

## MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 15, 2007 in Room 231-N of the Capitol.

All members were present.

## Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department  
Ken Wilke, Revisor of Statutes Office  
Connie Burns, Committee Assistant

## Conferees appearing before the committee:

Jennifer Crow, SRS  
Chris Tymeson, Dept of Wildlife & Parks  
Dale Goter, City of Wichita  
George Kolb, City Manager of Wichita  
Bob Myers, Newton City Attorney  
Mark Tomb, League of Kansas Municipalities  
Kathleen Taylor Olsen, Kansas Bankers Association

## Others attending:

See attached list.

Senator Barnett requested a bill introduction that concerns the duty of the Commission of Veterans' Affairs..

Senator Barnett moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

Jennifer Crow, Social and Rehabilitation Services, requested a bill introduction that is related to alcohol and drug abuse treatment. (Attachment 1)

Senator Barnett moved that this request should be introduced as a committee bill. Senator Gilstrap seconded the motion. The motion carried.

Chris Tymason, Department of Wildlife and Parks, requested a bill introduction that concerns National Parks where state and federal government both have jurisdiction. (Attachment 2)

Senator Barnett moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

**SB 319 - Counties; foreclosure and sale of real estate**

Staff provided an overview of the bill.

Chairman Brungardt opened the hearing on **SB 319**.

Dale Goter, Government Relations Manager, City of Wichita, provided the committee with a short video showing the surrounding area and homes in the Wichita area with blight. An amended bill was provided reflecting on page 1 line 14 inserting "unoccupied, residential" after any, on page 2 and 3 replacing and or with and/or (Attachment 3)

George Kolb, City Manager of Wichita, spoke in favor of the bill. (Attachment 4) The bill address foreclosure changes to address residential blight. In its continuing effort to alleviate residential blight the City of Wichita identifies three goals:

1. Shorten the foreclosure time on abandoned delinquent property from three years to one year
2. Encourage non-profit or public entities to intervene and stabilize delinquent property, ultimately making it available for low and moderate income housing. The bill would protect their investment, adding those improvement costs to the delinquent taxes as the cost of redemption

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on February 15, 2007 in Room 231-N of the Capitol.

3. Provide adequate notice to the delinquent property owner

Bob Myers, New city Attorney, appeared as a proponent of the bill. (Attachment 5) The bill addresses only those blighted properties which are in the process of being foreclosed by the county through a tax foreclosure proceeding and provide an option by which property repairs can be made during the tax foreclosure process so that the more serious types of blighting conditions can be eliminated and neighboring property owners can obtain some relief.

Mark Tomb, League of Kansas Municipalities, spoke in favor of the bill. (Attachment 6) The bill outlines a fair and equitable process for dealing with tax delinquent, abandoned, and blighted properties in a time conscious manner and for these reasons the League supports the bill.

Kathleen Taylor Olsen, Kansas Bankers Association, (KBA) appeared as neutral with an amendment. (Attachment 7) There exists the possibility that a lender may have a lien on that property and in order to perfected, all liens on real estate must be recorded in the Office of the Register of Deeds in the county where the property is located. The amendment is in subsection (b) page 1 line 26, and page 2 line 10, inserted after the word real estate "including lienholders of record." With the requested amendment adopted, the KBA would have no objections to the bill.

Chairman Brungardt closed the hearing on **SB 319**.

**Final Action:**

**SB 244 - Funeral picketing; crime charges; libel and slander charges**

The Revisor explained the balloon. (Attachment 8) The amendment adds KSA 60-2102 on page 1 and page 3. Adds additional language starting on line 26, page 2, page 3 line 2 KSA 75-702 and insert Section 4 amending KSA 60-2102 and adding new section (d) that deals with appellate jurisdiction of the supreme court.

Attorney General Paul Morrison provided written testimony in support of the amendment. (Attachment 9)

Senator Hensley moved to include the balloon provided by the Revisor. Senator Reitz seconded the motion. The motion carried.

Senator Vratil moved to pass **SB 244** as amended. Senator Reitz seconded the motion. The motion carried.

**SB 226 - Cereal malt beverages; discretion regarding suspension or revocation of license**

The Revisor explained the amendment. (Attachment 10) The question was asked if the amendment destroys the uniformity of the cereal malt beverage act. This was not the intent of the bill to eliminate the licensing in Section B. In line 20 the word "not" should be stricken.

The Chairman is going to set the bill aside until next week for new language in the appropriate section.

The meeting was adjourned at 10:25 am. The next scheduled meeting is February 20, 2007.

**SENATE FEDERAL AND STATE AFFAIRS COMMITTEE**  
**GUEST LIST**

DATE Feb 15

NAME	REPRESENTING
Chris Tymeson	KDWP
Jennifer Crew	GRS
Tim Carpenter	LJ
Joshua Lewis	Sen. Schmidt
Mark Tomb	LKM
Dan Gibb	KSAG
<del>Tom Bruno</del>	REAP
Pam Scott	KS Funeral Directors Assn
Brian McLeod	City of Wichita, Kansas
John Beverlin	Pinegar, Smith & Assoc.
Emily Quier	John Peterson Hein Law Firm
BRANDON BOHNING	DAMRON (PA)
TUCK DUNGAN	KS wine & spirits who's who
MAM Feighuy	AG

①

February 15, 2007

The Honorable Pete Brungardt, Chair  
Senate Federal and State Affairs Committee  
Kansas Statehouse, Room 522-S  
Topeka, Kansas 66612

Dear Senator Brungardt:

I respectfully request the introduction of the attached bill related to alcohol and drug abuse treatment. There are currently two sets of statutes that apply to alcohol and drug treatment: Alcoholism and Intoxication Treatment enacted in 1972 (K.S.A 65-4001), and Drug Abuse Treatment Facilities enacted in 1976 (K.S.A 65-4601). Funding streams are now integrated and alcohol and drug abuse is treated as one issue/problem. The current statutes do not accurately reflect the current treatment provider system, funding streams, best practices, or philosophy of the Federal agency that provides funding for treatment services. With this legislation, these statutes will be rewritten into one set of statutes.

Please let me know of any questions or if additional information is needed.

Sincerely,



Don Jordan  
Secretary

enclosure

By

AN ACT concerning the department of social and rehabilitation services; relating to alcohol and drug addiction treatment; amending K.S.A. 65-4001, 65-4006, 65-4007, 65-4011, 65-4012, 65-4013, 65-4014, 65-4023, 65-4024 and 65-4059 and repealing the existing sections; also repealing K.S.A. 65-4002, 65-4020, 65-4022, 65-4056, 65-4601, 65-4602, 65-4603, 65-4604, 65-4605, 65-4606, 65-4607, 65-4608, 65-4609, 65-4610 and 65-4611.

