

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:34 A.M. on January 24, 2007, in Room 123-S of the Capitol.

All members were present except:

Phil Journey arrived, 9:36 A.M.
Dwayne Umbarger arrived, 9:37 A.M.
David Haley arrived 9:50 A.M.
Derek Schmidt- excused

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department
Bruce Kinzie, Office of Revisor of Statutes
Nobuko Folmsbee, Office of Revisor of Statutes
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Ellen House, Court Administrator, 18th Judicial District
John Pickett, Director, Johnson County Law Library
Lana Walsh, Office of Judicial Administration

Bill Introductions

Attorney General Paul Morrison requested the introduction of two bills. The first bill would address a fine tuning of Jessica's law passed last year, the second bill would address certain requirements regarding the Kansas offender registration act. Senator Bruce moved, Senator Goodwin seconded, to introduce the bills as committee bills. Motion carried.

Sandy Barnett requested the introduction of a bill addressing interference with parental custody. Senator Bruce moved, Senator Umbarger seconded, to introduce the bill as a committee bill. Motion carried.

Senator Vratil described two bills concerning the Uniform Commercial Code. The first bill addressed Article 1 of the code, and the second, described Article 7 of the code. Senator Vratil moved, Senator Goodwin seconded, to introduce the bills. Motion carried.

Senator Bruce moved, to introduce a bill to allow judges the option to take bids to represent class action suits. Senator Lynn seconded the motion. Motion carried.

The hearing on **SB 55--Department of corrections, disposition of inmate compensation** was opened.

Ellen House appeared in support, indicating that often inmates are released believing all financial obligations to the court are fulfilled when actually, only restitution has been paid. This bill would allow the Department of Corrections to remit monies earned by inmates for court costs, fines, and fees due in addition to restitution (Attachment 1).

There being no further conferees, the hearing on **SB 55** was closed.

The hearing on **SB 56--Increasing fees for county law libraries** was opened.

John Pickett spoke in favor, relating that library fee limits have not been increased since 1992 and if adjusted for inflation the fee today would be 26% greater. The library provides services to 30,000 people each year, including many members of the general public in need of court forms and research materials. Enactment of this bill would allow the library to serve its patrons in a timely and effective manner (Attachment 2).

Written testimony in support was submitted by:

Lee Woodward, Chairman, Sedgwick County Law Library, Inc. (Attachment 3)

There being no further conferees, the hearing on **SB 56** was closed.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:34 A.M. on January 24, 2007, in Room 123-S of the Capitol.

The Chairman opened the hearing on **SB 57--Repealing K.S.A. 20-351a, report on certain judgeships.**

Lana Walsh spoke in support, stating annual reports to the Chairpersons of the Senate and House Judiciary Committees were enacted at the time of court unification and concurred that there no longer appears to be a need for this report (Attachment 4).

There being no further conferees, the hearing on **SB 57** was closed.

Final action on **SB 31--Jurisdiction of municipal court.**

The Chairman distributed a proposed amendment from Senator Emler which simplifies and clarifies language in the original bill (Attachment 5). Senator Bruce moved, Senator Journey seconded, to adopt the balloon amendment. Motion carried.

There being no further comments or amendments, Senator Journey moved, Senator Bruce seconded, to recommend SB 31 as amended favorably for passage. Motion carried.

Final action on **SB 37--Concerning the crime of smoking in indoor areas.**

Senator Betts distributed a proposed amendment which would allow businesses with less than 25 employees who voluntarily become smoke free to be allowed to join the state health care benefits program (Attachment 6). Chairman Vratil indicated a correction from the revisors should read "An Act concerning smoking..." not emailing. Following discussion, Senator Allen stated the proposed amendment would have a significant fiscal impact and suggested requesting a fiscal note before acting on it. It was agreed to wait for further information.

Senator Vratil moved to amend page 2, line 9, to strike "the principal business" and insert "more than 50% of its revenue is derived from". Senator Bruce seconded the motion. Motion carried.

Senator Vratil moved to amend page 4, line 28, strike the word "private". The motion was seconded by Senator Goodwin. Motion carried.

Senator Haley distributed a proposed amendment which would prohibit smoking in a car with children present and moved to amend the bill (Attachment 7). The Chairman indicated there appeared to be additional changes in the amendment including th definition of a motor vehicle on page 2 and requested explanation of the changes on page 3. Senator Haley responded that page 3 was a recitation of the definition of indoor areas. Senator Vratil verified that the substance of his amendment was on page 4, regarding prohibition of smoking in a car in which there is a person of less than 18 years of age. Senator Betts seconded the motion. Following discussion, the motion carried.

