

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:36 A.M. on February 21, 2006, in Room 123-S of the Capitol.

All members were present,

Terry Bruce arrived, 9:38 a.m.
Kay O'Connor arrived, 9:39 a.m.
Phil Journey arrived, 9:40 a.m.
Barbara Allen arrived, 9:41
David Haley arrived, 10:07 a.m.

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Helen Pedigo, Office of Revisor of Statutes
Karen Clowers, Committee Secretary

Others attending:

See attached list.

The Chairman called for final action on **SB 507--Jury fee.**

The Chairman reviewed the bill and results of the hearing heard on February 16.

Senator Goodwin moved, Senator Bruce seconded, to recommend SB 507 favorably for passage as amended in Senator Goodwin's proposed balloon. Motion carried.

The Chairman called for final action on **SB 337--Compensation for certain judicial branch employees, docket fees.**

The Chairman reviewed the bill and results of the hearing heard on February 14. The Chairman proposed that the committee might consider directing excess monies collected toward the court's technology fund and used to fund free electronic access to court records across the State of Kansas.

Senator Schmidt indicated that the subject of judicial pay raises had already passed the Senate and questioned why the issue was being revisited. The Chairman indicated that **SB 296** received substantial Senate support last year which provides a \$9,000 annual pay increase for all judges and that the bill is currently in the House Appropriations Committee. **SB 337** is a result of the Interim Judiciary Committee this past summer. Senator Schmidt indicated that **SB 296** concerning judicial pay raises is alive and well and he was not sure that re-stating the issue was necessary.

Senator Schmidt moved, Senator O'Connor seconded, to amend SB 337 by striking Sections 8 and 9 from the bill and inserting the operative language of SB 353 authorizing electronic access to court records with the understanding that should the motion prevail, further work on the language from SB 353 would be required. Motion carried.

Senator Schmidt moved, Senator Donovan seconded, to obligate the monies generated by the docket fees collected and deposit them into the court's technology fund to be used for the purpose of establishing, operating and maintaining a system of free, internet electronic access to court records that are otherwise publically available. Motion carried.

Senator Schmidt moved, Senator Donovan seconded, to recommend SB 337 as amended favorably for passage. Motion carried.

The Chairman called for final action on **SB 505--Electronic access to court records; exemption from fees.**

Senator Donovan moved, Senator Goodwin seconded, to adopt the amendment recommended by the Board on Indigent Services in their testimony at the hearing on February 14. Motion carried.

The Chairman indicated a proposed amendment from Whitney Damron on behalf of the Kansas Information Consortium to delete language regarding INK (Kansas Information Network) (Attachment 1).

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:36 A.M. on February 21, 2006, in Room 123-S of the Capitol.

Senator Bruce moved, Senator Schmidt seconded, to strike Section 4 of the bill. Motion carried.

Senator Goodwin moved, Senator Donovan seconded, to favorably recommend **SB 505** as amended for passage. Motion carried.

The Chairman called for final action on **SB 361--Kansas air quality act, appeal agency action to court of appeals.**

The Chairman reviewed the bill and results of the hearing including a proposed amendment by Sunflower Electric during the hearing on February 7.

Senator Donovan moved, Senator Schmidt seconded, to replace the word "exclusive" with the word "original" on page 1, line 31 of the bill. Motion carried.

Senator Bruce moved, Senator Donovan seconded, to recommend **SB 361** as amended favorably for passage. Motion carried. Senator Haley voted no and requested his vote recorded.

The Chairman called for final action on **SB 380--Amendments to the residential landlord and tenant act; inventory of premises, security deposit, automatic renewal clauses.**

Senator Umbarger provided a balloon amendment regarding several changes and provided explanations for each change (Attachment 2).

Senator Umbarger moved, Senator Schmidt seconded, to adopt the balloon amendment. Motion carried.

Senator Umbarger moved, Senator seconded, to recommend **SB 380** as amended favorably for passage. Motion carried.