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

Section 1. K.S.A. 65-4001 is hereby amended to read as follows: 65-4001. It shall be the purpose of this act to provide for the development, establishment and enforcement of standards:

(1) For the care and treatment of individuals in public and private treatment facilities as defined herein;

(2) for the construction, maintenance and operation of public and private treatment facilities as defined herein, which will promote safe and adequate treatment of such individuals in alcohol and other drug treatment facilities.

New Sec. 2. As used in this act:

(a) "Alcohol and other drug addiction" means a pattern of substance use, leading to significant impairment or distress, manifested by three or more of the following occurring at any time in the same 12-month period:

(1) Tolerance, defined as: (A) A need for markedly increased amounts of the substance to achieve intoxication or desired effect or (B) a markedly diminished effect with continued use of the same amount of substance;

(2) withdrawal, as manifested by either of the following:  
(A) The characteristic withdrawal syndrome for the substance or  
(B) the same or a closely related substance is taken to relieve or avoid withdrawal symptoms;

(3) the substance is often taken in larger amounts or over a longer period than was intended;

(4) there is a persistent desire or unsuccessful efforts to cut down or control substance use;

(5) a great deal of time is spent in activities necessary to obtain the substance, use the substance or recover from its

effects;

(6) important social, occupational or recreational activities are given up or reduced because of substance use;

(7) the substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance.

(b) "Alcoholic" means a "person with an alcohol or substance abuse problem" as such term is defined in K.S.A. 59-29b46 and amendments thereto.

(c) "Care or treatment" means such necessary services as are in the best interests of the physical and mental health of the patient.

(d) "Committee" means the Kansas citizens committee on alcohol and other drug abuse.

(e) "Counselor" means an individual whose education, experience and training has been evaluated and approved by the department of social and rehabilitation services to provide the scope of practice afforded to an alcohol and drug credentialed counselor or counselor assistant working in a licensed, certified alcohol and drug treatment program.

(f) "Department" means the department of social and rehabilitation services.

(g) "Discharge" shall have the meaning ascribed to it in K.S.A. 59-29b46 and amendments thereto.

(h) "Government unit" means any county, municipality or other political subdivision of the state; or any department, division, board or other agency of any of the foregoing.

(i) "Head of the treatment facility" shall have the meaning ascribed to it in K.S.A. 59-29b46 and amendments thereto.

(j) "Incapacitated by alcohol" shall have the meaning ascribed to it in K.S.A. 59-29b46 and amendments thereto.

(k) "Intoxicated individual" means an individual who is under the influence of alcohol or drugs or both.

(l) "Law enforcement officer" shall have the meaning

ascribed to it in K.S.A. 59-29b46 and amendments thereto.

(m) "Patient" shall have the meaning ascribed to it in K.S.A. 59-29b46 and amendments thereto.

(n) "Private treatment facility" shall have the meaning ascribed to it in K.S.A. 59-29b46 and amendments thereto.

(o) "Public treatment facility" shall have the meaning ascribed to it in K.S.A. 59-29b46 and amendments thereto.

(p) "Treatment" shall have the meaning ascribed to it in K.S.A. 59-29b46 and amendments thereto.

(q) "Treatment facility" shall have the meaning ascribed to it in K.S.A. 59-29b46 and amendments thereto.

(r) "Secretary" means the secretary of social and rehabilitation services.

(s) The terms defined in K.S.A. 59-3051, and amendments thereto, shall have the meanings provided by that section.

Sec. 3. K.S.A. 65-4006 is hereby amended to read as follows: 65-4006. The secretary may:

(1) Plan for, establish, amend, and revise standards for treatment programs as necessary or desirable;

(2) make contracts necessary or incidental to the performance of its duties and the execution of its powers;

(3) solicit and accept for use any gift of money or property, real or personal, made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(4) administer or supervise the administration of the provisions relating to ~~alcoholics-and-intoxicated~~ persons with addiction to alcohol or other drugs of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(5) coordinate its activities and cooperate with alcoholism treatment facilities for alcohol and other drug addiction

programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local, or private agencies in this and other states for the treatment of ~~alcoholics and-intoxicated~~ persons with addiction to alcohol or other drugs and for the common advancement of ~~alcoholism-programs~~ treatment facilities;

(6) keep records, gather relevant statistics and make and disseminate analysis of same;

(7) do other acts and things necessary to execute the authority expressly granted to it.

Sec. 4. K.S.A. 65-4007 is hereby amended to read as follows:  
65-4007. (a) The duties of the secretary shall be to:

(1) Develop, encourage and foster statewide, regional and local plans and programs for the identification and prevention of ~~alcohol---abuse,--alcoholism--and--treatment--of--alcoholics--and-intoxicated-persons~~ addiction and treatment of persons with addiction to alcohol or other drugs in cooperation with public and private agencies, organizations and individuals and provide technical assistance and consultation services for these purposes;

(2) coordinate the efforts and enlist the assistance of all interested public and private agencies, organizations and individuals in identification and prevention of ~~alcohol--abuse, alcoholism--and--treatment--of--alcoholics--and--intoxicated-persons~~ addiction and treatment of persons with addiction to alcohol or other drugs;

(3) cooperate with the secretary of corrections and the Kansas adult authority in establishing and conducting programs to provide treatment for ~~alcoholics--and--intoxicated~~ persons with addiction to alcohol or other drugs in or on parole from penal institutions;

(4) cooperate with the department of education, boards of education, schools, police departments, courts and other public and private agencies, organizations and individuals in establishing programs for the identification and prevention of



~~alcohol--abuse,--alcoholism--and--treatment--of--alcoholics--and  
intoxicated--persons~~ addiction and treatment of persons with  
addiction to alcohol or other drugs and preparing curriculum  
materials thereon for use at all levels of education;

(5) prepare, publish, evaluate and disseminate educational  
material dealing with the nature and effects of ~~alcohol--and  
alcoholism~~ addiction and addictive substances;

(6) develop and implement, as an integral part of treatment  
programs, an educational program for use in the treatment of  
~~alcoholics--and--intoxicated~~ persons with addiction to alcohol or  
other drugs or persons under the influence of addictive  
substances, which program shall include the dissemination of  
information concerning the nature and effects of alcohol and  
~~alcoholism~~ other drugs;

(7) organize and foster training programs for all persons  
engaged in treatment of ~~alcoholics--and--intoxicated~~ persons with  
addiction to alcohol or other drugs;

(8) sponsor and encourage research into the causes and  
nature of ~~alcohol--abuse,--alcoholism--and--treatment--of--alcoholics  
and--intoxicated--persons~~ addiction and the treatment of persons  
with addiction to alcohol or other drugs and serve as a clearing  
house for information relating to ~~alcohol--abuse--and--alcoholism~~  
addiction and addictive substances;

(9) specify uniform methods for keeping statistical  
information by public and private agencies, organizations and  
individuals and collect and make available relevant statistical  
information, including number of persons treated, frequency of  
admission and readmission and frequency, duration and nature of  
treatment;