Senator Wysong was invited to propose a balloon amendment with several changes to page 4 of the bill (Attachment 8). Senator Goodwin moved, Senator Haley seconded, to adopt the proposed amendments. Motion carried.

Due to time constraints, final action on **SB 37** will be continued at a later date.

The meeting adjourned at 10:30 A.M. The next scheduled meeting is January 25, 2007.

Jane E. Arabik, President
Rice County
101 W Commercial
Courthouse, 3rd Floor
Lyons, Ks. 67554
620-257-2383



Donna Oswald, President-Elect
Atchison County
423 N 5th
PO Box 408
Atchison, Ks. 66002
913-367-7400

Senate Judiciary Committee
Wednesday, January 24, 2007

Testimony in Support of SB 55
Ellen House, Court Administrator
18th Judicial District, Wichita

Chairman Vratil and Members of the Committee:

Thank you for the opportunity to appear before you today to speak on behalf of the Kansas Association of District Court Clerks and Administrators regarding SB 55.

K.S.A. 75-5268 allows the Secretary of Corrections to remit monies earned by inmates to the Clerk of the District Court for "payment of a reasonable amount pursuant to an order of restitution."

Many times an inmate is released from incarceration thinking that their financial obligations to the Court are fulfilled, only to find that their name and account have been turned over to a collection agency. This discrepancy occurs when the Secretary of Corrections tells them that they owe no more restitution. However, there are many court costs, fines, and fees that are still due apart from the restitution that has been paid.

By changing the statute to read "...for all costs, fines, fees and restitution assessed..." a large number of misunderstandings can be avoided, and an increased amount of money owed to the court can be collected.

Thank you for your consideration.

Phil Fielder, Secretary
Ellis County
PO Box 8, 1204 Fort St
Hays, Ks. 67601
785-628-9415

Ann McNett, Treasurer
Barber County
118 E. Washington
Medicine Lodge, Ks. 67104
620-886-5639

Shae Watkins, Immed. Past Pres.
Elk County
PO Box 306
Howard, Ks. 67
620-374-2370

Senate Judiciary
1-24-07
Attachment 1

JOHNSON COUNTY LAW LIBRARY

COURTHOUSE – ROOM 101
100 N. KANSAS AVENUE
OLATHE, KANSAS 66061

PHONE (913) 715-4154

FAX (913) 715-4152

To: Senator John Vratil, Chairman
Members of the Kansas Senate Committee on Judiciary

From: John Pickett
Director, Johnson County Law Library

Date: January 24, 2007

Re: Senate Bill No. 56

Thank you for allowing me to testify regarding county law library docket fee authority. I am submitting testimony on behalf of the Johnson County Law Library.

County law library fee limits, set out in K.S.A. 20-3129, have not been increased since 1992 while what cost \$10 in 1992 when adjusted for inflation using a Consumer Price Index calculator would now cost \$14.37. Between 1998 and 2004, the consumer price index rose 26%. The American Association of Law Libraries' Price Index for Legal Publications 2d shows that the price increase for printed legal materials was 60% during the same period. The Johnson County Law Library began collecting the maximum authorized law library docket fees in 2000.

Our library, located in the Courthouse in downtown Olathe, provides legal information and services to 30,000 persons each year including attorneys, judges, law clerks, students and the general public. Our staff answered approximately 9,000 legal reference and research questions in 2005, and of these, 60% came from the public and 40% from attorneys. We check out 2,000 books a year to attorneys and judges from our library of approximately 23,000 volumes. We have developed court forms and links to resources on our web page. Lexis, Internet, word processing, photocopying, telephone rooms and conference room services are available to all users.

Many of our users are members of the general public who need help finding forms and research materials on family law subjects including divorce, child custody, visitation and name change. Other subjects include garnishment, mechanics' liens and landlord-tenant. We provide a large number of referrals to a variety of legal assistance services provided by Kansas Legal Services and Kansas Bar Association.

We believe that it is important for county law libraries to receive additional authority to raise fees. With this additional authority county law library trustees can respond to increasing financial needs of the law library in a timely and effective manner.

Thank you for your consideration.

Senate Judiciary

1-24-07
Attachment 2

BOARD OF TRUSTEES:
LEE H. WOODARD, CHAIRMAN
HONORABLE TIMOTHY LAHEY
HONORABLE BEN BURGESS
TERESA MAH
ROGER M. THEIS



KARIN M. KIRK
EXECUTIVE DIRECTOR
JOHN LEWALLEN
LIBRARIAN

Sedgwick County Law Library, Inc.

