: OFFICE OF THE STATE BANK COMMISSIONER—DIVISION OF CONSUMER AND MORTGAGE LENDING

Reg. No.	Action	Register
75-6-30	Amended	V. 24, p. 1849
75-6-31	Amended	V. 24, p. 1849
75-6-35	New	V. 24, p. 1849

AGENCY 81: OFFICE OF THE SECURITIES COMMISSIONER

Reg. No.	Action	Register
81-4-4	New (T)	V. 24, p. 1372
81-4-4	New	V. 24, p. 1775
81-5-15	New (T)	V. 24, p. 1372
81-5-15	New	V. 24, p. 1775

AGENCY 82: STATE CORPORATION COMMISSION

Reg. No.	Action	Register
82-4-3	Amended (T)	V. 24, p. 97
82-4-3	Amended	V. 24, p. 463
82-4-3a through 82-4-3m	New (T)	V. 24, p. 97-122
82-4-3a through 82-4-3m	New	V. 24, p. 463-488
82-4-3a	Amended	V. 25, p. 101
82-4-3a	Amended (T)	V. 25, p. 378

AGENCY 86: REAL ESTATE COMMISSION

Reg. No.	Action	Register
86-3-29	New (T)	V. 24, p. 959
86-3-29	New	V. 24, p. 1690

AGENCY 91: DEPARTMENT OF EDUCATION

Reg. No.	Action	Register
91-1-203	Amended	V. 24, p. 1178
91-1-213	Revoked	V. 24, p. 1181
91-1-220	New	V. 24, p. 1181
91-1-221	New	V. 24, p. 1182
91-15-1	Amended	V. 24, p. 272
91-35-1 through 91-35-4	Revoked	V. 24, p. 272

AGENCY 92: DEPARTMENT OF REVENUE

Reg. No.	Action	Register
92-12-4	Revoked	V. 25, p. 252
92-12-4a	New	V. 25, p. 252
92-12-5	Revoked	V. 25, p. 254
92-12-113	New	V. 24, p. 423
92-12-120	New	V. 25, p. 254
92-12-121	New	V. 25, p. 254
92-12-130	New	V. 25, p. 254
92-19-22a	Amended	V. 25, p. 254
92-19-49a	Revoked	V. 24, p. 798
92-19-49b	New	V. 24, p. 798
92-19-49c	New	V. 24, p. 799
92-19-49d	New	V. 24, p. 801
92-19-81	Amended	V. 24, p. 802

92-51-34a	Amended	V. 24, p. 423
92-51-41	Amended	V. 25, p. 255
92-51-41a	New	V. 25, p. 255

AGENCY 99: DEPARTMENT OF AGRICULTURE—DIVISION OF WEIGHTS AND MEASURES

Reg. No.	Action	Register
99-25-1	Amended	V. 24, p. 1264
99-25-9	Amended	V. 24, p. 1265
99-25-10	New	V. 24, p. 1265

AGENCY 100: BOARD OF HEALING ARTS

Reg. No.	Action	Register
100-15-2	Revoked	V. 24, p. 1113
100-15-4 through 100-15-7	New	V. 24, p. 1113, 1114
100-25-1 through 100-25-5	New (T)	V. 24, p. 1874-1877
100-25-5 through 100-25-5	New	V. 25, p. 213-216
100-26-1	Amended (T)	V. 24, p. 1877
100-26-1	Amended	V. 25, p. 217
100-26-2	New (T)	V. 24, p. 1877
100-26-2	New	V. 25, p. 217
100-26-3	New (T)	V. 24, p. 1878
100-26-3	New	V. 25, p. 217
100-28a-14	Amended	V. 24, p. 1114
100-28a-17	New	V. 24, p. 1114
100-28a-18	New	V. 24, p. 1115
100-29-1	Amended	V. 25, p. 639
100-29-3	Amended	V. 25, p. 640
100-29-5	Revoked	V. 25, p. 640
100-29-6	Amended	V. 25, p. 640
100-29-8	Amended	V. 25, p. 640
100-29-9	Amended	V. 25, p. 640
100-29-10	Amended	V. 25, p. 641
100-29-12	Amended	V. 25, p. 642
100-29-13	Amended	V. 25, p. 643
100-29-15	New	V. 25, p. 643
100-54-1	Amended	V. 24, p. 1441
100-54-6	Amended	V. 24, p. 1441
100-54-8	Amended	V. 24, p. 1441
100-54-10	New	V. 24, p. 1442
100-54-11	New	V. 24, p. 1442
100-69-1	Amended	V. 24, p. 1346
100-69-2	Amended	V. 24, p. 1347
100-69-3	Amended	V. 24, p. 1347
100-69-4	Revoked	V. 24, p. 1347
100-69-6	Amended	V. 24, p. 1347
100-69-7	Amended	V. 24, p. 1347
100-69-8	Revoked	V. 24, p. 1347
100-69-9	Amended	V. 24, p. 1347
100-69-10	Amended	V. 24, p. 1348
100-69-11	Amended	V. 24, p. 1349
100-72-6	Amended	V. 24, p. 1115
100-73-1 through 100-73-6	New (T)	V. 24, p. 1142-1144
100-73-1 through 100-73-6	New	V. 24, p. 1443, 1444

