This publication contains summaries of selected bills enacted by the Legislature as of 12:00 noon, March 29, 2010. Bills that have not yet been signed by the Governor are included.

A supplement containing summaries of major bills which were enacted after that date will be distributed during the week of April 5. An additional supplement will be mailed after the wrap-up session in early May.

*Highlights*, a summary of major legislation, will be prepared after the Legislature adjourns and will be mailed to legislators as soon as possible. *The Summary of Legislation*, which accounts for all bills enacted by the 2010 Legislature, will be distributed at a later date.

These documents are available on the Kansas Legislative Research Department’s website: [http://www.kslegislature.org/klrd](http://www.kslegislature.org/klrd) (under "Summaries").
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AGRICULTURE AND NATURAL RESOURCES

Water Rights-Cause for Nonuse

House Sub. for SB 316 permits those holding groundwater rights meeting certain criteria to claim due and sufficient cause for nonuse and, therefore, be ineligible to be deemed abandoned by the Division of Water Resources. To meet the due and sufficient cause for nonuse criteria, the water right must have as its local supply an aquifer area that has been closed to new appropriations (by rule, regulation, or order of the Chief Engineer), and where means of diversion are available to put water to a beneficial use within a reasonable time.

Department of Agriculture Hearings; Dairy Licenses

SB 393 amends several sections of law administered by the Kansas Department of Agriculture to provide that actions such as revocation of a license taken by the agency would be subject to notice and opportunity for a hearing. Prior law requires the notice and the hearing to take place. Sections of law amended by the bill include provisions relating to the licenses of live plant dealers; licenses, permits, registrations, or certificates issued by the agency for pest control and the pesticide use laws; licenses issued under the Kansas Egg Law; permits issued to chemigation users; licenses issued to public grain warehousemen; registrations issued under the Kansas Meat and Poultry Inspection Act; licenses and permits issued under the Kansas Dairy Law; certain licenses under the Kansas Weights and Measures Law; and civil penalty actions taken by the Secretary for violations of law or rules and regulations under the Department of Agriculture’s authority.

A new provision authorizes the Secretary of Agriculture to suspend temporarily any licenses and permits issued under the Kansas Dairy Law without hearing and subject to the notice requirements of the emergency adjudication procedures of the provisions of the Kansas Administrative Procedure Act under certain findings of the Secretary. The temporary suspension could not exceed 90 days. After that period of time, the license or permit would be reinstated, permanently suspended, or revoked.

Courses and Materials Regarding Pesticide Education

SB 394 adds educational institutions, state and federal agencies, and any other person to the list of entities or individuals that the Secretary of Agriculture may cooperate with to publish information and conduct short courses of instruction on the safe use and application of pesticides. The bill also allows the Secretary to cooperate with these same entities to carry out the related provisions of pesticide law.
Laboratory Equipment Fund

**SB 396** allows the Department of Agriculture to use funds from the agency’s Laboratory Equipment Fund for acquisition, maintenance, and replacement of equipment used by the agency’s Agriculture Laboratory and Metrology Laboratory. The bill also allows the Department of Agriculture to transfer up to 10.0 percent of the carry-over balance of the following fee funds to the Laboratory Equipment Fund: Dairy Fee Fund, Fertilizer Fee Fund, Pesticide Use Fee Fund, Agricultural Liming Materials Fee Fund, Petroleum Inspection Fee Fund, Meat and Poultry Inspection Fee Fund, Entomology Fee Fund, and the Weights and Measures Fee Fund. In addition, the bill places a cap of $500,000 on the total amount of fees in the Laboratory Equipment Fund in any fiscal year.

Burning of the Flint Hills

**SCR 1623** describes the Flint Hills region of Kansas as a unique ecosystem of historic significance, containing a large portion of the tallgrass prairie, providing habitat to certain declining species, providing unique pasture for cattle, and allowing the prevailing agricultural system to work in tandem with an ancestral native ecosystem. The resolution speaks to the necessity to manage this ecosystem by burning and how that practice should be considered a best management practice.

The resolution urges the United States Congress to require the United States Environmental Protection Agency (EPA) to exclude certain air monitoring data from use in determinations of exceedances and National Ambient Air Quality Standards violations where the emissions are from prairie burning in the tallgrass prairie in the Flint Hills, and to treat the data related to burning as exceptional events under 40 CFR Section 50.14.

The resolution will be sent to the President of the United States, the Speaker of the United States House of Representatives, the Administrator of the EPA, each member of the Kansas Congressional Delegation, and the EPA Region VII Administrator.

Greenhouse Gases and EPA Regulations

**SR 1809** says that the leaders of the State of Kansas urge the United States Environmental Protection Agency to withdraw its rule that declares greenhouse gases a “toxic pollutant” and further regulates these gases. The resolution further states that the leaders of Kansas urge that such lawmaking be done through the normal legislative process so that important economic concerns may be considered.
Rural Water Districts

HB 2283 enacts new law dealing with the process of transfer of water service when a city annexes property where a rural water district is providing service and amends the law to provide an additional factor that must be considered by a rural water district’s board of directors prior to their releasing lands from the rural water district. The bill also repeals KSA 12-527 dealing with the annexation of lands located within water districts and clarifies existing guidelines for the implementation of an intensive groundwater use control area within the boundaries of a groundwater management district.

Annexation of Property Serviced by a Rural Water District

The bill enacts new law which requires a city to give written notice to a rural water district not less than 60 days before the effective date of any ordinance proposing to annex land into the city. The city would be permitted to contract with the rural water district for water service to all or portions of the annexed area. If the city designates a different supplier, the city would be required to purchase the property, facilities, improvements, and going concern value of the district located in the annexed territory. If the agreement for purchase is not executed within 90 days, the bill requires the city and rural water district to engage in mediation.

If the process of mediation does not reach an agreement of reasonable value within 120 days, the city and the rural water district each will appoint a qualified appraiser. These two appraisers would then appoint a third appraiser. The three appraisers then would consider all elements of value of the property, facilities, improvements, and going concern value within the area to be annexed.

The bill establishes factors in determining reasonable value, including the average increase in the number of benefit units in the area annexed for the three years immediately preceding the annexation and including, if the area annexed consists of land for which no water service is being provided by the system at the time of the annexation, the value of such land based on the planning, design, and construction of improvements located outside the transferred area reasonably made to provide future water service to the annexed area.

Once the appraisers make a determination, they would be required to make a written summary of findings and conclusions. If either the rural water district or the city is dissatisfied with the decision, an appeal may be made to the district court within 30 days. The compensation would be paid to the rural water district whether or not the city plans to use the facilities not later than 120 days after fair market value has been determined.

The bill also permits a rural water district to maintain facilities within the annexed area for use in its active service territory provided that the district use those facilities to
continue to supply water service to benefit units outside the city. The rural water district would not receive compensation for facilities it elects to retain.

None of these provisions limits the authority of a city to select water service suppliers or to limit the authority of the city to adopt and enforce regulations for operation of a water service supplier. The bill also requires the rural water district to continue to serve until the city gives notice of an alternative supply and requires the city and rural water district to cooperate to minimize inconvenience to water customers. Following the transfer of water service, the annexed land would be deleted from the territory of the rural water district and all benefit units attached to land located in the annexed area would be canceled without compensation. Notice of the action would be required to be provided to the county clerk and the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture.

**Release of Lands from a Rural Water District**

Kansas law allows landowners to petition the rural water district’s board of directors for a release of lands from the district. Upon the successful filing of a petition, the district’s board of directors is required to hold a hearing where the landowners’ release request is considered.

The board would be required to make specific findings of fact and conclusions determining whether the lands requested to be released cannot economically or adequately be serviced. The board would need to determine if the release would be in the best interests of the landowner and the district, and the findings and conclusions would be based upon the preponderance of evidence.

In addition to the factors outlined in the law, the bill requires the district’s governing body to consider the following additional factors when determining whether lands should be released:

- Whether the cost of the benefit units or service or equipment is unreasonable, excessive, or confiscating so as to render service unavailable;

- The relative cost of obtaining service from an alternative source;

- Whether the release of lands would allow the district to yield more than adequate compensation;

- Whether the district establishes a rate for services or equipment that is disproportionate to the services rendered;
• Whether the release of lands would cause a loss of existing customers or supply new customers;

• Whether the district can provide a safe and adequate supply of water to customers in the district, and whether another provider could provide a greater level of service;

• Whether the board’s refusal to release lands would result in any economic waste or hinder any economic development; and

• Whether duplicate water service lines would cause any economic or physical waste.

If the district denies the landowner’s desire for release of lands because it would result in inadequate compensation, a process is established to determine the compensation sufficient to enable adequate compensation. The bill provides for the appointment of a qualified appraiser by both the district and the landowner. These two appraisers would appoint a third appraiser. The three appraisers would consider the following factors when determining reasonable value:

• Whether any property of the district is rendered useless or valueless to the district;

• The impact on the existing indebtedness of the district and such district’s ability to repay;

• The value of the service facilities of the district located within the area in question;

• The amount of the district’s contractual obligations allocable to the area in question;

• Any demonstrated impairment of service or increase of cost to consumers of the district;

• Any necessary and reasonable legal expenses and professional fees;

• Any factors relevant to maintaining the current financial integrity of the district;

• When the area released consists of land for which no water service is being provided by the system at the time of the release, the value of such land
based on the planning, design and construction of improvements located outside the released area reasonably made to provide future water service to the released area; and

- Any other relevant factors.

The appraisers would hear evidence and make a written summary of findings and conclusions. At least two of the three appraisers need to agree and the landowners would be required to make the payment to the district for acceptance. If either the district or the landowner is dissatisfied with the decision of the appraisers, then the district or the landowner may appeal within 30 days to the district court.

**Participating Members of Rural Water Districts**

The bill also amends the definition of “participating member” in the rural water district law to include those individuals, firms, partnerships, associations or corporations which own land located within a district which is charged a franchise fee for water service which is paid, either directly or indirectly through another water provider, to the district.