The meeting adjourned at 10:22 a.m. The next scheduled meeting is February 22, 2006.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-21-06

NAME	REPRESENTING
Whitney Damm	KSP Financial Consortium
Steve Miller	Sunflower Electric
WAYNE PENROD	Sunflower Electric
TRACY SMITH	Kansas Information Consortium
Jerry Sloan	Judicial Branch
Kathryn Purber	Judicial Branch
Tom Benaka	SCLA
Bruce Loh	Children's Alliance
Melissa Nees	Connections
Patricia	BIDS
Rachel Barner	KU student legislative Awareness Board
Leslie Eldridge	Student legislative Awareness Board
Marynell Jones	Student legislative Awareness Board
José Bender	KU SLAB
Jan Staples	KU SLAB
Bill Roe	KSSOS
Bob Keller	JCSO
Doug Smith	Pineger, Smith & Associates

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-21-06

NAME	REPRESENTING
Bill Henry	KS Credit Union Assn,
Jim Clark	KS Bar Association

Whitney B. Damron, P.A.
919 South Kansas Avenue
Topeka, Kansas 66612-1210
(785) 354-1354 • (785) 354-8092 (Fax)
E-Mail: wbdamron@aol.com

REQUEST FOR AMENDMENT

**TO: The Honorable John Vratil, Chair
 And Members of the Senate Committee on Judiciary**

**FROM: Whitney Damron
 On behalf of the Kansas Information Consortium**

**RE: SB 505 An Act concerning records; relating to electronic access
 to court records; exemption from fees.**

DATE: February 20, 2006

Chairman Vratil and Members of the Committee:

Included with this cover letter is a proposed balloon amendment to SB 505, should the Committee take this measure up for consideration.

In summary, the Kansas Information Consortium respectfully requests you delete language found on page 6 of the bill that specifically would prohibit the Information Network of Kansas (INK) from entering into any contract, lease or other form of agreement that may result in the charging of fees for electronic access to court records.

INK currently provides access to court records, some for a fee such as criminal background reports and some for free, such as those found at the KBA sex offender site. Access to these and other court records may be jeopardized if this language remains in SB 505 or otherwise becomes law.

We agree compromise is needed between the Office of Judicial Administration and municipalities currently providing access to court records free of charge. We are hopeful such a compromise will be forthcoming and negate the need for legislation such as SB 505 and SB 353 altogether. We believe OJA is sympathetic to entities such as the Board of Indigent Defense Services and therefore not sure legislation such as SB 505 is needed. However, if it is the will of the Committee to adopt legislation that would mandate entities such as the Board of Indigent Defense Services to receive access to court records for free, we do not believe it is appropriate to specifically prohibit INK from providing access to all court records in all instances for a fee.

Should the Committee have questions when considering this legislation, I will be available to respond. Thank you.

Senate Judiciary
2-21-06
Attachment 1

SENATE BILL No. 505

By Committee on Judiciary

2-2

9 AN ACT concerning records; relating to electronic access to court re-
10 cords; exemption from fees; amending K.S.A. 2005 Supp. 22-4504, 22-
11 4506, 22-4507 and 74-9304 and repealing the existing sections.

12

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

14 Section 1. K.S.A. 2005 Supp. 22-4504 is hereby amended to read as
15 follows: 22-4504. (a) When any defendant who is entitled to have the
16 assistance of counsel, under the provisions of K.S.A. 22-4503, and amend-
17 ments thereto, claims to be financially unable to employ counsel, the
18 court shall require that the defendant file an affidavit containing such
19 information and in the form as prescribed by rules and regulations
20 adopted by the state board of indigents' defense services. The affidavit
21 filed by the defendant shall become a part of the permanent file of the
22 case. The court may interrogate the defendant under oath concerning the
23 contents of the affidavit and may direct the county or district attorney,
24 sheriff, marshal or other officer of the county to investigate and report
25 upon the financial condition of the defendant and may also require the
26 production of evidence upon the issue of the defendant's financial in-
27 ability to employ counsel.