(10) advise the governor in the preparation of a  
comprehensive plan for treatment of ~~alcoholics--and--intoxicated~~  
persons with addiction to alcohol or other drugs for inclusion in  
the state's comprehensive health plan;

(11) review all state health, welfare and treatment plans to  
be submitted for federal funding under federal legislation and

advise the governor on provisions to be included relating to ~~alcohol--abuse,--alcoholism-and-intoxicated-persons~~ addiction and treatment of persons with addiction to alcohol or other drugs;

(12) assist in the development of, and cooperate with, alcohol and drug addiction education and treatment programs for employees of state and local governments and businesses and industries in the state;

(13) utilize the support and assistance of interested persons in the community, particularly recovered alcoholics and recovered abusers of other drugs, to encourage ~~alcoholics~~ persons addicted to alcohol or other drugs voluntarily to undergo treatment;

(14) cooperate with the superintendent of the Kansas highway patrol and secretary of transportation in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated under the influence of alcohol or other drugs;

(15) encourage medical care facilities to admit without discrimination ~~alcoholics--and--intoxicated~~ persons under the influence of alcohol or other drugs and to provide them with adequate and appropriate treatment within their capabilities;

(16) encourage all health and disability insurance programs to include ~~alcoholism~~ addiction to alcohol or other drugs as a covered illness; and

(17) submit to the governor and the legislature an annual report covering the activities of the Kansas citizens' committee on alcohol and other drug abuse.

(b) The secretary is hereby charged with the administration of the ~~alcoholism~~ addiction and treatment program of the state of Kansas and may accept and disburse any moneys available from the federal government for such purpose, in accordance with appropriation acts of this state.

Sec. 5. K.S.A. 65-4011 is hereby amended to read as follows:  
65-4011. (a) The secretary shall establish a comprehensive and coordinated program for the treatment of ~~alcoholics---and~~

intoxicated persons with addiction to alcohol or other drugs. The secretary shall divide the state into appropriate regions for the conduct of the program and establish standards for the development of the program on the regional level. In establishing the regions, consideration shall be given to any existing regional organization being utilized by other state agencies engaged in the delivery of health care.

(b) The program of the secretary shall include, but not be limited to:

- (1) Emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital;
- (2) inpatient treatment;
- (3) intermediate treatment;
- (4) outpatient and follow-up after care treatment; and
- (5) prevention education and training.

(c) The secretary shall provide for adequate and appropriate treatment for alcoholics-and-intoxicated persons with addiction to alcohol or other drugs admitted under K.S.A. 65-4025 to 65-4049, inclusive, and any amendments thereto. No person shall be incarcerated in a correctional institution for purposes of such treatment.

(d) The secretary shall prepare, publish and distribute annually a list of all public and private treatment facilities.

Sec. 6. K.S.A. 65-4012 is hereby amended to read as follows: 65-4012. (a) No person or governmental unit acting severally or jointly with any other person or governmental unit shall establish, conduct or, maintain a or operate a public or private treatment facility in this state without a license under this law.

(b) Violation of this section is a class C misdemeanor.

Sec. 7. K.S.A. 65-4013 is hereby amended to read as follows: 65-4013. (a) An application for a license to establish, conduct, manage or operate a treatment facility shall be made to the secretary upon forms provided by the secretary and shall contain such information as the secretary may require, which may include

affirmative evidence of ability to comply with such reasonable standards and rules and regulations as are lawfully adopted under pursuant to this act and amendments thereto. ~~In addition, the secretary may require that all~~ . All applications must be accompanied by an application fee of not to exceed \$100 as ~~prescribed by such rules and regulations~~ fixed by the secretary by rules and regulations and standards of the secretary. The application fee in effect under this section on the day preceding the effective date of this act shall continue in effect until the secretary fixes a different application fee by rules and regulations.

(b) The secretary of health and environment may adopt ~~reasonable~~ rules and regulations with regard to the health standards which must be maintained by treatment facilities and may enforce such rules and regulations in accordance with the authority granted the secretary of health and environment under K.S.A. 65-425 et seq. and amendments thereto. If the rules and regulations of the secretary of health and environment establish such standards, an application under this section shall be accompanied by certification from the secretary of health and environment that the applicant has met the requirements established by such rules and regulations.

Sec. 8. K.S.A. 65-4014 is hereby amended to read as follows:  
65-4014. (a) ~~Upon receipt of an application for license, if the secretary approves the applicant as meeting the minimum requirements established by or pursuant to this act for a treatment facility,~~ The secretary shall issue a license if the applicant meets the minimum requirements established by or pursuant to this act for a treatment facility. A license, unless suspended or revoked, shall be renewable as set forth in subsection (b) ~~upon the filing of an annual report upon uniform dates and containing information in the form as the secretary requires by rules and regulations. Such rules and regulations may require that all applications for renewal of a license be accompanied by a fee, in an amount prescribed by such rules and~~

~~regulations, not to exceed \$100.~~ Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the secretary. Licenses shall be posted in a conspicuous place on the licensed premises.

(b) The secretary may issue a license renewable at the end of one, two or three years depending upon a facility's level of compliance with the standards and rules and regulations adopted by the secretary pursuant to K.S.A. 65-4016 and amendments thereto.

New Sec. 9. The secretary shall remit all moneys received from fees for licensing alcohol or other drug addiction treatment facilities to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the other state fees fund of the department of social and rehabilitation services.

Sec. 10. K.S.A. 65-4023 is hereby amended to read as follows: 65-4023. ~~(a) It shall be unlawful for any person, corporation or governmental unit to establish, conduct, manage or operate a treatment facility for alcoholics without first obtaining a license therefor. Any violation of this subsection shall constitute a class C misdemeanor.~~

(b) Notwithstanding the existence or pursuit of any other remedy, the secretary may maintain an action in the name of the state for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a treatment facility without a license under this law.

New Sec. 11. The secretary, after notice and opportunity for hearing to the applicant or licensee, is authorized to deny, suspend or revoke a license in any case in which the secretary finds that there has been a substantial failure to comply with

the requirements established under this act. Such notice shall fix a date not less than 30 days from the date of such notice, at which the applicant or licensee shall be given an opportunity for a prompt and fair hearing.

Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 12. K.S.A. 65-4024 is hereby amended to read as follows: 65-4024. The secretary shall adopt rules and regulations for acceptance of persons into the treatment program for the purpose of early and effective treatment of ~~alcoholics--and intoxicated~~ persons with addiction to alcohol or other drugs. In adopting rules and regulations the secretary shall be guided by the following standards:

(1) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(2) A patient shall ~~be initially assigned or transferred to outpatient--or--intermediate--treatment~~ receive treatment in the least restrictive modality possible based on placement criteria.

(3) A person shall not be denied treatment solely because such person has withdrawn from treatment against medical advice on a prior occasion or because such person has relapsed after earlier treatment.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provisions shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available other appropriate treatment.