**Food, Drug, and Cosmetic Act Amendments; Dairy Industry and Milk Fees**

**HB 2566** changes all references to the Kansas Department of Health and Environment in the Kansas Food, Drug, and Cosmetic Act to the Kansas Department of Agriculture as it relates to regulating over-the-counter drugs and cosmetics.

Additionally, the bill makes amendments to the provisions of law administered by the Kansas Department of Agriculture and which regulate the dairy, milk, and milk products industry in the State.

Specifically, the bill:

- Adds new definitions for the terms “bulk milk pick up tanker,” “milk plant,” “milk tank truck,” “milk tank truck cleaning facility,” “milk transport tank,” and “milk transportation company”;

- Adds a new requirement that milk tank truck cleaning facilities be licensed annually and pay a maximum annual license fee of $100;

- Adds a new requirement that milk tank trucks be inspected annually and pay a maximum annual inspection fee of $50;
• Increases the dairy manufacturing plant and milk distributor annual license fee from $155 to $200 until June 30, 2015, when it would revert to $120;

• Increases the inspection fee for packaged Grade A pasteurized milk or milk products sold; Grade A raw milk for pasteurization delivered to a processor; and milk or cream produced for manufacturing purposes from $.01 to $.02 until June 30, 2015, when it would revert to a prior rate;

• Increases the inspection fee for frozen dairy dessert or dessert mix from $1.50 to $2.00 per thousand gallons until June 30, 2015, when it would revert to $1.00 per thousand gallons;

• Increases the license fee for operators of milk or cream transfer stations and receiving stations and for manufacturers of single service dairy containers and container closures from $65 to $100 until June 30, 2015, when it would revert to $50; and

• Adds new provisions which authorize and direct the Secretary of Agriculture to decrease the fees if it is determined the cost of the program decreases and to increase the fees (not beyond the statutory provisions) if costs of administration of the program of inspection increases.

HorseThief Reservoir Benefit District-Law Enforcement

HB 2638 enacts new law allowing the governing board of the HorseThief Reservoir Benefit District (HRBD) to appoint a law enforcement manager and associated officers. The law enforcement officer is required to meet the requirements of the Kansas Law Enforcement Training Act. In addition, the bill permits the Kansas Law Enforcement Training Center to charge tuition for each HRBD enforcement officer enrolled in a course at the Center.

The bill allows these officers to possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in all counties where any HRBD property is located. These law enforcement officers are permitted to book and arrest a person into the jail of the jurisdiction of the arrest. While on duty, these law enforcement officers are required to wear and publicly display a badge of office and a uniform.

In addition, the bill permits HRBD law enforcement officers to exercise the power and authority of law enforcement officers anywhere on property owned, occupied, or operated by the HRBD or at the site of a function sponsored by the HRBD; on the streets, property, and highways immediately adjacent to and coterminous with property owned, occupied or operated by the HRBD or at the site of a function of the HRBD; and within the city
or county where property is owned, occupied, or operated by the HRBD as necessary to protect the health, safety, and welfare of the HRBD employees, board members, volunteers and visitors, with appropriate agreement by local law enforcement agencies. These agreements are required to include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, and the scope of law enforcement powers and duration of the agreement. The agreement needs to be approved by the governing body of the city or county, or both, having jurisdiction and by the governing board of the HRBD.

With the proper agreement in place with local law enforcement agencies, law enforcement officers from HRBD could investigate and arrest a person for violation of state law, county resolution, or city ordinance. HRBD could engage in fresh pursuit of a person and transport persons in custody to an appropriate facility.

Missouri River Basin Study and the Flood Control Act

HCR 5012 memorializes the United States Congress and United States Army Corps of Engineers (Corps) to undertake a study of the Missouri River Basin relative to the provisions of the Flood Control Act of 1944 (also known as the Pick-Sloan Act) to gather the information and data necessary to determine if any changes in federal law are warranted.

Any such study would focus on the contemporary needs of the citizens in the states comprising the Missouri River Basin (Kansas, Wyoming, Montana, North Dakota, South Dakota, Nebraska, Iowa, and Missouri) relative to the management and operation of various Corps projects.

The concurrent resolution asks that Congress fund the study, and that the Corps cooperate with the various states in completion of the study.

The concurrent resolution also notes that there have been significant changes since 1944 in the physical, economic, social, and environmental circumstances and needs of the citizens of the Missouri River Basin states relative to the management and operation of the Missouri River system.

The Kansas Secretary of State is required to send enrolled copies of HCR 5012 to various federal officials, including the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Assistant Secretary of the Army for Civil Works, various committee chairmen, and each member of the Kansas Congressional Delegation.
Reservoir Maintenance

**HCR 5013** calls upon the newly appointed Assistant Secretary of the Army for Civil Works to form a working relationship with the State of Kansas to extend the productive lives of the state's reservoirs and to continue the work already being conducted on those reservoirs.

As noted in the resolution, the reservoirs in Kansas were originally built with a projected lifespan of 100 years or less and many of those reservoirs are approaching or have passed the halfway point of that original design life.
Employment Security Law

HB 2676 amends the Employment Security Law regarding contribution rates, penalties, and interest. The bill provides that for calendar year 2010 and 2011 the charge for contributing employers in rate groups 1 through 32 will be that of the 2010 original tax rate computation table. Contributing employers in rate groups 33 through 51 are capped at a 5.4 percent contribution rate. In addition, employers have 90 days past the due date to file their contribution without being charged interest for the first three quarters of each of the two years.
EDUCATION

Tracts of Real Estate

HB 2414 authorizes the State Board of Regents, on behalf of Fort Hays State University, to sell and convey to the City of Hays all of the rights, title, and interest, except mineral rights, in two tracts of real estate. One tract contains 120.0 acres. The second tract contains 10.037 acres. The tracts will be used for a sports complex and expansion of the City’s golf course. The bill takes effect upon publication in the Kansas Register.

State University Surplus Property

HB 2415 exempts the state universities from being required to sell, trade, or dispose of personal property owned by these institutions through State Surplus Property, and gives the Board of Regents oversight of the process.

Postsecondary Education—Purchasing Laws

HB 2433 exempts all Regents institutions from state purchasing laws and regulations, including the Prison Made Goods Act. It also exempts universities from the statutes covering the procurement of professional services, negotiated procurement processes, and the mandated use of the State Division of Printing. However, universities are not exempt from procurement requirements related to architectural, engineering, construction management, or ancillary technical services.

In addition, the bill authorizes the Secretary of the Department of Corrections to sell prison-made goods to private residents of Kansas, to Kansas businesses, and to state employees for their private use. The bill’s provision regarding the sale of prison-made goods expires on June 30, 2013.
FINANCIAL INSTITUTIONS

An Act Concerning Debit Cards

SB 410 would amend KSA 2009 Supp. 75-30,100 to permit the acceptance of debit cards by state agencies. The Senate Committee on Ways and Means amended the bill by adding debit cards to the provisions of the Consumer Protection Act in KSA 16a-2-403 barring retailers from imposing a surcharge on debit card transactions.

Banks–General Powers, Interagency Statement on Life Insurance

HB 2609 amends a provision of the Banking Code governing the general powers of state chartered banks. Under the bill, banks are permitted to purchase and hold life insurance policies in a manner consistent with the parameters outlined in the Interagency Statement of the Purchase and Risk Management of Life Insurance Letter 1272004 (effective December 7, 2004), subject to the limitations specified in existing law, and as amended further by the bill. The limitations specified in the existing statute are on the cash surrender value of a life insurance policy (cannot exceed 15 percent of the bank’s capital stock, surplus, undivided profits, allowance for loan and lease losses [new law, replaces the term “loan loss reserve”], capital notes and debentures and reserve for contingency). The limitation also is placed on the cash surrender value in the aggregate from all companies (cannot exceed 25 percent). These limitations will not apply to policies in place prior to July 1, 1993.

Additionally, the bill amends a provision that currently allows banks to subscribe to, buy, and own stock in a state or federally chartered bankers’ bank. Instead, banks would be allowed to invest in bankers’ banks organized under the laws of the United States, Kansas, or any other state.
HEALTH

Funeral Director Definition and Apprenticeship Exemption

Sub. for SB 475 adds to the definition of “funeral director” that in addition to directing or supervising the disposition of dead human bodies, the funeral director also arranges for the disposition of dead human bodies. Further, all of these activities apply to burial or cremation. The bill also exempts persons engaged in the business of providing cremation services for five consecutive years prior to this act from the apprenticeship requirements for licensure as a funeral director, provided application for such licensure is made within six months of the effective date of this act. Any person who is exempt from the apprenticeship requirements has a grace period of 120 days to comply with the requirements for licensure as a funeral director.

Dispensing Contact Lenses Using Delivery Services

SB 489 amends existing law concerning the dispensing of contact lenses to Kansas residents by a person or entity not licensed to practice optometry, medicine, or surgery in the state. The bill broadens the manner in which contact lenses are dispensed, beyond delivery through the mail, to also include mailing or delivery using a commercial courier or overnight or other delivery services.

Respiratory Therapist Licensure

SB 491 deletes a provision in existing law concerning respiratory therapists who were registered rather than licensed on February 29, 2000, which is no longer applicable. The bill extends the expiration date of special permits issued to respiratory therapy graduates from the date of graduation from an approved school of respiratory therapy to 30 days after graduation. The extension allows recent graduates to continue working until an application for a full license is processed and issued. Further, the bill also shortens the expiration period for temporary licenses issued to respiratory therapists on or after July 1, 2010, from a period of one year to six months.

Reference to Professional Degree by Unlicensed Doctors

SB 500 amends the law to allow the use of the word “doctor” or the letters “M.D.,” “D.O.,” or “D.C.” by unlicensed medical doctors, doctors of osteopathic medicine, or doctors of chiropractic medicine if the individual:

- Earned a professional degree from an accredited healing arts school or college; and
If the use of such word or initials is not misleading to the public, patients or other health care providers that the individual is:

- Engaged in the practice of healing arts; or
- Licensed to practice healing arts in this state.