January 23, 2007

Members of the Judiciary Committee
Kansas State Legislature
Kansas State Senate
300 S W 10th Avenue
Topeka, KS 66612

Re: Senate Bill 56

Dear Committee Member:

The Board of Trustees of the Sedgwick County Law Library ("SCLL") supports SB 56 which, if adopted, will directly impact the SCLL. This bill amends K.S.A. 20-3129 (a) to allow clerks of the district courts to tax a library fee of no more than \$15 in Chapter 60 and felony criminal cases and no more than \$10 in other cases. The present statute provides for the taxation of a library fee of no more than \$10 in Chapter 60 and felony criminal cases and no more than \$7 in other cases. Under the current statute the exact amount of the fee is determined by the board of trustees of each library and this is not changed by the proposed amendment. The last increase for law library fees was in 1988.

The SCLL also supports HB 2073, which provides for additional library funding through the amendment of K.S.A 20-3129 (a). The only significant difference between SB 56 and HB 2073 is that SB 56 has state wide application while HB 2073 is applicable only to Sedgwick and Johnson counties.

The Sedgwick County Law Library is the only major law library west of Topeka. It is not only used by Sedgwick County attorneys and judges but, over the years, many out-of-county lawyers, particularly from southern and western Kansas, find it a valuable resource. Attorneys using the SCLL include government lawyers, those in private practice, public defenders and legal aid lawyers.

The trustees believe an important part of the SCLL's mission is to help maintain a high quality of the practice of law in Sedgwick County. In addition to providing a library, the SCLL also provides space for continuing legal education programs; meeting rooms for bar committees, most of which have the purpose of improving the quality of practice and the efficiency of the judicial process in Sedgwick County; rooms for mediations, arbitrations, and depositions; and space for out-of-town lawyers trying cases in Wichita.

The trustees also believe it is important that the public have access to the law library. Thus it is open to the public; non-lawyers use it regularly, including *pro se* litigants and many college and high school students. Some university instructors actually teach some of their classes in meeting rooms at the law library. Recently, the SCLL agreed to provide a classroom in which Consumer Credit Counseling Services can hold its debt counseling classes.

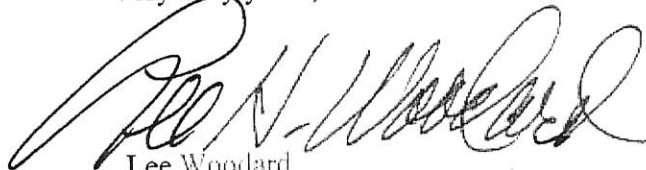
County law libraries are created and exist under K.S.A. 20-3126 *et seq.* Funding under the statutory scheme is set forth in K.S.A. 20-3126 (c) and K.S.A. 20-3129 (a). The latter statute, which SB 56 would amend, provides for library fees taxed by clerks of the district court while the first statute provides that attorneys in the county where the law library is located shall pay a registration fee to the Clerk of the District Court for the benefit of the county law library. The registration fee is set by the trustees for the Sedgwick County and Johnson County Law Libraries within a range of \$25 to \$125. The range for all other counties is \$10 to \$75. In 1988, the registration fee for Sedgwick County lawyers was \$25. The fee is now \$95, a 280% increase. Public defenders are exempt from this fee.

In 1988, the total operating expense for the SCLL was \$525,100.00. At year-end 2006, the operating expenses were \$700,000.00, a 33.2% increase. This increase would have been far greater had the trustees not taken strong action to cut expenses during the recent past. For example, in 1988 our average monthly book expense was \$12,058.00, while year-end 2006 it was \$14,254.00 and, when added to on-line expense, the total is \$15,160.00. This is a very small increase in light of the almost annual price increases by law book publishers. Indeed, book expense has been cut to the point where the SCLL's collection is bare-bone, impairing the library's effectiveness as a resource. As a consequence, the trustees recognize a need to prudently restore materials and broaden the collection.

If the SCLL is to continue its present collection and pursue its established mission, additional funding is necessary. This can be achieved by a relatively small dollar increase in filing fees paid by those who use the courts or who are brought into the system.

Thus, the SCLL Trustees request that SB 56 be adopted.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lee Woodard", written in a cursive style.