28 (b) Upon the basis of the defendant's affidavit, the defendant's state-
29 ments under oath, and such other competent evidence as may be brought
30 to the attention of the court, which shall be made part of the record in
31 the case, the court shall determine whether the defendant is financially
32 unable to employ counsel. In making such determination the court shall
33 consider the defendant's assets and income; the amount needed for the
34 payment of reasonable and necessary expenses incurred, or which must
35 be incurred to support the defendant and the defendant's immediate
36 family; the anticipated cost of effective representation by employed coun-
37 sel; and any property which may have been transferred or conveyed by
38 the defendant to any person without adequate monetary consideration
39 after the commission of the alleged crime. If the defendant's assets and
40 income are not sufficient to cover the anticipated cost of effective rep-
41 resentation by employed counsel when the length and complexity of the
42 anticipated proceedings are taken fully into account, the defendant shall
43 be determined indigent in full or in part and the court shall appoint an

1 attorney as provided in K.S.A. 22-4503, and amendments thereto. If the
2 court determines that the defendant is financially able to employ counsel,
3 the court shall so advise the defendant and shall give the defendant a
4 reasonable opportunity to employ an attorney of the defendant's own
5 choosing. All determinations by a court as to whether a defendant is
6 financially unable to employ counsel shall be subject to and in accordance
7 with rules and regulations adopted by the state board of indigents' defense
8 services under this act.

9 (c) The court shall inform the defendant for whom counsel is ap-
10 pointed that the amount expended by the state in providing counsel and
11 other defense services may be entered as a judgment against the defend-
12 ant if the defendant is convicted and found to be financially able to pay
13 the amount, and that an action to recover such amount may be brought
14 against any person to whom the defendant may have transferred or con-
15 veyed any of the defendant's property without adequate monetary con-
16 sideration after the date of the commission of the alleged crime. A de-
17 termination by the court that the defendant is financially unable to employ
18 counsel or pay other costs of the defendant's defense may preclude a
19 recovery from the defendant but may not preclude recovery from any
20 person to whom the defendant may have transferred or conveyed any
21 property without adequate monetary consideration after the date of the
22 commission of the alleged crime.

23 (d) If found to be indigent in part, the defendant shall be promptly
24 informed of the terms under which the defendant may be expected to
25 pay for counsel. Any payments pursuant to such terms shall apply upon
26 any judgment entered pursuant to K.S.A. 22-4513, and amendments
27 thereto. Payments made for services of appointed counsel provided under
28 K.S.A. 22-4503, and amendments thereto, shall be paid to the clerk of
29 the district court. The clerk of the district court shall remit all moneys
30 received as payment for services of appointed counsel under this section
31 to the state board of indigents' defense services at least monthly and the
32 board shall remit all moneys received under this section to the state trea-
33 surer in accordance with the provisions of K.S.A. 75-4215, and amend-
34 ments thereto. Upon receipt of each such remittance, the state treasurer
35 shall deposit the entire amount in the state treasury to the credit of the
36 state general fund.

37 (e) The determination that a defendant is indigent or partially indi-
38 gent shall be subject to review at any time by any court before whom the
39 cause is then pending.

40 (f) The state board of indigents' defense services shall adopt rules
41 and regulations in accordance with K.S.A. 77-415 *et seq.*, and amend-
42 ments thereto, relating to the income, assets and anticipated costs of
43 representation for the purpose of determining whether a defendant is

1 financially able to employ counsel and the ability of a defendant to con-
2 tribute to the cost of the defendant's legal defense services.

3 (g) *Whenever it is determined that electronic access to court records*
4 *is necessary to present a defendant's cause adequately and it is further*
5 *determined that the defendant is indigent, the court having jurisdiction*
6 *in the matter shall order that the records be supplied to the defendant, at*
7 *no charge, by the electronic access service. The state board of indigents'*
8 *defense services shall be exempt from paying user fees to access electronic*
9 *court records.*

10 Sec. 2. K.S.A. 2005 Supp. 22-4506 is hereby amended to read as
11 follows: 22-4506. (a) Whenever any person who is in custody under a
12 sentence of imprisonment upon conviction of a felony files a petition for
13 writ of habeas corpus or a motion attacking sentence under K.S.A. 60-
14 1507 and files with such petition or motion such person's affidavit stating
15 that the petition or motion is filed in good faith and that such person is
16 financially unable to pay the costs of such action and to employ counsel
17 therefor, the court shall make a preliminary examination of the petition
18 or motion and the supporting papers.