Sec. 13. K.S.A. 65-4059 is hereby amended to read as follows: 65-4059. No county or city shall adopt any local law, ordinance, resolution or regulation having the force of law rendering public intoxication by alcohol in and of itself or

being a-common-drunkard intoxicated or being found in enumerated places in an intoxicated condition, an offense, a violation, or the subject of criminal penalties. Nothing herein contained shall affect any laws, ordinances, resolutions or regulations against drunken driving, driving under the influence of alcohol, or other similar offenses that involve the operation of motor vehicles, machinery or other hazardous equipment.

Sec. 14. K.S.A. 65-4001, 65-4002, 65-4006, 65-4007, 65-4011, 65-4012, 65-4013, 65-4014, 65-4020, 65-4022, 65-4023, 65-4024, 65-4056, 65-4059, 65-4601, 65-4602, 65-4604, 65-4605, 65-4606, 65-4607, 65-4608, 65-4609, 65-4610 and 65-4611 are hereby repealed.

Sec. 15. This act shall take effect and be in force from and after its publication in the statute book.

**27-120. Fort Scott and Fort Larned National Historic Sites; concurrent jurisdiction over crimes and offenses ceded to United States.** Concurrent legislative jurisdiction over crimes and offenses under the laws of the state of Kansas is ceded to the United States over and within all lands dedicated to national park purposes in the following tracts:

- (a) Fort Scott National Historic Site;
- (b) Fort Larned National Historic Site;
- (c) Nicodemus National Historic Site;*
- (d) Tall Grass Prairie National Preserve.*

**History:** L. 1985, ch. 126, § 1; July 1.



SENATE BILL No. 319

By Committee on Federal and State Affairs

2-6

9 AN ACT concerning counties; relating to foreclosure and sale of real  
10 estate; amending K.S.A. 79-2811 and K.S.A. 2006 Supp. 79-2401a and  
11 repealing the existing sections.

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

14 New Section 1. (a) During the period any <sup>unoccupied, residential</sup> real estate sold for delin-  
15 quent taxes and bid in by the county is held by the county pending re-  
16 demption or sale, pursuant to K.S.A. 79-2801, and amendments thereto,  
17 the county may make, or may cause or permit any city within the county  
18 or any organization described subsection (d) of K.S.A. 12-1750, and  
19 amendments thereto, to make such repairs to any structure upon or in-  
20 cluded within such real estate as may be needed to bring or maintain  
21 such structure in compliance with minimum housing code standards

22 (b) As a precondition of causing or permitting such repairs, the board  
23 of county commissioners shall, at least 30 days prior to the date such  
24 repairs are to be made, cause actual notice of the proposed date, descrip-  
25 tion and estimated cost of the repairs to be given to all parties having or  
26 claiming an interest in such real estate whose addresses are reasonably  
27 ascertainable, and also by publication in a newspaper of general circula-  
28 tion within the county. The content of the notice shall include a statement  
29 of the board's intent to cause or permit the proposed repairs on the date  
30 stated in the notice unless an action seeking hearing with respect to any  
31 matter related to the proposed repairs has been filed in the district court  
32 within the county and served upon the board. If notice has been given as  
33 required and no such action has been filed and served upon the board  
34 prior to the date of the proposed repairs as stated in the notice, the board  
35 may proceed to cause or permit such repairs pursuant to this section on  
36 or after the date stated in the notice.

37 (c) The cost of such repairs shall become part of the payment re-  
38 quired for the exercise of any redemption right prior to the date of any  
39 sale under K.S.A. 79-2803, and amendments thereto, and after the date  
40 of any such sale, shall be treated as a cost incident to the sale under  
41 subsection (a) of K.S.A. 79-2805, and amendments thereto, and shall, in  
42 all cases, be repaid after the date of redemption or sale to the county,  
43 city or organization that made the repairs.

1     Sec. 2. K.S.A. 79-2811 is hereby amended to read as follows: 79-  
 2 2811. (a) If real estate has been or shall be sold and bid by the county,  
 3 and the redemption period has expired, the board may sell such real estate  
 4 to provide affordable low-income housing or for community development  
 5 or economic development purposes which are hereby declared to be pub-  
 6 lic purposes. Any such sale shall not be subject to the provisions of K.S.A.  
 7 79-2801 et seq., and amendments thereto. *However, at least 30 days prior*  
 8 *to the proposed date of sale, the board shall cause actual notice of the date*  
 9 *and terms of the proposed sale to be given to all parties having or claiming*  
 10 *an interest in such real estate whose addresses are reasonably ascertain-*  
 11 *able, and also by publication in a newspaper of general circulation within*  
 12 *the county. The content of the notice shall include a statement of the*  
 13 *board's intent to proceed with the proposed sale on the date stated in the*  
 14 *notice unless an action seeking hearing with respect to any matter related*  
 15 *to the sale has been filed in the district court within the county and served*  
 16 *upon the board. If notice has been given as required and no such action*  
 17 *has been filed and served upon the board prior to the date of the proposed*  
 18 *sale as stated in the notice, the board may proceed with such sale pursuant*  
 19 *to this section on or after the date stated in the notice.*

20     (b) The board of county commissioners may abate any delinquent ad  
 21 valorem property taxes, special assessments or other special taxes on any  
 22 property sold pursuant to subsection (a). If such taxes or assessments are  
 23 not abated, any moneys received from the sale of such property shall be  
 24 apportioned in the manner provided by K.S.A. 79-2805, and amendments  
 25 thereto.

26     Sec. 3. K.S.A. 2006 Supp 79-2401a is hereby amended to read as  
 27 follows: 79-2401a. (a) (1) Except as provided by paragraph (2) and sub-  
 28 section (b), real estate bid off by the county for both delinquent taxes and  
 29 special assessments, as defined by subsection (c), shall be held by the  
 30 county until the expiration of two years from the date of the sale, subject  
 31 only to the right of redemption as provided by this section. Any owner or  
 32 holder of the record title, the owner's or holder's heirs, devisees, execu-  
 33 tors, administrators, assigns or any mortgagee or the owner's or holder's  
 34 assigns may redeem the real estate sold in the sale at any time within two  
 35 years after the sale by paying to the county treasurer the amount for which  
 36 the real estate was sold plus the interest accrued, all delinquent taxes and  
 37 special assessments and interest thereon that have accrued after the date  
 38 of such sale which remain unpaid as of the date of redemption and costs  
 39 and expenses of the sale and redemption, including but not limited to,  
 40 abstracting costs incurred in anticipation of a tax sale

41     (2) Any abandoned building or structure and the land accommodat-  
 42 ing such building or structure bid off by the county for ~~both~~ *either* delin-  
 43 quent taxes ~~and or~~ special assessments, as defined by subsection (c), shall

and/or

1 be held by the county until the expiration of one year from the date of  
 2 the sale, subject only to the right of redemption as provided by this sec-  
 3 tion. Any owner or holder of the record title, the owner's or holder's heirs,  
 4 devisees, executors, administrators, assigns or any mortgagee or the  
 5 owner's or holder's assigns may redeem the real estate sold in the sale at  
 6 any time within one year after the sale by paying to the county treasurer  
 7 the amount for which the real estate was sold plus the interest accrued,  
 8 all delinquent taxes and special assessments and interest thereon that have  
 9 accrued after the date of such sale which remain unpaid as of the date of  
 10 redemption and costs and expenses of the sale and redemption, including  
 11 but not limited to abstracting costs incurred in anticipation of a tax sale.