In addition, the bill applies to any pending proceeding before the Board of Healing Arts, as well as any proceeding commenced on or after the effective date of the bill.

**Sellers of Health Care Discount Cards**

**SB 508** amends existing law by creating distinct requirements for suppliers who sell health care discount cards and suppliers who market, promote, advertise or otherwise distribute the discount cards.

The bill amends the filing requirements for sellers of health care discount cards by requiring them to:

- File an annual notice with the Secretary of State of the intention to sell the discount card, to be signed under penalty of perjury;
- Submit the surety bond currently required by statute with the annual notice to the Secretary of State;
- Obtain approval of the surety bond by the Attorney General prior to filing the annual notice with the Secretary of State; and
- File a copy of the bond and proof of annual renewal with the Secretary of State with the annual notice.

The bill requires that a surety on a discount card company bond give written notice to the discount card company of its intent to cancel the bond prior to cancellation, and not give notice just to the Secretary of State. If a discount card company does not file another $50,000 surety bond with the state on or before the cancellation date of the existing surety bond, the company is no longer authorized to do business in the state as a discount card company.

In addition to designating a resident agent, each supplier designates a registered office in Kansas for service of process. A supplier who sells the discount cards provides the information in the annual filing with the Secretary of State signed under penalty of perjury. A supplier who markets, promotes, advertises, or otherwise distributes any discount card
designates a resident agent who is a resident of Kansas for service of process, and the resident agent is required to register with the Secretary of State pursuant to K.S.A. 60-306, and amendments. Whenever the resident agent’s name or registered office’s address is no longer accurate, the appointment is required to be amended in writing and filed with the Secretary of State. A filing fee of no more than $75 is required with each filing to cover the cost of filing and administration. The filing fees received are deposited in the State Treasury to the credit of the Information Services Fee Fund. For all suppliers, the month in which a supplier files its first annual notice with the Secretary of State is the month in which its subsequent annual filings are due.

**Smoking Ban**

**HB 2221** amends the law concerning cigarette or tobacco infractions and the taxation and unlawful use of cigarette and tobacco products. Additionally, the bill creates the Kansas Indoor Clean Air Act for certain provisions in the bill.

The bill bans smoking and makes the act of smoking in the following places a cigarette or tobacco infraction:

- Public places;
- Taxicabs and limousines;
- Restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residence facilities;
- Restrooms, lobbies, and other common areas in hotels and motels and in at least 80 percent of the guest sleeping quarters within a hotel or motel;
- Access points of all buildings and facilities unless the building or facility is exempted by the bill; and
- Any place of employment.

**Exemptions.** Buildings and facilities exempted from the smoking ban are those not defined as an enclosed area, including rooms or areas without a ceiling or a roof and completely open to the elements at all times, and rooms or areas with a ceiling or roof enclosed by walls, fences, windows, or doorways but which have an opening that is completely and permanently open to the elements and that comprises at least 30 percent of the total perimeter wall area of such room or area.

The following also are exempted from the provisions of the bill:
Outdoor areas of any building or facility beyond the access points of the building or facility;

- Private homes or residences, except when used as a day care home;

- Hotel or motel rooms designated for smoking guests if the percent of such rooms does not exceed 20 percent of the total hotel or motel rooms;

- The gaming floor of a lottery gaming facility or racetrack gaming facility;

- The portion of an adult care home that is designated as a smoking area and that is fully enclosed and ventilated;

- The portion of a licensed long-term care unit of a medical care facility that is designated as a smoking area and that is fully enclosed and ventilated;

- Tobacco shops;

- Class A and Class B clubs holding a license as of January 1, 2009, and who notify the Secretary of Health and Environment in writing within 90 days after the effective date of the bill that they wish to continue to allow smoking on the premises; and

- Private clubs which meet the following criteria:
  - Are an outdoor recreational facility that is a hunting, fishing, shooting or golf club, business or enterprise operated primarily for the benefit of its owners, members and their guests and is not open to the public;
  - Have substantial dues or membership fee requirements for use of the facility which are proportional in cost to similarly situated outdoor recreational facilities that are not considered nominal and have not been implemented to avoid or evade restrictions of a statewide ban on smoking; and
  - Permit smoking only in designated areas where minors are not allowed.

The bill defines the access point for buildings and facilities as an area within a ten-foot radius outside of any doorway, open window or air intake leading into the building or facility that is not exempt from the smoking ban. A tobacco shop is defined as any indoor area operated primarily for the retail sale of tobacco, tobacco products, or smoking
devices or accessories and which derives not less than 65 percent of its gross receipts from the sale of tobacco.

Requirements. The bill requires each employer having a place of employment that is an enclosed area to provide a smoke-free workplace; to adopt and maintain a written smoking policy that prohibits smoking without exception in the place of employment; to communicate the policy to all current employees within one week of its adoption and to new employees upon hiring; and to provide a copy of the policy to current or prospective employees upon request. Additionally, the proprietor or person in charge of a public place or other area where smoking is prohibited is required to post in a conspicuous place signs displaying the international “no smoking” symbol and clearly stating that smoking is prohibited by state law.

Unlawful acts and fines. It will be unlawful for any person who controls the use of any public place or other area where smoking is prohibited to fail to comply with all or any of the provisions set out in the bill or to allow smoking to occur where prohibited by law if they have knowledge that smoking is occurring and if they acquiesce to the smoking. It also is unlawful for any person to smoke in an area where smoking is prohibited. Any person who violates the provisions of the bill will be guilty of a cigarette or tobacco infraction which is punishable by a fine.

The following fines are established by the bill:

- Not to exceed $100 for the first violation;
- Not to exceed $200 for the second violation within a one-year period of the first violation; and
- Not to exceed $500 for the third or subsequent violation within a one-year period after the first violation.
- The number of violations within a year is measured by the date the smoking violations occurs. Further, each individual allowed to smoke by the person who controls the use of any public place or other area where smoking is prohibited is considered a separate violation for determining the number of violations that occurred.

Other provisions. Employers are not allowed to discharge, refuse to hire, or retaliate against an employee, applicant for employment, or customer if they report, or attempt to prosecute a violation of any of the provisions of the bill. In addition to the civil fines which now may be levied against any day care home found to be in violation, the bill also allows day care homes to be subject to the fines for a tobacco or cigarette infraction.
The bill also gives the Director of Alcoholic Beverage Control the authority to promulgate rules and regulations to insure that any exemption from the statewide ban on smoking is _bona fide_ and the entity seeking such exemption is not inappropriately seeking to circumvent the smoking ban created under the bill.

**Additional Cigarette and Tobacco Products Provisions.** The bill also amends the law concerning the taxation and unlawful sale of cigarette and tobacco products. The bill adds the definition of a “self-service display” and a “tobacco specialty store.” A “self-service display” is defined as a display that contains cigarettes or tobacco products and is located in an area openly accessible to a retail dealer’s consumers, and from which such consumers can readily access the cigarettes or tobacco products without the assistance of a salesperson. A display case behind locked doors is not defined as a self-service display. A “tobacco specialty store” is defined as a dealer establishment that derives at least 75 percent of its revenue from cigarettes or tobacco products.

The bill makes it unlawful for an establishment to sell cigarettes or tobacco products by means of a self-service display, with the following two exceptions:

- The vending machine is located behind a counter or in some area of the establishment to which minors are prohibited by law from having access; is used in a commercial building or industrial plant where the public is not customarily admitted and the vending machine is intended for the sole use of adult employees; or the vending machine has a lock-out device which requires manual activation by the person supervising the operation of the machine each time cigarettes or tobacco products are purchased from the machine; or

- The self-service display is located in a tobacco specialty store.

The provisions of the bill concerning cigarette and tobacco products taxation and sales become effective upon publication in the statute book. The remainder of the bill’s provisions become effective January 2, 2010.

**Adult Care Homes or Home Health Agencies**

**HB 2323** amends the law concerning providers of care services. The bill makes the following amendments concerning background checks of job applicants for adult care homes or home health agencies:

- Adds “crimes against property” to the list of offenses an applicant could be convicted of and still be employed by the home or agency as long as five or more years have elapsed since the applicant satisfied the terms of the sentence imposed;
• Expands the definition of criminal history record information from “felony convictions” to that of “any criminal history information”;

• Allows the operator of a home or an agency to request criminal history information from the Department of Health and Environment for persons who are licensed or registered by the state to offer the professional services being provided in the home or agency or for persons who are involved in volunteer activities for the home or agency; and

• Exempts persons who currently are employed by a home or an agency from the “crimes against property” employment requirement if five or more years have elapsed since the terms of the sentence were satisfied, as long as the person is continuously employed by the same home or agency.

Additionally, the bill requires the Kansas Bureau of Investigation to provide “any criminal history information” to the Secretary of Health and Environment when a background check is requested for an adult care home applicant.

Pharmacist-Administered Influenza Immunizations

HB 2448 allows a pharmacist, or a pharmacy student or intern who is working under the direct supervision and control of a pharmacist to administer the influenza vaccine to a person six years of age or older. In addition, the bill allows the immunizations be reported by the pharmacist to the vaccinee’s primary care provider by electronic facsimile, e-mail or other electronic means in addition to by mail.

Addictions Counselor Licensure Act

HB 2577 creates the Addictions Counselor Licensure Act. The following is the outline of the Act:

Behavioral Sciences Regulatory Board

The membership of the Board increases to 12 members. The new member of the Board will be a licensed addiction counselor or a licensed clinical addiction counselor, appointed by the Governor.

The Board is required to develop and administer the rules and regulations of the Act.