19 (b) If the court finds that the petition or motion presents substantial
20 questions of law or triable issues of fact and if the petitioner or movant
21 has been or is thereafter determined to be an indigent person as provided
22 in K.S.A. 22-4504 and amendments thereto, the court shall appoint coun-
23 sel from the panel for indigents' defense services or otherwise in accord-
24 ance with the applicable system for providing legal defense services for
25 indigent persons prescribed by the state board of indigents' defense serv-
26 ices, to assist such person and authorize the action to be filed without a
27 deposit of security for costs. If the petition or motion in such case raises
28 questions shown by the trial record, the court shall order that the peti-
29 tioner or movant be supplied with a transcript of the trial proceedings,
30 or so much thereof as may be necessary to present the issue, without cost
31 to such person.

32 (c) If an appeal is taken in such action and if the trial court finds that
33 the petitioner or movant is an indigent person, the trial court shall appoint
34 counsel to conduct the appeal, order that the appellant be supplied with
35 a record of the proceedings or so much thereof as such counsel deter-
36 mines to be necessary and order that the deposit of security for costs be
37 waived.

38 (d) (1) The state board of indigents' defense services shall provide
39 by rule and regulation for: (A) The assignment of attorneys to the panel
40 for indigents' defense services to represent indigent persons, who have
41 been convicted of capital murder and are under sentence of death, upon
42 a filing of a petition for writ of habeas corpus or a motion attacking sen-
43 tence under K.S.A. 60-1507 and amendments thereto;

1 (B) standards of competency and qualification for the appointment
2 of counsel in capital cases under this section; and

3 (C) the reasonable compensation of counsel appointed to represent
4 individuals convicted of capital murder and under a sentence of death,
5 during proceedings conducted pursuant to subsection (a), (b) or (c) and
6 for reasonable and necessary litigation expense associated with such
7 proceedings.

8 (2) If a petitioner or movant, who has been convicted of capital mur-
9 der and is under a sentence of death, files a petition for writ of habeas
10 corpus or a motion attacking sentence under K.S.A. 60-1507 and amend-
11 ments thereto, the district court shall make a determination on the record
12 whether the petitioner or movant is indigent. Upon a finding that the
13 petitioner or movant is indigent and accepts the offer of representation
14 or is unable competently to decide whether to accept or reject the offer,
15 the court shall appoint one or more counsel, in accordance with subsec-
16 tion (d) (1), to represent the petitioner or movant. If the petitioner or
17 movant rejects the offer of representation, the court shall find on the
18 record, after a hearing if necessary, whether the petitioner or movant
19 rejected the offer of representation with the understanding of its legal
20 consequences. The court shall deny the appointment of counsel upon a
21 finding that the petitioner or movant is competent and not indigent.

22 (3) Counsel appointed to represent the petitioner or movant shall not
23 have represented the petitioner or movant at trial or on direct appeal
24 therefrom unless the petitioner or movant and counsel expressly request
25 continued representation.

26 *(e) Whenever it is determined that electronic access to court records*
27 *is necessary to present a petitioner's cause adequately and it is further*
28 *determined that the petitioner or movant is an indigent person, the court*
29 *having jurisdiction in the matter shall order that the records be supplied*
30 *to the defendant, at no charge, by the electronic access service. The state*
31 *board of indigents' defense services shall be exempt from paying user fees*
32 *to access electronic court records.*

33 Sec. 3. K.S.A. 2005 Supp. 22-4507 is hereby amended to read as
34 follows: 22-4507. (a) An attorney, other than a public defender or assistant
35 public defender or contract counsel, who performs services for an indi-
36 gent person, as provided by this act, shall at the conclusion of such service
37 or any part thereof be entitled to compensation for such services and to
38 be reimbursed for expenses reasonably incurred by such person in per-
39 forming such services. Compensation for services shall be paid in accord-
40 ance with standards and guidelines contained in rules and regulations
41 adopted by the state board of indigents' defense services under this
42 section.