12 When used in this subsection "abandoned building or structure and  
 13 the land accommodating such building or structure" shall mean a building  
 14 or structure which, for a period of at least one year, has been unoccupied  
 15 and which there has been a failure to perform reasonable maintenance  
 16 of such building or structure and the land accommodating such building  
 17 or structure.

18 (b) (1) Except as provided by paragraph (2), real estate which is a  
 19 homestead under section 9 of article 15 of the Kansas Constitution and  
 20 all real estate not described in subsection (a) shall be held by the county  
 21 until the expiration of three years from the date of the sale and may be  
 22 redeemed partially by paying to the county treasurer the amount of taxes  
 23 for which the real estate was sold for one or more years, beginning with  
 24 the first year for which the real estate was carried on the tax-sale book of  
 25 the county plus interest at the rate prescribed by K.S.A. 79-2004, and  
 26 amendments thereto, on the amount from the date the same was carried  
 27 on the sale book. Upon payment and partial redemption, the time when  
 28 a tax foreclosure sale may be commenced shall be extended by the num-  
 29 ber of years paid in the partial redemption.

30 (2) In Johnson county, real estate which is a homestead under section  
 31 9 of article 15 of the Kansas constitution and all real estate not described  
 32 in subsection (a) shall be held by the county until the expiration of three  
 33 years from the date of the sale and may be redeemed partially by paying  
 34 to the county treasurer the amount of taxes for which the real estate was  
 35 sold for one or more years, beginning with the most recent year for which  
 36 the real estate was carried on the tax-sale book of the county plus interest  
 37 at the rate prescribed by K.S.A. 79-2004, and amendments thereto, on  
 38 the amount from the date the same was carried on the sale book.

39 (c) For the purpose of this act, the term terms "real estate bid off by  
 40 the county for both delinquent taxes and special assessments" and "real  
 41 estate bid off by the county for either delinquent taxes or special assess-  
 42 ments" shall include only real estate on which there are delinquent taxes  
 43 of a general ad valorem property tax nature ~~and~~ delinquent special as-

and/or

and/or

1 assessments or other special taxes levied by a city, county or other munic-  
2 ipality in response to a petition or request of the landowners. Upon pub-  
3 lication of the listing of real estate subject to sale under the provisions of  
4 K.S.A. 79-2302, and amendments thereto, the clerk of any city, county  
5 or other municipality which has levied special assessments during the past  
6 10 years shall certify to the county treasurer those listed parcels of real  
7 estate which are located within a special assessment district, but no parcel  
8 shall be so certified unless the public improvement was constructed pur-  
9 suant to a petition or request of one or more landowners sufficient to  
10 authorize the improvement under the applicable statutory special assess-  
11 ment procedure used by the city, county or other municipality.

12 (d) If at the expiration of the redemption period, the real estate has  
13 not been redeemed, the real estate shall be disposed of by foreclosure  
14 and sale in the manner provided by K.S.A. 79-2801 et seq., and amend-  
15 ments thereto.

16 Sec. 4. K.S.A. 79-2811 and K.S.A. 2006 Supp. 79-2401a are hereby  
17 repealed.

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



**WICHITA**

Dale Goter  
Government Relations Manager

# TESTIMONY

City of Wichita  
455 N Main, Wichita, KS. 67202  
Wichita Phone: 316.268.4351  
dgoter@wichita.gov

4

**Kansas Senate  
Federal and State Affairs Committee  
Senate Bill 319  
Foreclosure changes to address residential blight**

Feb. 15, 2007

Throughout our great city of Wichita, "The American Dream" of home ownership still ranks as one the most important ingredients that define our quality of life.

The satisfaction of ownership, combined with the rewards of maintaining and improving our property, is a daily enhancement of our existence.

Throughout the City of Wichita, citizens put down roots by buying a home and constructing their day-to-day lives around it.

It is a pride also shared by those whose home is a rental. A well-maintained property, whether owned or rented, brings comfort not only to the residents, but all those around them.

Unfortunately, for too many citizens, "the American Dream" can quickly become the American Nightmare. Abandoned property, decrepit and dangerous buildings, eyesores that discourage community investment ... all can destroy the neighborhood pride that others have created with the sweat of their brow and their hard-earned dollars.

When a Wichita neighborhood suffers from the residential cancer of blight, the first complaints often come to City Hall. Rightfully so, residents expect certain protections from an orderly system of local government.

City officials share that concern, and also share the passion behind it. Certain administrative tools are available to fight the battle, but, too many times, our hands are tied.

In its continuing effort to alleviate residential blight, the City of Wichita asks legislative approval for Senate Bill 319, which identifies three goals:

- 1) Shorten the foreclosure time on abandoned delinquent property from three years to one year
- 2) Encourage non-profit or public entities to intervene and stabilize delinquent property, ultimately making it available for low and moderate income housing. The proposed legislation would protect their investment, adding those improvement costs to the delinquent taxes as the cost of redemption.
- 3) Provide adequate notice to the delinquent property owner.

15

**Testimony Before The  
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE**

**For The  
LEGISLATURE OF THE STATE OF KANSAS**

by

**Bob Myers, City Attorney  
City of Newton, Kansas**

**February 15, 2007**

Senator Brungardt and members of the Committee --

My name is Bob Myers, and I am the City Attorney for the City of Newton. Thank you for the opportunity to address you today.

I am here to provide support for the adoption of Senate Bill 319.

I doubt there is a city in the State of Kansas which doesn't struggle with the problem of blighted properties. I have been a city attorney for over 22 years, and have developed a fair amount of experience in helping medium and smaller-sized cities try to deal with the problem of nuisances and blighted properties. In seminar presentations I have made over the years to local officials on techniques for dealing with nuisances and blighted property conditions, I repeatedly hear about their frustrations in this area.

I have also dealt extensively with neighbors who live next to properties with these kinds of conditions, and have listened to them pleading for some help. I have had citizens tell me about the financial difficulties they have encountered being unable to sell their property because of the persistent conditions next door, or their concern about their children playing outdoors and possibly venturing into the areas where these conditions persist.

Senate Bill 319 will not solve all of these problems. It is actually very narrow in scope in that it addresses only those blighted properties which are in the process of being foreclosed by the county through a tax foreclosure proceeding. However, this is an area in which cities could use some additional options. Here is why.