Any person currently licensed as an addiction counselor, licensed addiction counselor, or substance abuse counselor is prohibited from practicing without being licensed under this Act and must meet applicable requirements effective August 1, 2011. However, the Act would provide for a grandfathering of anyone registered by the Board, credentialed
by the Department of Social and Rehabilitation Services, or credentialed by the Kansas Association of Addiction Professionals as an alcohol and other drug abuse counselor or an alcohol and drug credentialed counselor may be licensed under the Act upon application, payment of fees, and completing applicable continuing education requirements if they have practiced within three years prior to the effective date, July 1, 2011, of the Act and their last registration or credential was not suspended or revoked.

**Application Disclosure Information Requirement**

- A person licensed under the Act and employees or professional associates of the licensee will be required to disclose information acquired in rendering addiction counseling services if:
  - Disclosure is required by other state laws;
  - Failure to disclose the information presents a clear and present danger to the health and safety of an individual;
  - The person, employee, or associate is a party defendant to a civil, criminal, or disciplinary action arising from the therapy;
  - The client is a defendant in a criminal proceeding and the use of the privilege violates the defendant's right to a compulsory process or the right to present testimony and witnesses in the person's behalf; or
  - A client agrees to a waiver of the privilege.

**Refusal, Suspension, Revoking of Licensure**

- The Board may refuse to grant licensure, or may suspend, revoke, condition, limit, qualify, or restrict licensure after determination that a practitioner:
  - Is incompetent to practice or is found to engage in the practice of counseling in a manner harmful or dangerous to a client or to the public;
  - Is convicted of a felony, misdemeanor crime against persons, or substantiation of abuse against a child, adult, or resident of a care facility, even if not practice related;
Has violated a provision of the Act or one or more of the rules and regulations of the Board;

- Has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

- Has knowingly made a false statement on a form required by the Board;

- Has failed to obtain continuing education credits required by rules and regulations of the Board;

- Has been found guilty of unprofessional conduct as defined by rules and regulations established by the Board; or

- Has had a registration, license, or certificate as an addiction counselor revoked, suspended, or limited, or has had other disciplinary action taken, or an application for registration, licensure, or certificate denied, by the proper regulatory authority of another state, territory, the District of Columbia, or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence.

**Temporary License**

- A temporary license may be granted by the Board for a person waiting to take the examination for licensure upon payment of fees and meeting applicable requirements set by the Board;

- A temporary license expires upon issuance or denial of licensure or 12 months after the date of issuance; and

- A temporary license limits a person to practice in Kansas for no more than 15 days per year.

**Fees and Licenses**

- The application, original license, and renewal license fee to practice as an addiction counselor or clinical addiction counselor cannot exceed $150;

- The fee for a temporary permit to practice as an addiction counselor cannot exceed $100;
• The fee for a temporary permit and the extension of a temporary permit cannot exceed $200; and

• The licenses are valid for a period of 24 months.

Optometrist-Dispensed Medication

HB 2584 allows optometrists to dispense ophthalmic lenses with medication evenly over any period of time required, changed from no more than a 24-hour supply of medication in ophthalmic lenses.

Prefinanced Funeral Agreements

HB 2588 increases the maximum amount that can be placed in an irrevocable prefinanced funeral agreement from $5,000 to $7,000.

Prearranged Funeral Agreements

HB 2589 requires the disclosure of the following items in a prearranged funeral agreement:

• The names and addresses of the seller and purchaser;

• A statement of the funeral goods and services being purchased;

• Whether the contract is guaranteed or not guaranteed and, if it is guaranteed, the goods and services included in the guarantee;

• Whether the contract is revocable or irrevocable;

• What happens to excess funds remaining after the funeral goods and services have been paid for;

• The name of the bank, credit union, or savings and loan, or trustee of the funeral trust in which the funds are deposited; and

• A notice that reasonable fees and expenses may be deducted from the trust.

The bill will take effect January 1, 2011.
Registered Nurse Anesthetists’ Scope of Practice

HB 2619 changes the law regarding the scope of practice allowed for registered nurse anesthetists (RNAs). The bill would allow RNAs, upon the order of a physician or dentist and as a member of a physician- or dentist-directed health care team, to order or administer appropriate medication and anesthetic agents necessary to implement anesthesia plans of care pre- and post-analgesia and during the peri-anesthetic or pre-analgesic period and to order necessary medications and tests in the peri-anesthetic or peri-analgesic period and take appropriate action during that period.
INSURANCE

Kansas Automobile Injury Reparations Act – ID Cards

HB 2492 amends a provision in the Kansas Automobile Injury Reparations Act to require insurance companies to add the make and year of an insured vehicle to the list of information required to be included on insurance identification cards.
**JUDICIARY**

**Guardianship or Conservatorship**

**SB 372** requires that orders establishing and governing a guardianship or conservatorship, or both, issued by a court of competent jurisdiction of any other state, regardless of the specific terminology used in that state’s laws, be given full faith and credit within Kansas, except when doing so is in specific violation of any Kansas law.

In addition, the bill requires the petition for guardianship or conservatorship to include information about where a proposed ward or conservatee has lived during the previous five years and contact information for the persons with whom the ward or conservatee lived. The bill also requires the petition to include the name and address of any person or agency having custody or assumed responsibility for a proposed ward or conservatee, and the circumstances under which the proposed ward or conservatee came into the person’s or agency’s care or control.

**Municipal Court Assessment**

**SB 373** amends the law to clarify that all municipal ordinance violations, except for nonmoving traffic violations, require the municipal court to charge a $19 assessment.

**Kansas Judicial Review Act**

**SB 376** makes a technical amendment to change all references in the statutes from the Act for Judicial Review and Civil Enforcement of Agency Actions to the Kansas Judicial Review Act.

**Indemnification or Advancement of Expenses**

**SB 398** amends the Kansas Corporation Code to prohibit a corporation from changing or eliminating the right to indemnification (protection against loss) or the right to advancement of expenses, arising under a provision of the articles of incorporation or the bylaws, after an act or omission has occurred. The bill, however, preserves the authority to change or eliminate the right to indemnification or the right to advancement of expenses after an act or omission has occurred if the articles of incorporation or a bylaw in effect at the time of the occurrence explicitly provided for such change or elimination.
Limited Liability Partnerships

SB 437 creates new law regarding limited liability partnerships so that limited liability partnerships have the same requirements regarding resident agents and registered offices as the current law on domestic or foreign limited partnerships.

Business Trust Balance Sheets

SB 438 eliminates the requirement in current law that a domestic or a foreign business trust file a balance sheet with the Kansas Secretary of State’s Office.

Insignia Registration

SB 440 would repeal the statues regarding the registration of insignia, i.e., a symbol or an emblem, with the Secretary of State. The laws are seldom used and an insignia can be filed as a servicemark or a trademark under current Kansas law.

Business Entity Transaction Act

SB 441 repeals the Revised Uniform Limited Partnership Act to allow limited partnership mergers to take place under the Business Entity Transaction Act (BETA) enacted with the passage of 2009 SB 132 last year. The bill also deletes the provision in BETA that currently excludes limited partnerships so that BETA can apply to limited partnerships. Limited partnerships are required to file a certificate of merger with the Secretary of State.

Juvenile Court Orders

SB 460 amends several statutes to clarify the priority of certain orders concerning children. The bill:

- Clarifies that custody orders, parenting time orders, or orders related to the best interests of a child issued pursuant to a child in need of care (CINC) or juvenile offenders (JO) action take priority over any orders in an adoption or relinquishment proceeding, or a guardian and conservator proceeding, until the jurisdiction under the CINC or JO case has terminated;

- Clarifies that custody orders, residency orders, or parenting time orders issued pursuant to a CINC or JO action take priority over any orders in a determination of parentage proceeding, until the jurisdiction under the CINC or JO case has terminated;

- Amends the law on determination of parentage to allow the transfer of the CINC orders back into the parentage case at the close of the CINC case
and clarifies that those orders are binding on the parties, unless modified by the court based on a material change in circumstances;

- Amends the law on parentage to give the court the authority to place a child or children in nonparental residency if the court finds that there is probable cause to believe the child is a child in need of care or that neither parent is fit to have residency;

- Clarifies that orders issued pursuant to the Revised Kansas Code for Care of Children takes priority over any order under the parentage, adoption and relinquishment, guardians and conservators, divorce, and protection from abuse law, until jurisdiction under the CINC case is terminated;

- Adds a definition of “civil custody case” to the Revised Kansas Code for Care of Children;

- Clarifies that a court’s order affecting a child’s custody, residency, parenting time, and visitation that is issued in a CINC proceeding takes priority over any civil custody case, protection from abuse proceeding, or comparable case in another jurisdiction, except as provided in the Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA);

- Requires a court to conduct a hearing, at least once a year, in any case referred to a citizen review board;

- Provides that information confirming procedural details in confidential reports or records of a child alleged to be a child in need of care may be disclosed when the individuals involved give their express written consent or the investigation has become public knowledge;

- Requires a final adjudication or dismissal on a CINC case be entered within 60 days from the date the petition was filed, unless good cause for a continuance is shown on the record;

- Deletes language in the law that provided the Secretary of Social and Rehabilitation Services (SRS) may propose child custody with a parent if a safety plan has been approved by the court;

- Amends the law to expand the list of individuals who are required to receive written notice of any change in placement of a child to include the petitioner; the attorney for the parents, if any; the child’s court appointed special advocate; and any other party or interested party;
• Amends the law regarding a child who has been in the same placement for six months or longer, to expedite a change in placement if there is no request for a hearing within ten days after the notice is received;

• Amends the law to require a court to make a finding whether reasonable efforts have been made by appropriate public or private agencies to rehabilitate the family and achieve the permanency goal in place at the time of the hearing on permanency;

• Clarifies that a court may enter child custody orders that the court determines to be in the best interest of the child, if permanency with one parent has been achieved without the termination of the other parent’s rights;

• Requires the court determining permanency to inquire whether a custody order has been entered by a court of competent jurisdiction in Kansas or is pending in a civil custody case;