43 (b) Claims for compensation and reimbursement shall be certified by

1 the claimant and shall be presented to the court at sentencing. A supple-
2 mental claim may be filed at such later time as the court may in the
3 interest of justice determine if good cause is shown why the claim was
4 not presented at sentencing. In accordance with standards and guidelines
5 adopted by the state board of indigents' defense services under this sec-
6 tion, all such claims shall be reviewed and approved by one or more judges
7 of the district court before whom the service was performed, or, in the
8 case of proceedings in the court of appeals, by the chief judge of the court
9 of appeals and in the case of proceedings in the supreme court, by the
10 departmental justice for the department in which the appeal originated.
11 Each claim shall be supported by a written statement, specifying in detail
12 the time expended, the services rendered, the expenses incurred in con-
13 nection with the case and any other compensation or reimbursement
14 received. When properly certified and reviewed and approved, each claim
15 for compensation and reimbursement shall be filed in the office of the
16 state board of indigents' defense services. If the claims meet the standards
17 established by the board, the board shall authorize payment of the claim.

18 (c) If the state board of indigents' defense services determines that
19 the appropriations for indigents' defense services or the moneys allocated
20 by the board for a county or judicial district will be insufficient in any
21 fiscal year to pay in full claims filed and reasonably anticipated to be filed
22 in such year under this section, the board may adopt a formula for pro-
23 rating the payment of pending and anticipated claims under this section.

24 (d) The state board of indigents' defense services may make expend-
25 itures for payment of claims filed under this section from appropriations
26 for the current fiscal year regardless of when the services were rendered.

27 (e) The state board of indigents' defense services shall adopt rules
28 and regulations prescribing standards and guidelines governing the filing,
29 processing and payment of claims under this section.

30 (f) *An attorney, other than a public defender, assistant public de-
31 fender or contract counsel, who accesses electronic court records for an
32 indigent person, as provided by this act, shall be exempt from paying fees
33 to access electronic court records.*

34 Sec. 4. K.S.A. 2005 Supp. 74-9304 is hereby amended to read as
35 follows: 74-9304. (a) In order to achieve its purpose as provided in this
36 act, INK shall:

37 (1) Serve in an advisory capacity to the secretary of administration,
38 division of information services and communications and other state agen-
39 cies regarding the provision of state data to the citizens and businesses
40 of Kansas;

41 (2) seek advice from the general public, its subscribers, professional
42 associations, academic groups and institutions and individuals with knowl-
43 edge of and interest in areas of networking, electronic mail, public infor-

1 mation access, gateway services, add-on services and electronic filing of
2 information; and

3 (3) develop charges for the services provided to subscribers, which
4 include the actual costs of providing such services, ~~except that INK shall~~
5 ~~not enter into any contract, lease or other form of agreement which may~~
6 ~~result in the charging of fees for electronic access to court records.~~

← Delete
this proposed
amendment

7 (b) All state agencies shall cooperate with INK in providing such as-
8 sistance as may be requested for the achievement of its purpose. Agencies
9 may recover actual costs incurred by providing such assistance. Services
10 and information to be provided by any agency shall be specified pursuant
11 to contract between INK and such agency and shall comply with the
12 provisions of K.S.A. 45-215 *et seq.* and K.S.A. 2005 Supp. 45-230, and
13 amendments thereto.

14 Sec. 5. K.S.A. 2005 Supp. 22-4504, 22-4506, 22-4507 and 74-9304
15 are hereby repealed.

16 Sec. 6. This act shall take effect and be in force from and after its
17 publication in the statute book.

SENATE BILL No. 380

By Committee on Judiciary

1-18

Proposed amendments
Senator Umbarger
February 20, 2006

Senate Judiciary
2-21-06
Attachment 2

9 AN ACT concerning the residential landlord and tenant act; amending
10 K.S.A. 58-2548, 58-2550 and 58-2570 and repealing the existing
11 sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 58-2548 is hereby amended to read as follows: 58-

15 2548. Within five (5) days of the initial date of occupancy or upon delivery
16 of possession, the landlord, or such landlord's designated representative, (a)
17 and the tenant shall jointly inventory the premises. A written record de-
18 tailing the condition of the premises and any furnishings or appliances
19 provided shall be completed. Duplicate copies of the record shall be
20 signed by the landlord and the tenant as an indication the inventory was
21 completed. The tenant shall be given a copy of the inventory.