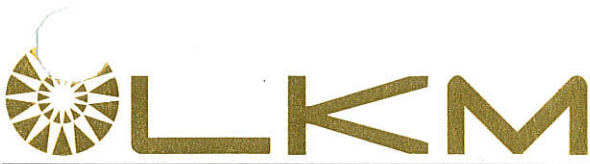
The most typical remedies available for cities are enforcement through a municipal court proceeding or through an administrative hearing process. Each of these are dependent upon notice to the owners of the properties, and often involve the issuance of abatement orders to those property owners with an opportunity being afforded for them to carry out necessary repair or abatement action before the city would be entitled to move in a carry out those actions itself.

However, when a property is going through tax foreclosure, ownership to the property is in a state of transition. There may be a sense of unfairness about a property owner, negligent as he or she may have been in maintaining the property and keeping the taxes paid, in nevertheless being ordered upon threat of conviction, fine or other personal financial liability to make repairs to a property to which they are in the process of losing title.

Senate Bill 319 will provide an option by which property repairs can be made during the tax foreclosure process so that the more serious types of blighting conditions can be eliminated and neighboring property owners can obtain some relief. Actually, the ability to make some interim repairs may also aid the prospect of the property actually being able to be sold out of foreclosure and into more responsible private ownership.

I urge your support of Senate Bill 319, and your support of other legislative efforts which may yet be considered which will give local governments more effective options in eliminating blight from our communities.

Thank you for your attention.



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Phone: (785) 354-9565  
Fax: (785) 354-4186

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League of Kansas Municipalities

To: Senate Federal and State Affairs  
From: Mark Tomb, LKM  
Date: February 15, 2007  
Re: Support of SB 319

Thank you for allowing me to appear on behalf of the League of Kansas Municipalities and our member cities. We appear today in support of SB 319, which makes improvements to the manner in which severely blighted properties are repaired and sold when the property has been abandoned and the owner is delinquent in property taxes.

Blight is a serious problem and history has shown us that dealing with blight in a prompt and determined manner has the effect of preventing further decay in neighborhoods. The provisions of this legislation would strengthen the ability of a community to deal with this important issue now rather than later when the problem will likely be more severe and costly to remedy.

SB 319 makes three important changes. First, it shortens the time frame for foreclosures for abandoned delinquent properties. Secondly, SB 319 clarifies the notice provisions to assure appropriate notice is given to property owners and other potentially interested parties. Finally, SB 319 allows a city or non-profit group to intervene and bring an abandoned delinquent property up to code, and then protects the interveners investment by adding the cost of the intervention to the redemption cost, thus preventing a late arriving property owner from financially benefitting from the intervention.

SB 319 outlines a fair and equitable process for dealing with tax delinquent, abandoned, and blighted properties in a time conscious manner. For these reasons, the League of Kansas Municipalities supports SB 319. Again, thank you for allowing LKM to comment on this proposed legislation. I would be happy to stand for questions at the appropriate time.





February 15, 2007

To: Senate Federal and State Affairs Committee

From: Kathleen Taylor Olsen, Kansas Bankers Association

**Re: SB 319: Delinquent Taxes/Repairs to Real Estate**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today with regard to **SB 319**, a bill which would allow a county to make repairs to property held as a result of a delinquent property tax sale.

Subsection (b) provides that notice shall be given at least 30 days prior to the repairs being made, to all parties having or claiming an interest in such real estate if their addresses are reasonably ascertainable, and by publication in a newspaper of general circulation within the county. Subsection (c) makes the cost of these repairs a part of the cost incident to the sale of the real estate.

There exists the possibility that a lender may have a lien on that property. In order to be perfected, all liens on real estate must be recorded in the Office of the Register of Deeds in the county where the property is located. As such, liens are easily identified by sending a request for a search into the appropriate Register of Deeds office.

We are proposing an amendment to New Section 1(b) on Page 1, and Section 2, K.S.A. 79-2811(a) on Page 2, which would specify that the notice to interested parties shall specifically include any lienholders of record.

Many times, the lienholder is a bidder at the sale of these properties. The actions taken under these provisions will affect the amount of the bid by adding to the cost that must be paid in. We believe it is in the best interest of all parties involved to keep the lienholder and most likely potential bidder informed as to changes in the value of the property.

A lienholder is obviously a party claiming an interest in the real estate and so probably would be given notice under the statute as it exists, but by specifying a lienholder of record – who are easily identified – the chances that a notice will not be sent accidentally decrease greatly.

Thank you and with the requested amendment adopted, the KBA would have no objections to **SB 319**.

## SENATE BILL No. 319

By Committee on Federal and State Affairs

2-6

9 AN ACT concerning counties; relating to foreclosure and sale of real  
10 estate; amending K.S.A. 79-2811 and K.S.A. 2006 Supp. 79-2401a and  
11 repealing the existing sections.  
12

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

14 New Section 1. (a) During the period any real estate sold for delin-  
15 quent taxes and bid in by the county is held by the county pending re-  
16 demption or sale, pursuant to K.S.A. 79-2801, and amendments thereto,  
17 the county may make, or may cause or permit any city within the county  
18 or any organization described subsection (d) of K.S.A. 12-1750, and  
19 amendments thereto, to make such repairs to any structure upon or in-  
20 cluded within such real estate as may be needed to bring or maintain  
21 such structure in compliance with minimum housing code standards.

22 (b) As a precondition of causing or permitting such repairs, the board  
23 of county commissioners shall, at least 30 days prior to the date such  
24 repairs are to be made, cause actual notice of the proposed date, descrip-  
25 tion and estimated cost of the repairs to be given to all parties having or  
26 claiming an interest in such real estate whose addresses are reasonably  
27 ascertainable, and also by publication in a newspaper of general circula-  
28 tion within the county. The content of the notice shall include a statement  
29 of the board's intent to cause or permit the proposed repairs on the date  
30 stated in the notice unless an action seeking hearing with respect to any  
31 matter related to the proposed repairs has been filed in the district court  
32 within the county and served upon the board. If notice has been given as  
33 required and no such action has been filed and served upon the board  
34 prior to the date of the proposed repairs as stated in the notice, the board  
35 may proceed to cause or permit such repairs pursuant to this section on  
36 or after the date stated in the notice.