• Authorizes a court in the civil case to declare the custody order in the CINC case will be the custody order in the civil custody case;

• Authorizes a court, on its own motion or motion of any party, to consolidate a CINC case with any open civil custody case involving the same parties and then require the court to dismiss the CINC case after a custody order in the consolidated case is ordered;

• Authorizes a court to direct the parties to file a civil custody case if no case has been filed, and costs of the civil custody case may be assessed against the parties;

• Clarifies that the confidentiality of information in the CINC case is preserved in the consolidated case;

• Clarifies that the parental consent to appointment of a permanent custodian is required to be in writing and acknowledged before a judge or officer authorized to take acknowledgments;

• Clarifies that when a case is on appeal, a district court or magistrate court continue to have jurisdiction over all issues not specifically appealed;

• Authorizes, at the direction of the judge in the CINC case, consolidation of the child support case and the CINC case and clarifies that any motions to modify child support be filed in the CINC case. If the child support rights are
assigned, the assignee is treated as an interested party in the consolidated case;

- Clarifies that a court’s order affecting a child’s custody, residency, parenting time, and visitation issued in a proceeding under the JO code takes priority over such orders issued pursuant to proceedings under the parentage, divorce, protection from abuse, adoption and relinquishment, guardians or conservators, or comparable laws in other jurisdictions, except as provided by the UCCJEA;

- Clarifies the appropriate venue in cases involving a juvenile;

- Requires the Commissioner of Juvenile Justice, or the Commissioner’s designee, to notify the court of a juvenile offender’s anticipated release 21 days before release, and require the court to hold a permanency hearing within seven days after the juvenile’s release;

- Clarifies that custody and parenting time orders issued in a CINC or JO proceeding take priority over those issued in a divorce proceeding. The bill requires the transfer of the CINC orders back into a divorce case and make such orders binding on the parties, unless the court modifies the order based upon a material change in circumstances. The bill also requires closure of the CINC case; and

- Clarifies that custody orders, parenting time orders, or orders relating to the best interest of the child issued in a CINC or JO proceeding takes priority over those issued in a protection from abuse proceeding. The bill provides that an inconsistent custody or parenting order is required to be specific in its terms and the order is required to reference any preexisting protection from abuse orders or custody modifications. A copy of such order is required to be filed in the preexisting protection from abuse case.

Pocket Knives-Exemptions

SB 497 adds clarifying language to existing law by explicitly exempting the lawful selling, manufacturing, purchasing, possessing, or carrying of certain ordinary pocket knives from prosecution under the criminal weapons use statutes. The pocket knives covered under the change are those having a spring, detent, or other device which creates a bias toward closure of the blade. Additionally, the bill requires that the exempted knives use hand pressure applied to a button on the blade of the knife to overcome the bias towards closure to assist in the opening of the knife.
Electronic Transmittal of Documents

**SB 519** amends several statutes to:

- Allow payment of traffic tickets and fines for violation of county codes and resolutions by any means accepted by the court;

- Authorize, upon the appropriate Supreme Court rule, an electronic signature of the clerk of the district court to have the same legal effect as a manual signature on records and judicial proceedings requiring the attestation of the clerk;

- Authorize the conveyance of a written statement or affidavit for a search warrant by electronic communication, *i.e.*, the use of electronic equipment to send or transfer a copy of an original document;

- Eliminate the requirement that certain docket fees must be paid by mail or in person;

- Amend the Juvenile Code to authorize an adjudication court to use electronic means to send documents to the sentencing court; and

- Amend the Probate Code to require the district court to transmit the entire file to the proper county, if proceedings are instituted in more than one county, once proper venue is determined.

Electronic Citation

**SB 533** amends the law regarding traffic, municipal courts, and county code enforcement to allow for the use of an electronic citation system to issue citations, complaints, and notices to appear. The bill also authorizes electronic signatures as the intent to sign the record.

Court of Appeals–Additional Judge Position

**SB 541** delays the appointment of the 14th Court of Appeals Judge position one year from January 1, 2011, to January 1, 2012.

Days Courts are Not Open for Business

**HB 2364** amends the provisions regarding days when courts are open for business. Under the law, Saturday, Sunday, and holidays are the only days courts are not open...
for business, but this bill adds “days on which the office of the clerk of the court is not accessible.” The bill also makes technical amendments to the statute.

**Synthetic Cannabinoids**

HB 2411 amends the Kansas Uniform Controlled Substances Act to expand the list of Schedule I controlled substances to include the chemical compounds HU-210, JWH-018, JWH-073, BZP, and TFMPP.

**Carbon Dioxide Reduction Act—Amendments**

HB 2418 amends provisions of the Carbon Dioxide Reduction Act regarding the liability of the state. Under the bill, except as permitted by the Kansas Tort Claims Act, no provision of the Carbon Reduction Act shall impose on the Kansas Corporation Commission (KCC), any of its employees, or the State of Kansas any liability for the underground storage of KCC carbon dioxide or the maintenance of any carbon dioxide injection well or underground storage of carbon dioxide. In addition, the bill provides that the KCC is not prohibited from plugging, replugging, repairing, or remediation of any carbon dioxide injection well or underground storage in an emergency situation.

**Victim Notification**

HB 2440 requires the Kansas Department of Corrections (KDOC) to notify crime victims or victims’ family members, as soon as practical, of the status of a defendant when the defendant is diverted from the criminal justice system for an evaluation of his or her competency to stand trial or for involuntary commitment. Notification is required only for defendants charged with, or inmates convicted of, crimes under Article 33 (Anticipatory Crimes), Article 34 (Crimes Against Persons), Article 35 (Sex Crimes), or Article 36 (Crimes Affecting Family Relationships and Children) of the Kansas Criminal Code. State security hospitals, county or private institutions, courts, and the Department of Social and Rehabilitation Services (SRS) are required to notify the KDOC of any changes in defendants’ custody resulting from hearings or proceedings for the purposes of providing victim notification.

The bill also extends, from 30 days to 45 days, the time period for the Secretary of SRS to prepare recommendations to the court regarding a suitable reentry program for a patient who is to be conditionally released from a treatment facility.

**Uniform Principal and Income Act**

HB 2455 amends the Uniform Principal and Income Act (UPIA), which deals with how income and distributions are handled in the administration of trusts and estates. The bill deals with the estate tax marital deduction, which, under the law, does not allow a transfer
to a trust that benefits a surviving spouse. Changes enumerated in the bill, however, allow for the administration of funds received by the trust, in accordance with IRS rules, for the estate tax marital deduction. In addition, the bill clarifies how the trustee is to proportion trust income for which a tax must be paid.

**Affidavits Allowed in Probate Estate Without “Known” Property**

**HB 2456** amends probate law regarding when a decedent’s will and affidavit may be filed. The bill clarifies that it is the “known” real and personal property in the probate estate that is of concern. Under provisions of the bill, a will and affidavit can be filed if the decedent’s probate estate contains no known real or personal property, or the value of the known real and personal property in the decedent’s probate estate is less than the total of all known demands against the estate.

**Lifetime Registration and the Kansas Offender Registration Act**

**HB 2468** amends the Kansas Offender Registration Act to require a person convicted of any attempt, conspiracy, or criminal solicitation of certain sex crimes to register for life. The sex crimes requiring lifetime registration under the bill are the attempt, conspiracy, or criminal solicitation to commit aggravated trafficking, rape, aggravated indecent liberties with a child, aggravated criminal sodomy, promoting prostitution if the prostitute is less than 14 years of age, and sexual exploitation of a child.

**Criminal History**

**HB 2469** amends the law with respect to criminal history category to delete the language in the statute regarding applicable penalties so that there is no ambiguity that prior convictions can be counted in determining the criminal history category of a defendant. The bill is effective upon publication in the *Kansas Register*.

**Court Fees**

**Senate Sub. for HB 2476** increases and extends to June 30, 2011, the Judicial surcharge the Legislature authorized in 2009 SB 66 to fund nonjudicial personnel. The surcharge is increased from $10 to $17.50 on most court docket fees. Expungement of conviction, expungement of arrest record, marriage license fee, general rule on court procedures, and expungement of juvenile adjudication surcharges are increased more than $10. In addition, a $100 docket fee is added for expungement of an adult conviction or a juvenile adjudication.

The bill deletes the provision requiring a $10 surcharge on a person requesting an alias order or writ of execution, an alias order for garnishment, an alias writ or order of sale, an alias order for hearing in aid of execution, and an alias order of attachment.

The bill will be effective upon publication in the *Kansas Register*. 
Kansas Department of Corrections Parole Services, Operations, and Facilities

**HB 2503** explicitly provides the Secretary of Corrections responsibility and authority over the management of parole services, operations, and facilities.

**Inheritance Taxes**

**HB 2557** provides limitations on the liability of estates under the Kansas inheritance tax which, under the law, is eliminated in tax year 2010. The bill also removes various references to the inheritance tax.

**Correctional Supervision Fund**

**HB 2581** changes the term probation or community correctional service fee to a correctional supervision fee. The bill increases the correctional service fee amount offenders are required to pay if convicted of a misdemeanor from $25 to $60. For felony convictions, the correctional services fee increases from $50 to $120.

The bill creates a new fund in the state treasury which is called the Correctional Supervision Fund. The additional funds collected from the payment by offenders of the increased correctional service fee are deposited in the Correctional Supervision Fund. Additionally, the bill amends KSA 20-367, remittance of the docket fees, to clarify that the correctional supervision fee are deposited directly to either the Correctional Supervision Fund or the State General Fund, as specified in KSA 21-4610a, and is not to be commingled with the docket fees.

**County Jail Work Release**

**HB 2604** authorizes a sentencing court to assign defendants, convicted of misdemeanors or felonies that require imprisonment in the county jail rather than a state correctional facility, to a work release program provided that the defendant return to confinement in the county jail at the end of each day while in the work release program. The bill clarifies that the authority of a sentencing court to order a defendant to a work release program does not include work release programs at state correctional facilities under the control of the Secretary of Corrections.