22 (b) *The landlord shall not be allowed to assert a claim against the*
23 *tenant or the security deposit for damages, as allowed by K.S.A. 58-2550,*
24 *and amendments thereto, unless the landlord or the landlord's designated*
25 *representative completes an initial inventory of the premises with the ten-*
26 *ant within such five days or makes a good faith effort to complete the*
27 *inventory within such five days. ~~If such claim is levied against a tenant~~*
28 *or the security deposit without the completion of such inventory, the ten-*
29 *ant shall recover damages in the amount of two months rent.*

30 (c) (1) *Within a reasonable time after notification of either party's*
31 *intention to terminate the tenancy, or before the end of the lease term,*
32 *the landlord shall notify the tenant in writing of the tenant's option to*
33 *request ~~an initial~~ inspection and of the tenant's right to be present at the* a pre-termination
34 *inspection. At a reasonable time, no earlier than ~~14~~ days, but no later*
35 *than seven days, before the termination or the end of lease date, the land-*
36 *lord, or the landlord's designated representative, upon the request of the* 30
37 *tenant, shall make ~~an initial~~ inspection of the premises prior to any final*
38 *inspection the landlord makes after the tenant has vacated the premises.* a pre-termination

39 *The landlord shall give at least 48 hours prior written notice of the date*
40 *and time of the inspection if a ~~mutual time is agreed upon, or if a~~ mutually*
41 *agreed time cannot be scheduled but the tenant still requests an inspection.*
42 *The landlord shall proceed with the inspection at such date and time*
43 *whether the tenant is present or not, unless the tenant previously with-*

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SB
2-2

pre-termination

SB 380

pre-termination

1 drew the request for the inspection. The purpose of the [initial] inspection
2 shall be to allow the tenant an opportunity to remedy identified deficiencies
3 ~~in a manner consistent with the right and obligations of the parties~~
4 ~~under the rental agreement,~~ in order to avoid damages being deducted
5 from the security deposit.

cleaning

necessary to return the unit to the same level of cleanliness it was in at the
initial date of occupancy or upon delivery of possession

6 (2) If a tenant does not request [an initial] inspection, the duties of the
7 landlord under this subsection are discharged.

and

8 (3) Based on the [initial] inspection, the landlord shall give the tenant
9 an itemized statement identifying deficiencies, specifically any repairs or
10 cleaning, that [are proposed to be the basis of any being] deducted from
11 the security deposit that the landlord intends to make pursuant to K.S.A.
12 58-2550, and amendments thereto. If the tenant is not present at the [initial]
13 inspection and the inspection is completed pursuant to paragraph (1), the
14 itemized statement shall be left inside the premises.

, the rental agreement is terminated for material noncompliance
pursuant to K.S.A. 58-2564, and amendments thereto, or the tenant
abandons the dwelling unit pursuant to K.S.A. 58-2565, and
amendments thereto,

a pre-termination

may result in money being

pre-termination

cleaning

15 (4) The tenant shall have the opportunity during the period following
16 the initial inspection until termination of the tenancy to remedy identified
17 deficiencies ~~in a manner consistent with the rights and obligations of the~~
18 ~~parties under the rental agreement,~~ in order to avoid damages being de-
19 ducted from the security deposit.

necessary to return the unit to the same level of cleanliness it was in at the
initial date of occupancy or upon delivery of possession

20 (d) At the termination of the tenancy, the landlord shall act in a man-
21 ner as described in K.S.A. 58-2550, and amendments thereto, concerning
22 the return of the security deposit.

23 Sec. 2. K.S.A. 58-2550 is hereby amended to read as follows: 58-
24 2550. (a) A landlord may not demand or receive a security deposit for an
25 unfurnished dwelling unit in an amount or value in excess of one month's
26 periodic rent. If the rental agreement provides for the tenant to use fur-
27 niture owned by the landlord, the landlord may demand and receive a
28 security deposit not to exceed 1½ months' rent, and if the rental agree-
29 ment permits the tenant to keep or maintain pets in the dwelling unit,
30 the landlord may demand and receive an additional security deposit not
31 to exceed ½ of one month's rent. A municipal housing authority created
32 under the provisions of K.S.A. 17-2337 et seq., and amendments thereto,
33 which is wholly or partially subsidized by aid from the federal govern-
34 ment, pursuant to a rental agreement in which rent is determined solely
35 by the personal income of the tenant, may demand and receive a security
36 deposit in accordance with a schedule established by the housing au-
37 thority, which is based on the bedroom unit size of the dwelling unit. Any
38 such municipal housing authority which establishes such a schedule shall
39 provide a deferred payment plan whereby the tenant may pay the deposit
40 in reasonable increments over a period of time.