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Reg. No.	Action	Register
102-1-5a	Amended	V. 25, p. 183
102-1-12	Amended	V. 25, p. 184
102-1-13	Amended	V. 24, p. 424
102-1-18	Amended	V. 24, p. 424
102-2-3	Amended	V. 24, p. 424
102-2-8	Amended	V. 24, p. 424
102-2-12	Amended	V. 24, p. 426
102-2-14	Amended	V. 24, p. 427
102-3-2	Amended	V. 24, p. 428
102-3-3a	Amended (T)	V. 24, p. 330
102-3-4a	Amended	V. 24, p. 1211
102-3-15	Amended	V. 24, p. 428
102-4-2	Amended	V. 24, p. 428
102-4-15	Amended	V. 24, p. 428
102-5-2	Amended	V. 24, p. 428

102-5-5	Amended	V. 25, p. 187
102-5-14	Amended	V. 24, p. 429

AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES

Reg. No.	Action	Register
105-4-1	Amended (T)	V. 24, p. 1597
105-4-1	Amended	V. 25, p. 101
105-11-1	New (T)	V. 24, p. 1598
105-11-1	New	V. 25, p. 101

AGENCY 108: STATE EMPLOYEES HEALTH CARE COMMISSION

Reg. No.	Action	Register
108-1-1	Amended	V. 24, p. 1846
108-1-4	Amended	V. 25, p. 180

AGENCY 110: DEPARTMENT OF COMMERCE

Reg. No.	Action	Register
110-9-1 through 110-9-8	New	V. 25, p. 373-375
110-11-1	New	V. 24, p. 429
110-11-2	New	V. 24, p. 429
110-11-3	New	V. 24, p. 429
110-12-1 through 110-12-6	New	V. 24, p. 371
110-13-1 through 110-13-10	New	V. 24, p. 1209-1211
110-13-4	Amended	V. 25, p. 447

AGENCY 111: KANSAS LOTTERY

A complete index listing all regulations filed by the Kansas Lottery from 1988 through 2000 can be found in the Vol. 19, No. 52, December 28, 2000 Kansas Register. A list of regulations filed by the Kansas Lottery from 2001 through 2003 can be found in the Vol. 22, No. 52, December 25, 2003 Kansas Register. A list of regulations filed by the Kansas Lottery from 2004 through 2005 can be found in the Vol. 24, No. 52, December 29, 2005 Kansas Register. The following regulations were filed after January 1, 2006:

Reg. No.	Action	Register
111-2-30	Amended	V. 25, p. 414
111-2-187	New	V. 25, p. 381
111-4-2342 through 111-4-2349	New	V. 25, p. 217-221
111-4-2350 through 111-4-2362	New	V. 25, p. 311-319
111-4-2363 through 111-4-2382	New	V. 25, p. 339-351
111-4-2383 through 111-4-2387	New	V. 25, p. 381-384
111-4-2389 through 111-4-2393	New	V. 25, p. 385, 386
111-4-2394 through 111-4-2404	New	V. 25, p. 415-422
111-5-126 through 111-5-138	New	V. 25, p. 386-390
111-5-139	New	V. 25, p. 423
111-6-1	Amended	V. 25, p. 222
111-7-81	Amended	V. 25, p. 319
111-9-130 through 111-9-133	New	V. 25, p. 351-353
111-11-1	Amended	V. 25, p. 223

AGENCY 112: RACING AND GAMING COMMISSION

Reg. No.	Action	Register
112-4-1a	Amended	V. 24, p. 1851
112-10-5	Amended	V. 24, p. 1263

(continued)