37 (c) The cost of such repairs shall become part of the payment re-  
38 quired for the exercise of any redemption right prior to the date of any  
39 sale under K.S.A. 79-2803, and amendments thereto, and after the date  
40 of any such sale, shall be treated as a cost incident to the sale under  
41 subsection (a) of K.S.A. 79-2805, and amendments thereto, and shall, in  
42 all cases, be repaid after the date of redemption or sale to the county,  
43 city or organization that made the repairs.

including lienholders of record

1 Sec. 2. K.S.A. 79-2811 is hereby amended to read as follows: 79-  
 2 2811. (a) If real estate has been or shall be sold and bid by the county,  
 3 and the redemption period has expired, the board may sell such real estate  
 4 to provide affordable low-income housing or for community development  
 5 or economic development purposes which are hereby declared to be pub-  
 6 lic purposes. Any such sale shall not be subject to the provisions of K.S.A.  
 7 79-2801 et seq., and amendments thereto. *However, at least 30 days prior*  
 8 *to the proposed date of sale, the board shall cause actual notice of the date*  
 9 *and terms of the proposed sale to be given to all parties having or claiming*  
 10 *an interest in such real estate whose addresses are reasonably ascertain-*  
 11 *able, and also by publication in a newspaper of general circulation within*  
 12 *the county. The content of the notice shall include a statement of the*  
 13 *board's intent to proceed with the proposed sale on the date stated in the*  
 14 *notice unless an action seeking hearing with respect to any matter related*  
 15 *to the sale has been filed in the district court within the county and served*  
 16 *upon the board. If notice has been given as required and no such action*  
 17 *has been filed and served upon the board prior to the date of the proposed*  
 18 *sale as stated in the notice, the board may proceed with such sale pursuant*  
 19 *to this section on or after the date stated in the notice.*

20 (b) The board of county commissioners may abate any delinquent ad  
 21 valorem property taxes, special assessments or other special taxes on any  
 22 property sold pursuant to subsection (a). If such taxes or assessments are  
 23 not abated, any moneys received from the sale of such property shall be  
 24 apportioned in the manner provided by K.S.A. 79-2805, and amendments  
 25 thereto.

26 Sec. 3. K.S.A. 2006 Supp. 79-2401a is hereby amended to read as  
 27 follows: 79-2401a. (a) (1) Except as provided by paragraph (2) and sub-  
 28 section (b), real estate bid off by the county for both delinquent taxes and  
 29 special assessments, as defined by subsection (c), shall be held by the  
 30 county until the expiration of two years from the date of the sale, subject  
 31 only to the right of redemption as provided by this section. Any owner or  
 32 holder of the record title, the owner's or holder's heirs, devisees, execu-  
 33 tors, administrators, assigns or any mortgagee or the owner's or holder's  
 34 assigns may redeem the real estate sold in the sale at any time within two  
 35 years after the sale by paying to the county treasurer the amount for which  
 36 the real estate was sold plus the interest accrued, all delinquent taxes and  
 37 special assessments and interest thereon that have accrued after the date  
 38 of such sale which remain unpaid as of the date of redemption and costs  
 39 and expenses of the sale and redemption, including but not limited to,  
 40 abstracting costs incurred in anticipation of a tax sale.

41 (2) Any abandoned building or structure and the land accommodat-  
 42 ing such building or structure bid off by the county for ~~both~~ *either* delin-  
 43 quent taxes ~~and~~ *or* special assessments, as defined by subsection (c), shall

including lienholders of record

SENATE BILL No. 244

By Senators D. Schmidt, Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson and Wysong

2-1

and 60-2102

13 AN ACT concerning funeral picketing; amending K.S.A. 21-4015 and  
14 repealing the existing [section].

sections

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

17 Section 1. K.S.A. 21-4015 is hereby amended to read as follows: 21-  
18 4015. (a) This section shall be known and may be cited as the Kansas  
19 funeral picketing act.

20 (b) The legislature finds that:

21 (1) It is generally recognized that families have a substantial interest  
22 in organizing and attending funerals for deceased relatives; and

23 (2) the interests of families in privately and peacefully mourning the  
24 loss of deceased relatives are violated when funerals are targeted for pick-  
25 eting and other public demonstrations; and

26 (3) picketing of funerals causes emotional disturbance and distress to  
27 grieving families who participate in funerals; and

28 (4) full opportunity exists under the terms and provisions of this sec-  
29 tion for the exercise of freedom of speech and other constitutional rights  
30 at times other than within one hour prior to, during and two hours fol-  
31 lowing the commencement of funerals.

32 (c) The purposes of this section are to:

33 (1) Protect the privacy of grieving families within one hour prior to,  
34 during and two hours following the commencement of funerals; and

35 (2) preserve the peaceful character of cemeteries, mortuaries and  
36 churches within one hour prior to, during and two hours following the  
37 commencement of funerals.

38 (d) As used in this section:

39 (1) "Funeral" means ~~the ceremonies, processions and memorial serv-~~  
40 ~~ices held in connection with the burial or cremation of the dead any~~  
41 *ceremony, procession or memorial service in connection with the death*  
42 *of a person.*

43 (2) "Picketing" means protest activities engaged in by a person or

1 persons stationed before or about a cemetery, mortuary or, church or  
 2 other location where a funeral is held or conducted within one hour prior  
 3 to, during and two hours following the commencement of a funeral.

4 (e) It is unlawful for any person to: (1) Engage in picketing before or  
 5 about or directed protest march at any public location within 300 feet of  
 6 any entrance to any cemetery, church or, mortuary or other location  
 7 where a funeral is held or conducted within one hour prior to, during and  
 8 two hours following the commencement of a funeral; or

9 (2) obstruct or prevent the intended use of a public street, public  
 10 sidewalk or other public space while engaged in picketing or a directed  
 11 protest, as described in subsection (1).

12 (f) A violation of subsection (e) is a class B person misdemeanor. Each  
 13 day on which a violation of subsection (e) occurs shall constitute a separate  
 14 offense.

15 (g) Notwithstanding the penalties provided in subsection (f), any dis-  
 16 trict court may enjoin conduct proscribed by this section and may in any  
 17 such proceeding award damages, including punitive damages, attorney  
 18 fees or other appropriate relief against the persons found guilty of actions  
 19 made unlawful by subsection (e).

20 (h) If any provision of this section or the application thereof to any  
 21 person or circumstances is held invalid, the invalidity does not affect other  
 22 provisions or applications of this section which can be given effect without  
 23 the invalid provisions or application. To this end the provisions of this  
 24 section are severable.

25 (i) Amendments by this act to this section shall be applicable from  
 26 and after the date the Kansas supreme court upholds the constitutionality  
 27 thereof.

28 New Sec. 2. (a) Notwithstanding the provisions of K.S.A. 60-1802, if  
 29 an act of libel or slander is committed at a funeral and the person defamed  
 30 is the deceased at such funeral or any living relative of the deceased, then  
 31 an action for libel or slander may be sustained if brought within one year  
 32 after such funeral by the estate of such deceased person on behalf of such  
 33 deceased person or by or on behalf of any living relative of such deceased  
 34 person.

35 (b) "Funeral" has the meaning provided by K.S.A. 21-4015(d)(1) and  
 36 amendments thereto.

37 (c) "At a funeral" means within 300 feet of any cemetery, church or  
 38 mortuary within one hour prior to, during or two hours following the  
 39 commencement of a funeral at such location.