41 (b) Whenever money is deposited or advanced by a tenant on a rental
42 agreement as security for performance of the rental agreement, the land-
43 lord shall not earn interest on a deposit without the earnings benefiting

2-2

1 the tenant.

2 (c) Upon termination of the tenancy, any security deposit held by
3 the landlord may be applied to the payment of accrued rent and the
4 amount of damages which the landlord has suffered by reason of the
5 tenant's noncompliance with K.S.A. 58-2555, and amendments thereto,
6 and the rental agreement, all as itemized by the landlord in a written
7 notice delivered to the tenant. ~~used for any purpose, including, but not~~
8 limited to, any of the following:

9 (1) The compensation of a landlord for a tenant's default in the pay-
10 ment of rent.

11 (2) The actual cost of repairs for damages to the premises, exclusive
12 of ordinary wear and tear, which the landlord suffered by reason of the
13 tenant's noncompliance with K.S.A. 58-2555, and amendments thereto,
14 and the rental agreement.

15 (3) The cleaning of the premises upon termination of the tenancy nec-
16 essary to return the unit to the same level of cleanliness it was in at the
17 ~~initial date of occupancy or upon delivery of possession.~~ Δ

18 (d) If the landlord proposes to retain any portion of the security de-
19 posit for expenses, damages or other legally allowable charges under the
20 provisions of the rental agreement, other than rent, the landlord shall
21 return the balance of the security deposit to the tenant within ~~14 days~~
22 ~~after the determination of the amount of such expenses, damages or other~~
23 ~~charges, but in no event to exceed 30~~ ~~27~~ days after termination of the
24 tenancy, delivery of possession and demand by the tenant. If the tenant
25 does not make such demand within ~~30~~ ~~27~~ days after termination of the
26 tenancy, the landlord shall mail that portion of the security deposit due
27 the tenant to the tenant's last known address. ~~Accompanying the balance~~
28 ~~of the security deposit, the landlord shall submit an itemized statement~~
29 ~~that lists the amounts of any deductions from the security deposit and the~~
30 ~~reasons for the deductions. If the deductions are in an amount greater~~
31 ~~than five percent of the security deposit, invoices which document the~~
32 ~~actual cost of material, supplies and labor shall be provided to the tenant.~~
33 ~~In no case shall a landlord withhold any amount from the security deposit:~~

34 (1) Above the amount of actual damages suffered by the landlord; or

35 (2) based off a predetermined list of costs for materials, supplies or
36 labor.

37 ~~(e)~~ (e) If the landlord fails to comply with subsection (b) of this section
38 (c) or (d), the tenant may shall recover that portion of the security deposit
39 due together with damages in an amount equal to ~~1 1/2 the amount wrong-~~
40 ~~fully withheld two months rent.~~

41 (d) (f) Except as otherwise provided by the rental agreement, a tenant
42 shall not apply or deduct any portion of the security deposit from the last
43 month's rent or use or apply such tenant's security deposit at any time in

applied to the payment of accrued rent, damages the landlord has suffered by reason of the tenant's noncompliance with K.S.A. 58-2555, and amendments thereto, and damages the landlord has suffered by reason of the tenant's noncompliance with the rental agreement, all as itemized by the landlord in a written notice delivered to the tenant.

or actual estimates and quotes

Handwritten notes: "H-e" and "H-2" with a circle around the "2".

1 lieu of payment of rent. If a tenant fails to comply with this subsection,
2 the security deposit shall be forfeited and the landlord may recover the
3 rent due as if the deposit had not been applied or deducted from the rent
4 due.

5 ~~(e)~~ (g) Nothing in this section shall preclude the landlord or tenant
6 from recovering other damages to which such landlord or tenant may be
7 entitled under this act.

8 ~~(f)~~ (h) The holder of the landlord's interest in the premises at the
9 time of the termination of the tenancy shall be bound by this section.