**Drug Code Recodification**

**HB 2661** corrects inadvertent errors made in the recodification of the drug code in 2009 HB 2332. The bill:
- Adds a specific reference to subsection (b)(3) of KSA 21-36a06 (possession of marijuana) regarding the law providing municipal courts jurisdiction, or concurrent jurisdiction, to hear and determine cases;

- Adds the age 18 of the offender requirement back into the law regarding the crime of distribution of a controlled substance or controlled substance analog;

- Adds language to cover Schedule V controlled substances regarding the crime of possession of a controlled substance or controlled substance analog;

- Conforms the penalty provision regarding prescription-only drug violations;

- Uses terms defined in the recodified drug code and adds the age 18 of the offender requirement back into the law regarding precursor offenses;

- Adds references to the Uniform Controlled Substances Act provisions repealed in recodification and makes clear the old law violations and new law violations are treated the same; and

- Clarifies that only those individuals convicted of KSA 21-36a05(a)(1) are required to register under the Kansas Offender Registration Act and makes the provision retroactive to remove the registration requirement for anyone convicted under the other subsections of KSA 21-36a05.

The bill is effective upon publication in the *Kansas Register.*
Municipal Investments, Investment of Bond Proceeds

SB 415 amends provisions applying to the investment of certain bond proceeds by governing bodies of certain municipalities.

Among the modifications:

- **General Bond Law (KSA 10-131)** – The bill amends the law that applies to taxing subdivisions that have the power to issue general obligation bonds to allow for authorized investments to include the Government National Mortgage Association. (These investments are commonly referred to as Ginnie Maes, pools of mortgage funds guaranteed by the GNMA.)

- **Revenue Bond Law (KSA 2009 Supp. 10-1009)** – The bill also amends the law governing the power granted to municipalities to issue revenue bonds to extend the time limitation specified for the maximum stated rate of interest which may be fixed on fixed- or variable-rate bonds issued by a municipality or taxing subdivision (of the State of Kansas) from June 30, 2010 to June 30, 2012. Under existing law, the specified maximum stated interest rate is to be determined on the day the bonds are sold and shall not exceed the daily yield for the ten-year treasury bonds published by the Bond Buyer in New York, New York, plus a certain interest percentage. Specifically, the bill increases the interest percentages from 5 to 6 percent (if the interest on the bonds is excluded from gross income for federal tax purposes) or from 6 to 7 percent (if interest is included).

- **Investment of Idle Funds (KSA 2009 Supp. 12-1675)** – The bill amends one of the investment types (idle funds) permitted by existing law to include investments in savings deposits.

The bill allows the investment in general obligation bonds of any Kansas municipality. This investment is subject to the provision in law that first requires a municipality to offer its idle funds to eligible financial institutions (institution given the ability to offer to match the PMIB-published investment rate in KSA 2009 Supp. 121675(a)).

Municipal Bonds – Good Faith Deposit in Cash

SB 451 makes a change to the municipal bond law. The bill allows municipalities the option of accepting the good faith deposit for a municipal bond in the form of cash,
including cash deposited via electronic fund transfer. Previously, the good faith deposit could be made only in the form of a certified or cashier’s check or surety bond.

If the good faith deposit is made by wire transfer into a municipality’s account, the bill will alter the deadline by which the deposit must be furnished. Previously, the law required the deposit to be furnished at or prior to the time of sale by each bidder; the bill allows the option of changing that deadline, for wire transfers, to any time prior to the time the municipality’s governing body accepts the bid from the bond purchaser.

**Bond Debt Limit Increase for Norton County**

**SB 463** adds Norton County to those counties authorized to have a bonded indebtedness limit of 30 percent of the assessed value of all tangible taxable property. Previous law limited all counties to a 3 percent bonded indebtedness level, except Franklin and Wyandotte counties, for which the limit was 30 percent.

**Registers of Deeds – Plats or Replats of Certain Surveys**

**HB 2125** amends state law to require a register of deeds to obtain a receipt showing that all past and current real estate taxes due have been paid before the register of deeds could record any replat or plat of survey pursuant to the Apartment Ownership Act or the Townhouse Ownership Act. This proof of tax payment previously had been required only before any plat was recorded.

The bill amends the dates regarding such tax payments to conform with dates real estate taxes must be paid in KSA 2008 Supp. 79-2004.

The bill also adds to the Apartment Ownership Act and to the Townhouse Ownership Act the requirement that the register of deeds cannot record any plat of survey unless the plat is accompanied by a receipt from the county treasurer showing real estate taxes have been paid.

**City of Ogden – Sanitary Sewer Easement**

**HB 2698** authorizes and directs the Secretary of State to grant a permanent sanitary sewer easement to the City of Ogden on state-owned land. The purpose of the easement is for construction and maintenance of the outfall pipe and a concrete headwall for the Ogden wastewater treatment facility, and the easement terminates if the land is no longer used for this purpose. The bill requires the easement to be conditioned on the facility assuming full responsibility of the easement and holding the State harmless.

The legal description of the tract of land that contains the easement is cited in the bill; however, the bill authorizes the Secretary of State to correct this description if it is found...
to be incorrect. The Attorney General is required to approve the deed conveying the easement, whether or not the legal description is changed.
Attorney General—Transfers Between Funds

**SB 326** increases the amount that the Attorney General may transfer from the Crime Victims Compensation Fund to the Crime Victims Assistance Fund, from $100,000 to $300,000, annually.

FY 2010 Budget Adjustments

**Senate Sub. for HB 2222** contains current year adjustments for FY 2010 for selected state agencies, as recommended by the Governor, and as amended by the 2010 Legislature. An overview of the Governor’s recommended budget for FY 2010 is provided below. Not all of the supplemental expenditure and receipt adjustments recommended by the Governor and amended by the Legislature to date are reflected in this bill. For example, expenditure changes recommended to special revenue funds with “no limit” expenditure limitations would not require any adjustment in the bill. In addition, some recommendations may not require any action in an appropriations bill, but may impact the amount of funding available for carry forward to FY 2011. In making State General Fund allotments in July 2009 and November 2009, the Governor included recommendations for further adjustments that require legislative authorization. Governor’s allotments, by statute, reduce approved budgets of agencies without any approval required by the Legislature. Most of the items in this bill are related to those recommendations that required legislative action.

**Governor’s Recommended Changes to Estimated FY 2010 Expenditures**

Based on actions of the 2009 Legislature, it was estimated by the Research Department that FY 2010 expenditures from all funds would total $13.514 billion. The Governor’s Budget Report revises the all funds FY 2010 budget to $14.497 billion, an increase of $1.4 billion above the earlier estimate. Major differences from the session-end estimates and the current Governor’s recommendation include:

- An increase of $1.1 billion, all from special revenue (mainly federal) funds, in the budget of the Department of Labor, primarily for increases to estimated unemployment benefits.

- An increase of $110.6 million from all funding sources in the budget of the Kansas Department of Transportation, largely for adjustments to capital improvement projects.
• An increase of $91.9 million from all funding sources in the budgets of the Department of Social and Rehabilitation Services and the State hospitals, primarily reflecting additional federal funds expenditures and caseload increases. State General Fund expenditures for SRS and the hospitals decrease by $19.2 million.

• An increase of $61.3 million from all funding sources in the budgets of the Kansas Board of Regents and the Regents institutions, primarily reflecting additional special revenue fund expenditures. State General Fund expenditures for the Board and the institutions decrease by $17.7 million.

• The Governor also recommends $5.0 million, all from the State General Fund, in FY 2010, as a supplemental expenditure for operations of the Judicial Branch.

• The Governor’s November 2009 State General Fund allotment included the expenditure of approximately $92.5 million more in federal American Recovery and Reinvestment Act (ARRA) funding in FY 2010 than approved by the 2009 Legislature, to offset State General Fund expenditures.

At the close of the 2009 Session, FY 2010 expenditures from the State General Fund were estimated to be $5.613 billion. The Governor’s Budget Report revises the FY 2010 State General Fund budget to $5.451 billion, a decrease of $161.7 million below the earlier estimate.

• A number of the FY 2010 recommended State General Fund adjustments were included in the Governor’s July and November 2009 State General Fund allotments. These allotments, through a series of recommended revenue adjustments and expenditure reductions, are intended to increase the FY 2010 State General ending balance by $391.6 million. Approximately $95.0 million of the recommended adjustments require legislative authorization. Most of the recommendations in this bill are to address the recommended adjustments that require legislative authorization.

• As noted above, the Governor’s July and November 2009 State General Fund allotments included the expenditure of approximately $92.5 million more in federal ARRA funding in FY 2010 than approved by the 2009 Legislature, to offset State General Fund expenditures of the same amount in the budgets of the Department of Education and the State hospitals.

• State General Fund expenditures in the budget of the Department of Education decrease by $94.0 million, although the decrease is partially offset by $85.9 million in additional ARRA funding.
Governor’s Recommendations Contained in Senate Sub. for HB 2222

The FY 2010 Governor’s recommendations specifically contained in Senate Sub. for HB 2222 include the following:

- A reduction of $2.75 million, all from the State General Fund, in the budgets of the Legislative Branch agencies;

- A supplemental expenditure of $5.0 million, all from the State General Fund, for operations of the Judicial Branch in FY 2010;

- A reduction of $1.2 million, all from the Economic Development Initiatives Fund (EDIF), in FY 2010, in the budgets of the Department of Commerce ($800,000), the Kansas Technology Enterprise Corporation ($390,000), and Kansas, Inc. ($10,000).

- Transfers totaling $92.8 million to the State General Fund from the following funds in FY 2010: the State Highway Fund ($80.0 million), the Economic Development Initiatives Fund ($5.8 million), the Securities Commissioner Fee Fund ($5.0 million); and the State Housing Trust Fund ($2.0 million).