112-11-20 Amended V. 24, p. 1852

AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

Reg. No.	Action	Register
115-2-1	Amended	V. 25, p. 335
115-2-4	Amended	V. 25, p. 336
115-3-2	Amended	V. 24, p. 148
115-4-2	Amended	V. 24, p. 420
115-4-4	Amended	V. 25, p. 662
115-4-4a	New	V. 24, p. 422
115-4-6	Amended	V. 25, p. 336
115-4-6a	New	V. 24, p. 151
115-4-11	Amended	V. 24, p. 151
115-4-13	Amended	V. 24, p. 422
115-5-1	Amended	V. 24, p. 152
115-5-4	New	V. 24, p. 752
115-7-2	Amended	V. 24, p. 153
115-9-4	Amended	V. 24, p. 153
115-9-9	New	V. 24, p. 1112
115-11-1	Amended	V. 24, p. 752
115-11-2	Amended	V. 24, p. 153
115-15-1	Amended	V. 24, p. 154
115-15-2	Amended	V. 24, p. 155
115-18-1	Amended	V. 24, p. 156
115-18-7	Amended	V. 24, p. 159
115-18-10	Amended	V. 24, p. 753
115-18-14	Amended	V. 24, p. 1689
115-20-1	Amended	V. 24, p. 159
115-20-2	Amended	V. 24, p. 160
115-21-1	Revoked	V. 24, p. 1690
115-21-2	Revoked	V. 24, p. 1690
115-21-4	Revoked	V. 24, p. 1690

AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
117-2-2a	New	V. 24, p. 1079
117-2-3	Amended (T)	V. 24, p. 1141
117-2-3	Amended	V. 24, p. 1595
117-3-2a	New	V. 24, p. 1079
117-3-3	Amended (T)	V. 24, p. 1141
117-3-3	Amended	V. 24, p. 1595
117-4-2a	New	V. 24, p. 1080
117-4-3	Amended (T)	V. 24, p. 1141
117-4-3	Amended	V. 24, p. 1595
117-5-2a	New	V. 24, p. 1080
117-6-3	Amended	V. 24, p. 77
117-7-1	Amended	V. 24, p. 78
117-8-1	Amended	V. 24, p. 78

AGENCY 118: STATE HISTORICAL SOCIETY

Reg. No.	Action	Register
118-5-10	Amended	V. 24, p. 1632

AGENCY 120: HEALTH CARE DATA GOVERNING BOARD

Reg. No.	Action	Register
120-1-1	Revoked (T)	V. 24, p. 1377
120-1-1	Revoked	V. 24, p. 1734
120-1-2	New (T)	V. 24, p. 1377
120-1-2	New	V. 24, p. 1734

AGENCY 123: JUVENILE JUSTICE AUTHORITY

Reg. No.	Action	Register
123-1-101	New	V. 24, p. 301
123-2-105	New	V. 24, p. 338
123-2-110	New	V. 24, p. 338
123-5-101	New	V. 24, p. 339
123-5-106	New	V. 24, p. 339
123-5-111	New	V. 24, p. 339
123-5-112	New	V. 24, p. 340
123-5-505	New	V. 24, p. 340
123-12-101		
through		
123-12-107	New	V. 24, p. 301, 302
123-12-201		
through		
123-12-210	New	V. 24, p. 302, 303
123-12-301		
through		
123-12-315	New	V. 24, p. 303-305
123-12-317	New	V. 24, p. 305
123-12-318	New	V. 24, p. 305
123-12-319	New	V. 24, p. 306
123-12-321		
through		
123-12-325	New	V. 24, p. 306
123-12-327	New	V. 24, p. 306
123-12-328	New	V. 24, p. 307
123-12-401	New	V. 24, p. 307
123-12-501		
through		
123-12-505	New	V. 24, p. 307, 308
123-12-505b	New	V. 24, p. 308
123-12-506	New	V. 24, p. 308
123-12-601	New	V. 24, p. 308
123-12-602	New	V. 24, p. 310
123-12-702	New	V. 24, p. 310
123-12-801	New	V. 24, p. 310
123-12-901	New	V. 24, p. 310
123-12-902	New	V. 24, p. 310
123-12-1001	New	V. 24, p. 311
123-12-1002	New	V. 24, p. 311
123-12-1101	New	V. 24, p. 311
123-12-1201	New	V. 24, p. 312
123-12-1202	New	V. 24, p. 312
123-12-1301	New	V. 24, p. 312
123-12-1302	New	V. 24, p. 312
123-12-1303	New	V. 24, p. 312
123-12-1306	New	V. 24, p. 312