10 Sec. 3. K.S.A. 58-2570 is hereby amended to read as follows: 58-
11 2570. (a) The landlord or the tenant may terminate a week-to-week ten-
12 ancy by a written notice given to the other at least seven days prior to the
13 termination date specified in the notice.

14 (b) The landlord or the tenant may terminate a month-to-month ten-
15 ancy by a written notice given to the other party stating that the tenancy
16 shall terminate upon a periodic rent-paying date not less than 30 days
17 after the receipt of the notice, except that not more than 15 days' written
18 notice by a tenant shall be necessary to terminate any such tenancy where
19 the tenant is in the military service of the United States and termination
20 of the tenancy is necessitated by military orders. Any rental agreement
21 for a definite term of more than 30 days shall not be construed as a month-
22 to-month tenancy, even though the rent is reserved payable at intervals
23 of 30 days.

24 (c) If the tenant remains in possession without the landlord's consent
25 after expiration of the term of the rental agreement or its termination,
26 the landlord may bring an action for possession. In addition, if the tenant's
27 holdover is willful and not in good faith the landlord may recover an
28 amount not more than 1½ months' periodic rent or not more than 1½
29 times the actual damages sustained by the landlord, whichever is greater.

30 If the landlord consents to the tenant's continued occupancy subsection
31 (d) of K.S.A. 58-2545, and amendments thereto, shall govern.

32 (d) In any action for possession, the landlord may obtain an order of
33 the court granting immediate possession of the dwelling unit to the land-
34 lord by filing a motion therefor in accordance with subsection (b) of
35 K.S.A. 60-207, and amendments thereto, and service thereof on the ten-
36 ant pursuant to K.S.A. 60-205, and amendments thereto. After a hearing
37 and presentation of evidence on the motion, and if the judge is satisfied
38 that granting immediate possession of the dwelling unit to the landlord
39 is in the interest of justice and will properly protect the interests of all
40 the parties, the judge may enter or cause to be entered an order for the
41 immediate restitution of the premises to the landlord upon the landlord
42 giving an undertaking to the tenant in an amount and with such surety as
43 the court may require, conditioned for the payment of damages or oth-

Handwritten note: "H-2" with a circle around the "2".

1 erwise if judgment be entered in favor of the tenant.

2 (e) *If a lease contains an automatic renewal clause or a provision for*
3 *the automatic extension of the rental agreement:*

4 (1) *The date such clause or provision takes effect shall not be more*
5 *than 90 days before the termination date specified in the rental agreement.*

6 (2) *Such clause or provision is not enforceable against the tenant un-*
7 *less the landlord, at least 30 days but not more than 60 days prior to the*
8 *specified date for the giving of such notice to the landlord, gives to the*
9 *tenant written notice, calling to the attention of the tenant the existence*
10 *of such clause or provision in the rental agreement.*

11 (3) *Such clause or provision shall be on a separate page of the rental*
12 *agreement and require that the tenant sign such page indicating the tenant*
13 *has read and understands the clause or provision before signing the rental*
14 *agreement.*

15 (f) If a landlord provides to a tenant a document which, if signed by
16 the landlord or tenant or both, would constitute the tenant's written no-
17 tice to the landlord that the tenant intends to vacate the premises, and if
18 such document contains any additional terms that are not contained in
19 the rental agreement between the landlord and tenant, then the docu-
20 ment shall include the following statement in no less than ten-point bold-
21 face type: **YOUR SIGNATURE ON THIS DOCUMENT MAY BIND**
22 **YOU TO ADDITIONAL TERMS NOT IN YOUR ORIGINAL LEASE**
23 **AGREEMENT. IF YOUR LEASE REQUIRES YOU TO GIVE WRIT-**
24 **TEN NOTICE OF YOUR INTENT TO VACATE, YOU HAVE THE**
25 **RIGHT TO DECLINE TO SIGN THIS DOCUMENT AND TO PRO-**
26 **VIDE WRITTEN NOTICE IN ANOTHER FORM.** If such statement
27 does not appear in such document, a tenant's signature on such document
28 shall not bind the tenant to any additional terms that are not contained
29 in the rental agreement.

30 Sec. 4. K.S.A. 58-2548, 58-2550 and 58-2570 are hereby repealed.

31 Sec. 5. This act shall take effect and be in force from and after its
32 publication in the statute book.