Legislative Adjustments to the Governor’s Current Year Recommendations

The Legislature made three adjustments to the Governor’s current year recommendations in Senate Sub. for HB 2222:

- Added $550,000, all from the State General Fund, to be appropriated to the Legislative Coordinating Council. The funding would decrease the overall reduction for all legislative branch agencies contained in this bill from $2.75 million, to $2.20 million. The funding may be distributed among legislative branch agencies at the discretion of the Legislative Coordinating Council.

- Added $2.4 million, all from the State General Fund, to restore the 10.0 percent Medicaid provider reduction for Home and Community Based Services for individuals with developmental disabilities and deleted the same amount for grants and state aid payments to Community Developmental Disability Organizations in FY 2010. This results in an additional $5.5 million in federal funds in FY 2010 to reflect the amount received in federal matching funds associated with the increased State Medicaid expenditures for the waiver.

- Reduced the salaries for state officers by 5.0 percent, which totals $955,522, including $673,314 from the State General Fund, in FY 2010. State officers include statewide elected officials, a Department Secretary, a Chief Executive
Officer, member of a board, council, or authority, legislators, legislative leadership and staff, judges and justices and other positions authorized by statute. Estimated State General Fund savings of $673,314 are lapsed and estimated special revenue savings of $282,208 remain in the affected special revenue funds.

Total expenditures approved for FY 2010 following passage of this bill are $14.502 billion from all funding sources, and $5.451 billion from the State General Fund. This represents an increase of $1.446 billion, or 11.1 percent, above the amount approved by the 2009 Legislature, and a State General Fund decrease of $161.9 million, or 2.9 percent, below the amount approved by the 2009 Legislature. The recommendations contained in this bill - Senate Sub. for House Bill No. 2222 - reflect increased State General Fund expenditures of $2.1 million, and increased funding of $6.2 million from all funding sources above the FY 2010 approved budget. In addition, receipts to the State General Fund increase by $92.8 million in FY 2010.
STATE GOVERNMENT

Transferring the Beloit Juvenile Correctional Facility
to the City of Beloit, KS

**SB 357** authorizes the Secretary of the Department of Administration to convey Beloit Juvenile Correctional Facility for and on behalf of the Juvenile Justice Authority, to the City of Beloit, KS. All costs related to the conveyance shall be paid by the City of Beloit, KS. The bill removes any legal reference of Beloit Juvenile Correctional Facility and the legal physical description of the facility from statute, as well as the Beloit Juvenile Correctional Facility Fee Fund.

Health Care Stabilization Fund, Reimbursements

**SB 414** amends the Health Care Provider Insurance Availability Act to exempt transfers from the State General Fund (SGF) to the Health Care Stabilization Fund (HCSF) as required by KSA 2009 Supp. 40-3403(j) from the allotment authority delegated by statute (KSA 75-3722) to the Secretary of Administration.

The bill also makes a technical amendment to the requirement for payment of the annual surcharge, striking the word “fiscal.”

*Deferral of Payment to the Health Care Stabilization Fund.* The bill further amends the Act to provide that the funds required to be transferred to the Health Care Stabilization Fund for the payments specified in law (KSA 2009 Supp. 40-3403(j)) for state Fiscal Years 2010, 2011, 2012, and 2013 shall not be transferred prior to July 1, 2013. The Director of Accounts and Reports will be required to maintain a record of the amounts certified by the Health Care Stabilization Fund Board of Governors for the specified fiscal years. The bill establishes a process for the repayment of the deferred State General Fund payments, as follows: beginning on July 1, 2013 and on an annual basis through July 1, 2017, 20.0 percent of the total amount of the SGF deferred transfers are to be transferred to the Health Care Stabilization Fund. No interest will be allowed to accrue on the deferred payments.

KSA 2009 Supp. 40-3403(j) pertains to the reimbursement for the costs and expenses associated with the administration of a self-insurance program for the full-time faculty, private practice foundations and corporations, and the residents of the University of Kansas School of Medicine and the Wichita Center for Graduate Medical Education. (When the costs, including claims and legal expenses, exceed the amount paid by the Faculty Foundations [Private Practice Foundation Reserve Fund], the SGF, upon certification of the amount of the payments made by the HCSF, transfers the difference to the HCSF.)

The bill will become effective upon publication in the *Kansas Register.*
Alternative Delivery Building Construction

**Sub. for SB 513** amends the Alternative Project Delivery Building Construction Procurement Act. The bill includes district hospitals in the alternative delivery building construction process.

Board of county commissioners and unified school districts also are involved in the alternative delivery building construction process. Alternative project delivery is defined as an integrated comprehensive building design and construction process, including all procedures, actions, contractual relations, obligations, and agreements for the successful completion of the design and construction of buildings whereby a construction manager or general contractor is selected based on qualifications and best value approach.

The bill makes a technical change to replace the terms “general contractors or construction managers” with “firm” when a unified school district, district hospital, or board of county commissioners solicit proposals for alternative delivery building construction process.

Under the bill, “firm” is defined as any individual, partnership, joint adventure, corporation, or other legal entity which is engaged in the business of providing construction management or general construction contracting services.

The bill requires boards of county commissioners, district hospitals, and unified school districts to conduct interviews with each of the prequalified firms in executive sessions.

Electronic State Records

**HB 2195** concerns state records and the State Archivist of the Kansas State Historical Society. The bill creates new statutory provisions that:

- Direct the State Archivist to prepare and present recommendations to the State Records Board regarding the preservation process for maintaining the authenticity of electronic records;

- Provide that electronic records maintained pursuant to the preservation process and certified by the electronic signature of the State Archivist would have the same legal effect as the original document; and

- Allow reasonable fees to be charged for electronic copies.

The bill also requires the State Archivist to:
Certify by an electronic signature any electronic government record maintained using preservation processes that meet national and professional standards for authenticity as determined by the State Archivist and approved by the State Records Board;

Charge a fee for certification of records by electronic signature or otherwise; and

Prepare and recommend to the State Records Board any policies and rules and regulations necessary to implement, administer, and enforce the new provisions.

In addition, the bill amends several statutes to include an option for transmittal via e-mail and other electronic means for certain court documents. Under the law, those statutes require transmittal in either written or facsimile form.

Finally, the bill makes technical amendments to two statutes amended in 2009 that include provisions relating to electronic copies of certain court documents.

The bill takes effect upon publication in the Kansas Register.

**State Public Trust for Superfund Site Communities – Compensation**

**HB 2544** changes the method of compensation for members of the state public trust established for certain communities within Superfund sites. The law provides that the trustees for certain communities within Superfund sites receive subsistence and travel reimbursement for the days they meet. The bill changes that compensation to the per diem rate of members of the Legislature for days of actual attendance at any meeting of the trust ($88.66 per day).

The bill also adds a provision to abolish the trust. The trust will be abolished when transfer of all affected properties to appropriate entities is completed or on July 1, 2014, whichever is earlier.

**Official State Grass**

**HB 2649** designates the little bluestem as the official grass of Kansas.
“Second Half” Property Tax Cleanup Bill

SB 464 clarifies the “second half” property tax payment deadline date in three statutes to conform with legislation passed in a previous year.

Local Sales Tax—Chautauqua County and Rate Authority Clarification

Senate Sub. for HB 2353 amends local sales tax authorization statutes to retroactively ratify the results of a December 1, 2009 election in Chautauqua County regarding imposition of a new countywide sales tax earmarked to finance the costs of constructing, furnishing, and equipping a county jail and law enforcement facility. The tax will sunset upon payment of all costs incurred in the financing of the project.

Other statutory adjustments raise the overall rate cap for Chautauqua County to 2.0 percent (the county has a 1.0 percent tax already in place); and amend the normal distribution formula that otherwise would have required the county to share a portion of sales tax receipts with cities located in the county.

A final provision clarifies the local sales tax law relative to counties such that no county (absent any special exception granted in advance by the Legislature) may allow its general sales tax rate to exceed 1.0 percent.
TRANSPORTATION AND MOTOR VEHICLES

Passenger Rail Service Program Authorization

SB 409 authorizes the Secretary of Transportation to establish and implement a passenger rail service program. With the program, the Secretary is authorized to take the following actions:

- Enter into agreements with Amtrak, other rail operators, local jurisdictions, and other states;

- Provide assistance to local jurisdictions to ensure that rail stations and terminals are designed and developed to meet safety and efficiency standards, aid intermodal transportation, and encourage economic development; and

- Provide loans or grants to passenger rail service providers from a Passenger Rail Service Revolving Fund established by the bill. Those loans or grants could be used for three purposes:
  - Restoration, conservation, improvement, and construction of railroad lines, switching yards, sidings, highway grade separations, and other railroad-related improvements;
  - Rail economic development projects that improve rail facilities, including locomotives and rolling stock; and
  - Costs associated with the initiation, operation, and maintenance of passenger rail service.

Expenditures from the Passenger Rail Service Revolving Fund would be made in accordance with appropriations.

The bill authorizes the Secretary to adopt rules and regulations to implement its other provisions.

The bill becomes effective upon publication in the Kansas Register.
Expanding the Topeka Metropolitan Transit Authority’s Service Area

SB 544 increases the area in which a metropolitan transit authority can offer services, from a radius of three miles of the city’s corporate limits to a radius of 90 miles of those city limits. The Topeka Metropolitan Transit Authority is the state’s only transit authority. Testimony indicated the change will allow the Authority to consider adding commuter services.

Safety of Visually Impaired Pedestrians

SR 1821 asks the U.S. Department of Transportation, Congress, and the Kansas congressional delegation to protect visually impaired pedestrians by researching and identifying strategies to ensure that all motor vehicles emit sound sufficient to be heard and located by pedestrians. The resolution states that the increased popularity of hybrid and electric vehicles and other advances such as quiet roadway and tire technologies mean vehicles make significantly less sound than traditional combustion engine vehicles. The resolution further states that those changes mean there may be insufficient traffic noise to allow blind and visually impaired pedestrians to judge when it is safe to cross a street, a threat to their independence.