40 New Sec. 3. [The attorney general shall bring a declaratory judgment  
 41 action challenging the constitutionality of section 1 within 60 days of the  
 42 publication of this act in the statute book.

43 An appeal of a district court decision shall be made directly to the

one of the following dates, whichever is applicable:

(a) If the action authorized by section 3, and amendments thereto, is brought in Kansas state court, then amendments by this act to this section shall be applicable from and after the date the Kansas supreme court upholds the constitutionality thereof.

(b) if the action authorized by section 3, and amendments thereto, is brought in federal court, then amendments by this act to this section shall be applicable from and after the date the judgment of the court upholding the constitutionality thereof becomes final

1 [Kansas supreme court under provisions of subsection (b) of K.S.A. 60-  
2 2102, and amendments thereto.]

3 Sec. 1. K.S.A. 21-4015 is hereby repealed.

4 Sec. 2. This act shall take effect and be in force from and after its

5 publication in the statute book.

and 60-2102 are

In accordance with KSA 75-702, and amendments thereto,  
the attorney general shall seek judicial determination of the  
constitutionality of section 1 and amendments thereto. If  
the action authorized by this section is brought in a district  
court of this state, then the judgment of that district court  
shall be appealed directly to the Kansas supreme court as a  
matter of right.

Insert Section 4 attached, amending K.S.A. 60-2102, and  
renumber the remaining sections accordingly.

3  
8

Sec. 4. K.S.A. 60-2102 is hereby amended to read as follows: 60-2102. (a) As of right. Except for any order or final decision of a district magistrate judge, the appellate jurisdiction of the court of appeals may be invoked by appeal as a matter of right from:

(1) An order that discharges, vacates or modifies a provisional remedy.

(2) An order that grants, continues, modifies, refuses or dissolves an injunction, or an order that grants or refuses relief in the form of mandamus, quo warranto or habeas corpus.

(3) An order that appoints a receiver or refuses to wind up a receivership or to take steps to accomplish the purposes thereof, such as directing sales or other disposal of property, or an order involving the tax or revenue laws, the title to real estate, the constitution of this state or the constitution, laws or treaties of the United States.

(4) A final decision in any action, except in an action where a direct appeal to the supreme court is required by law. In any appeal or cross appeal from a final decision, any act or ruling from the beginning of the proceedings shall be reviewable.

(b) The appellate jurisdiction of the supreme court may be invoked by appeal as a matter of right from a preliminary or final decision in which a statute of this state has been held unconstitutional as a violation of Article 6 of the Kansas constitution pursuant to K.S.A. 2005 Supp. 72-64b03, and amendments thereto. Any appeal filed pursuant to this subsection shall be filed within 30 days of the date the preliminary or final decision is filed.

(c) Other appeals. When a district judge, in making in a civil action an order otherwise appealable under this section, is of the opinion that such order involves a controlling question of law as to which there

substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, the judge shall so state in writing in such order. The court of appeals may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within 10 days after the entry of the order under such terms and conditions as the supreme court fixes by rule. Application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or an appellate court or a judge thereof so orders.

(d) The appellate jurisdiction of the supreme court may be invoked by appeal as a matter of right pursuant to section 3, and amendments thereto, from a preliminary or final decision in which a statute of this state has been held unconstitutional as a violation of the Kansas constitution. Any appeal filed pursuant to this subsection shall be filed within 30 days of the date the preliminary or final decision is filed.





STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

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PAUL MORRISON  
ATTORNEY GENERAL

February 14, 2007

Senator Derek Schmidt  
Senate Majority Leader  
State Capitol Room 392-E  
Topeka, KS 66612

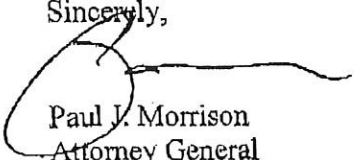
Senator Schmidt:

I am writing today to convey the Office of Attorney General's intent to seek judicial determination regarding the constitutionality of Senate Bill 244 following enactment of the legislation. As you and I have discussed, the language in New Sec. 3 of the bill is intended to *request* that the Attorney General seek judicial determination (despite the use of the word "shall") rather than *mandating* such action.

In addition, our intent to seek judicial determination regarding the constitutionality of SB 244 will be based on our legal analysis of the constitutionality of the final provisions of the bill, in particular, the "buffer zone" specifications.

I believe SB 244 has the potential to provide grieving Kansas families the privacy and protection they deserve during funerals without inhibiting the exercise of free speech. Thank you for working with me on this issue.

Sincerely,

  
Paul J. Morrison  
Attorney General

Sen Fed & State

Attachment 9  
2-15-07

# SENATE BILL No. 226

By Committee on Federal and State Affairs

1-30

9 AN ACT cereal malt beverages; relating to discretion by cities in granting  
10 and suspending or revoking a retailer's license; amending K.S.A. 2006  
11 Supp. 41-2703 and 41-2708 and repealing the existing sections.

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

14 Section 1. K.S.A. 2006 Supp. 41-2703 is hereby amended to read as  
15 follows: 41-2703. (a) ~~After~~ examination of an application for a retailer's  
16 license, the board of county commissioners or the director shall, if they  
17 approve the same, issue a license to the applicant. *Except as provided in*  
18 *subsection (b), the governing body of the city shall, if the applicant is*  
19 *qualified as provided by law, issue a license to such applicant.*

Except as provided in subsection (b), after

20 (b) ~~No retailer's license shall be issued~~ ~~The board of county commis-~~  
21 ~~sioners shall not be required to issue a retailer's license to:~~

Neither the governing body of a city nor the

22 (1) A person who is not a resident of the county in which the place  
23 of business covered by the license is located, has not been a resident of  
24 such county for at least six months or has not been a resident in good  
25 faith of the state of Kansas.

not should be stricken  
in line 21 -

26 (2) A person who has not been a resident of this state for at least one  
27 year immediately preceding application for a retailer's license.

28 (3) A person who is not of good character and reputation in the com-  
29 munity in which the person resides.

30 (4) A person who is not a citizen of the United States.

31 (5) A person who, within two years immediately preceding the date  
32 of application, has been convicted of a felony or any crime involving moral  
33 turpitude, drunkenness, driving a motor vehicle while under the influence  
34 of intoxicating liquor or violation of any other intoxicating liquor law of  
35 any state or of the United States.

36 (6) A partnership, unless all the members of the partnership are oth-  
37 erwise qualified to obtain a license.

38 (7) A corporation, if any manager, officer or director thereof, or any  
39 stockholder owning in the aggregate more than 25% of the stock of such  
40 corporation, would be ineligible to receive a license hereunder for any  
reason other than the citizenship and residency requirements.

41 (8) A corporation, if any manager, officer or director thereof, or any  
stockholder owning in the aggregate more than 25% of the stock of such