123-12-1308	New	V. 24, p. 313
123-13-101	New	V. 24, p. 342
123-13-101a	New	V. 24, p. 343
123-13-103	New	V. 24, p. 343
123-13-105	New	V. 24, p. 343
123-13-106	New	V. 24, p. 343
123-13-201	New	V. 24, p. 343
123-13-201b	New	V. 24, p. 344
123-13-202	New	V. 24, p. 345
123-13-203	New	V. 24, p. 345
123-13-306	New	V. 24, p. 345
123-13-307	New	V. 24, p. 346
123-13-401		
through		
123-13-404	New	V. 24, p. 346-348
123-13-405a	New	V. 24, p. 349
123-13-406	New	V. 24, p. 349
123-13-408	New	V. 24, p. 350
123-13-409	New	V. 24, p. 350
123-13-501	New	V. 24, p. 350
123-13-502a	New	V. 24, p. 350
123-13-505		
through		
123-13-509	New	V. 24, p. 350, 351
123-13-601	New	V. 24, p. 351
123-13-602	New	V. 24, p. 351
123-13-603	New	V. 24, p. 351
123-13-610	New	V. 24, p. 351
123-13-701		
through		
123-13-704	New	V. 24, p. 352, 353
123-13-706	New	V. 24, p. 353
123-13-707	New	V. 24, p. 353
123-15-101	New	V. 24, p. 353
123-15-101a	New	V. 24, p. 354
123-15-101b	New	V. 24, p. 354
123-15-102	New	V. 24, p. 354
123-15-104	New	V. 24, p. 355
123-15-105	New	V. 24, p. 355
123-15-105a	New	V. 24, p. 356
123-15-106	New	V. 24, p. 356
123-15-201	New	V. 24, p. 356
123-16-102	New	V. 24, p. 356
123-16-105	New	V. 24, p. 357

AGENCY 127: KANSAS HOUSING RESOURCES CORPORATION

Reg. No.	Action	Register
127-1-1	New	V. 24, p. 848

AGENCY 129: DEPARTMENT OF ADMINISTRATION—DIVISION OF HEALTH POLICY AND FINANCE

Reg. No.	Action	Register
129-5-1	Amended	V. 25, p. 663
129-5-118	New	V. 25, p. 665
129-5-118b	New	V. 25, p. 665

Order a custom-made loose-leaf binder for the Kansas Register!

Custom-made binders are available to attractively hold up to a year's worth of your copies of the Kansas Register for permanent use. The high quality, durable casebound swinge-hinge binders are manufactured by ABZ Binder. (A swinge-hinge binder has more capacity and allows for easier interfiling than standard ring binders.) The three-inch binder features dark blue supported vinyl covering and gold imprinting, with a label holder on the spine.

\$15 each, includes shipping and handling.
 (Kansas residents must include applicable state and local sales tax.)



In this issue . . .

Kansas Department of Health and Environment Requests for comments on proposed air quality permits	34, 39
Annual Program Report for the Voluntary Cleanup and Property Redevelopment Program	35
Notice of hearing on proposed air quality permit	36
Notice concerning Kansas water pollution control permits	37
Pooled Money Investment Board Notice of investment rates	38
State Banking Board Notice of 2002 meeting schedule	39
Department of Administration Public notice	39
Wildlife and Parks Commission Notice of hearing on proposed administrative regulations	39
Attorney General Opinions 2001-48 through 2001-56	40
Information Network of Kansas Notice of meeting	42
City of Overland Park Notice to bidders	42
Department of Administration—Division of Purchases Notice to bidders for state purchases	43

Please send _____

Total enclosed _____

Clip and mail

Kansas Register Binders @ \$15

(Note: Kansas residents must include applicable state and local sales tax.)

Ship to:

Shipping is by
 U.P.S. Delivery Service—
 Street address is necessary.

Mail this form, with payment, to: Kansas Register, Secretary of State, 1st Floor,
 Memorial Hall, 120 S.W. 10th Ave., Topeka, KS 66612-1594

**Kansas Register
Secretary of State
1st Floor, Memorial Hall
120 S.W. 10th Ave.
Topeka, KS 66612-1594**

Use this form or a copy of it to enter a subscription:

_____ **One-year subscription @ \$80 ea.**
**(Kansas residents must include
applicable state and local sales tax.)**

Total Enclosed
(Make check payable to the Kansas Register)

Send to: _____

(Please, no
more than
4 address
lines.)

Zip code must be included

Rec. No. _____ Exp. _____ Code _____

This space for Register office use only.

Use this form or a copy of it to enter a name or address change:

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



Indicate change of name or address
here:

**Mail either form to: Kansas Register, Secretary of State, 1st Floor,
Memorial Hall, 120 S.W. 10th Ave., Topeka, KS 66612-1594**