1st Lieutenant Michael Hugh Breeding Memorial Bridge

HB 2436 designates a bridge in Marshall County on US-77 as the 1st Lieutenant Michael Hugh Breeding Memorial Bridge. The bridge crosses the Big Blue River near Blue Rapids. According to testimony, 1st Lt. Breeding, a pilot, received a Purple Heart for his service in Vietnam. The bill requires that the Secretary receive $2,040 from donations to cover costs of placing and maintaining signs before the Department of Transportation installs any signs indicating the designation.

KCC Review of Motor Carrier Compliance

HB 2485 increases from 12 to 18 months the time the Kansas Corporation Commission (KCC) has to verify that the carrier is in compliance with all applicable requirements, after the KCC has first authorized the carrier to operate in Kansas. Testimony indicated the bill will make Kansas’ safety compliance program reflect current federal guidelines.

John Neal Memorial Highway

HB 2535 designates a portion of K-61 in Reno County, between Hutchinson and Medora, as the John Neal Memorial Highway. According to testimony, Mr. Neal was involved in many civic and philanthropic organizations and advocated for highway improvements in the Hutchinson area. The bill requires that the Secretary receive donations to cover costs
of placing and maintaining signs before the Department of Transportation installs any signs indicating the designation; those costs were estimated at $5,220.

**Vehicle Dealer Contracts and Trucks Operating with Temporary Registration**

HB 2547 amends the Vehicle Dealers and Manufacturers Licensing Act in provisions having to do with contractual agreements between vehicle dealers and vehicle manufacturers and distributors (“manufacturers” below). It also extends the time a truck with temporary registration could be operated while laden. The bill becomes effective upon publication in the *Kansas Register*.

**Vehicle Dealers and Manufacturers**

The bill makes these changes to the Vehicle Dealers and Manufacturers Licensing Act:

- Prohibits a manufacturer from preventing a dealer from acquiring, adding, or maintaining another franchise under certain circumstances;

- Prohibits a manufacturer from making certain requirements regarding facilities if doing so would be unreasonable in light of financial and economic conditions and considerations:
  - Establishing or maintaining exclusive facilities, personnel, or display space;
  - Building, relocating, or making major changes to facilities;
  - Removing operations related to a current franchise; or
  - Conditioning the awarding of a franchise on a dealer’s willingness to enter into a site-control agreement;

- Adds a rebuttable presumption that a dealer’s decision to add a franchise is reasonable, and adds a procedure for a hearing before the Director of Vehicles if there is a protest to the addition;

- Declares it a violation of the Act for a contract to include any performance standard that is not fair, reasonable, equitable, based on accurate information, and applied uniformly to other similarly situated dealers;
• Prohibits a manufacturer or distributor from requiring a dealer to pay the
manufacturer’s or distributor’s legal fees related to a dispute between the
parties;

• Requires the parties to participate in mediation if either party so requests it;
the mediation would be nonbinding unless the parties reach agreement;

• Requires proof to be by a preponderance of the evidence that a manufacturer
or distributor did not act arbitrarily or unreasonably in cancelling, terminating,
or not renewing a franchise agreement;

• Adds voluntary termination of a franchise agreement to current termination,
cancellation, and buy-back provisions;

• Adds that when a franchise agreement is ended, the manufacturer or
distributor must pay the dealer certain costs related to computers and data
processing;

• Adds that provisions relating to costs for which manufacturers or distributors
must pay dealers when a franchise agreement is ended will not apply to
certain voluntary franchise terminations;

• Prohibits a manufacturer or distributor from refusing to pay for warranty work
or make certain other payments as long as the dealer presents reasonable
evidence to substantiate the claim;

• Reduces from two years to one year the time during which a manufacturer
or distributor may audit and charge back any amounts paid for promotional
allowances or other incentive payments, unless there is evidence of fraud,
and requires a claim be presented to the dealer within 90 days following an
audit;

• Prohibits a manufacturer from withdrawing money from an account under a
dealer’s control while an audit or other claim is on appeal;

• Requires a manufacturer or distributor to either approve or reject an entire
agreement, as opposed to part of an agreement, to transfer or sell a franchise
or interest in a dealership, and a manufacturer or distributor can not reject
such an agreement merely because it provides provisions that operate in
the future, e.g., an installment agreement;
● Prohibits a manufacturer from requiring a dealer to waive rights or consent to the jurisdiction of another state or to forgo any right to trial by jury; and

● Requires manufacturers and distributors to indemnify a dealer from claims made by a third party in relation to any:
  
  ◦ Vehicle, part, or accessory manufactured or distributed by the manufacturer or distributor;
  
  ◦ Any service system or procedure the manufacturer required or recommended the use of, if the dealer used the system or procedure properly; or
  
  ◦ Any improper use of nonpublic personal information obtained from the dealer regarding consumers or employees.

**Operation of Trucks with Temporary Registration**

The bill changes from 48 hours to 30 days the time during which a newly purchased truck, truck tractor, or any combination of truck, truck tractor, and trailer or semitrailer can be operated under laden conditions with temporary registration.

**Midwest Interstate Passenger Rail Compact**

**HB 2552** enacts the Midwest Interstate Passenger Rail Compact. The purpose of the compact is to promote improvements to intercity passenger rail service in a 12-state region, to coordinate interaction among states on passenger rail issues, to promote development and implementation of long-range plans for high speed rail passenger service, to work with public and private sectors at all levels to ensure coordination, and to support efforts of transportation agencies in developing and implementing passenger rail service.

Each member state chooses four commissioners for two-year terms; the governor or governor’s designee, a member of the private sector chosen by the governor, and two legislators, one from each chamber. Commission duties have to do with coordination of planning, implementation, and related activities. The Commission also is to work with federal agency officials and members of Congress on long-term interstate plans for passenger rail service. Each member state has equal voting privileges.

The other states that are members of the Midwest Compact are Indiana, Illinois, Iowa, Michigan, Missouri, Minnesota, Nebraska, North Dakota, Ohio, and Wisconsin. South Dakota, which has no passenger rail service, is eligible for membership but has not joined.
SFC David R. Berry/SGT WillSun M. Mock Memorial Highway

HB 2555 designates a portion of K-14 and K-2 in Harper County as the SFC David R. Berry/SGT WillSun M. Mock Memorial Highway. According to testimony, both died while on active military service in Iraq. The portion so designated is on K-14 from the intersection of K-14 and NE 100 Road to the junction with US-160 and K-2, then south on K-2 to the northern city limits of Anthony. The bill requires that the Secretary receive $2,250 from donations to cover costs of placing and maintaining signs before the Department of Transportation installs any signs indicating the designation.

Vern Chesbro Memorial Highway

HB 2678 designates a portion of US-59 in Franklin County, between I-35 and the northern county boundary, as the Vern Chesbro Memorial Highway. According to testimony, Mr. Chesbro was involved in public service and the political process most of his life. The bill requires that the Secretary receive $2,820 from donations to cover costs of placing and maintaining signs before the Department of Transportation installs any signs indicating the designation.
VETERANS AND MILITARY

Military Installations-Adjacent Land Use

HB 2445 concerns land use adjacent to or surrounding military installations.

The bill expresses the desire of the State of Kansas to promote communication, cooperation, and collaboration between military installations and any municipality adjacent to or surrounding the installation. To increase this communication, cooperation, and collaboration, military installations are required to:

- Notify and coordinate with municipalities regarding any development, project, or operational change that alters or amends a Joint Land Use Study (JLUS) area, Army Compatible Use Buffer (ACUB), Air Installation Compatible Use Zone (AICUZ), or Environmental Noise Management Plan (ENMP);

- Notify each municipality of any change in the name, contact information, or other related information used for the purpose of communication between the military installation and municipality; and

- Meet and coordinate, at least annually, with representatives of each municipality for the purpose of determining a “critical area” within an area of interest (JLUS, ACUB, AICUZ, or ENMP).

A “critical area” is defined as an area of interest where future use of such area is set through a coordinated effort between the municipality and military installation to avoid conflict with any military operation or the economic well being of the municipality.

Each municipality adjacent to or surrounding a military installation is required to:

- Meet and coordinate, at least annually, with the applicable active duty, National Guard, or Reserve commander to determine critical areas;

- Notify the applicable commander of any change in the name, contact information, or other related information used for the purpose of communication between the military installation and municipality;

- Provide notice to the applicable commander of the adoption of any regulation or amendment to a comprehensive planning document that affects any agreed-upon critical area. The notice would be provided at least 30 days prior to the adoption of such regulation or amendment. Approval of the change
would be granted by the commander upon no response being issued to the municipality;

- Provide notice to allow commanders to assess changes to critical areas. The assessments would be offered within the statutorily required notice for public hearing;

- Review and coordinate comprehensive plans or zoning ordinances or regulations affecting any mutually agreed upon critical area;

- Consider the recommendations and studies provided by the military on the protection of public health, safety, and welfare for such plans, ordinances, or regulations. Also included are recommendations and studies on the maintenance of safe military operations and the sustainability of installation missions; and

- Provide notice to individuals receiving a construction permit for improvements within a critical area indicating the land is near military training zone. (The exact language that would be required in the notice may be found in Section 2(b)(2)(J) of the bill.)

Additionally, municipalities are directed to consider certain factors based upon information provided by military installations before making a decision regarding a development proposal within an agreed upon critical area. The factors needing consideration are the potential release of substances into the air impairing or interfering with military operations (substances released through agricultural use are exempted); electrical emissions interfering with certain communications and equipment; the potential of projects to attract birds or waterfowl, including the operation of any sanitary landfill and the maintenance of any large scale feeding station; structures interfering with aircraft activity; noise levels; the potential for obstructed visibility or surveillance in relation to certain activities; and whether there will be a violation of stated Federal Aviation Administration guidelines.

The bill states final decisions on “all planning, development, zoning, and land use issues shall be made by each municipality.”
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