Lee Woodard
Chairman

THE SEDGWICK COUNTY LAW LIBRARY NEEDS THE ADDITIONAL FUNDING PROVIDED BY SENATE BILL NO. 56 IN ORDER TO CARRY OUT ITS MISSION

The Sedgwick County Law Library (“SCLL”) supports SB 56. The SCLL also supports HB 2073, another proposed funding amendment to K.S.A. 20-3129 (a). The significant difference is SB 56 has state wide application while HB 2073 is applicable only to Sedgwick and Johnson counties.

The SCLL operates pursuant to K.S.A. 20-3126, *et seq.* and is governed by a Board of Trustees. SCLL is primarily funded through docket fees paid by litigants, K.S.A. 20-3129 (a), and registration fees paid by lawyers who regularly practice in Sedgwick County, K.S.A. 20-3126 (c).

The SCLL was established in 1919 and is the only major law library west of Topeka. In addition to being used by residents from Sedgwick County, it is regularly used by residents from the surrounding counties.

A major part of the SCLL’s mission is to significantly contribute to the provision of high quality legal services to the public and the courts, to aid the courts in the dispensing of justice, and to provide services to the general public.

The Trustees also believe is important that all residents have access to the SCLL. Thus it is open to the public and non lawyers regularly use the library.

Specifically the SCLL is used by:

- Judges;
- Private and government lawyers, public defenders, legal aid lawyers;
- *Pro se* litigants, whose number has been steadily growing;
- Students;
- Other professionals and members of the public; and
- College instructors who meet with students or conduct classes at the law library.

Consistent with its mission, the SCLL provides space for Continuing Legal Education programs, for counseling, training and education of the public and students in law-related matters, for bar committees, most of which have the purpose of improving the quality and ethicacy of the judicial process, for mediations, arbitrations and depositions and by out-of-town lawyers appearing before courts in Wichita.

The SCLL's costs have steadily risen to the point where they were \$700,000 in 2006. Over the years, the trustees have taken strong cost- cutting measures and can do little more without impairing the law library usefulness as a resource.

The SCLL Trustees have called upon the lawyers to contribute to the rising costs of the library. Lawyers' registration fees, which are set by the trustees and paid to the Clerk of the District Court, were \$25 in 1998 and are now \$95, a 280% increase.

Funding of the SCLL through docket fees is necessary for the continued performance of its mission of providing quality services to legal professionals, the courts and the general public.



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

Senate Judiciary Committee
Wednesday, January 24, 2007

Written Testimony Regarding SB 57

Lana Walsh, Office of Judicial Administration

SB 57 would repeal K.S.A. 20-351a, which requires the Chief Justice of the Supreme Court to annually report to the Chairpersons of the Senate and House Judiciary Committees all district magistrate judge positions created or eliminated and all district judge positions created, pursuant to K.S.A. 20-352, 20-353, 20-354, or 20-355.

These statutes were enacted at the time of court unification, and they served a purpose at that time. We concur that there no longer appears to be a need for this report. The Chairpersons of the Senate and House Judiciary Committees are well informed. They follow the progress of the Judicial Branch budget through the appropriations process, and know the status of judicial positions.

However, it takes very little time to create this report, which is in fact simply a letter to the chairpersons. If it is desired that the report continue, we would have no problem continuing with this process.

Senate Judiciary

1-24-07
Attachment 4

SENATE BILL No. 31

By Senator Emler

1-8

Senate Judiciary
1-24-07
Attachment 5

9 AN ACT concerning municipal courts; relating to jurisdiction; amending
10 K.S.A. 12-4104 and 22-2601 and repealing the existing sections.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 12-4104 is hereby amended to read as follows: 12-
14 4104. (a) The municipal court of each city shall have jurisdiction to hear
15 and determine cases involving violations of the ordinances of the city.
16 Search warrants shall not issue out of a municipal court not issue search
17 warrants.

18 (b) The municipal court of each city shall have jurisdiction to hear
19 and determine cases involving violations of the ordinances of the city.

20 ~~Such violations may include violations of ordinances that prohibit acts~~
21 ~~prohibited by state statutes, except for sentencing provisions,~~ in the fol-
22 lowing circumstances:

In addition, the municipal court shall have jurisdiction

23 (1) (A) A violation that may be charged as a felony in the district
24 court, due solely to an enhancement based upon the number of prior
25 convictions. In order to have jurisdiction of such violation in municipal
26 court, at least one of the following circumstances must be present:

27 (i) The prior convictions used to determine enhancement to the felony
28 level were without the assistance of counsel and the prosecution is unable
29 to establish that the right to counsel was knowingly and voluntarily
30 waived;

31 (ii) the city prosecutor or the county or district attorney is unable to
32 obtain certified copies of the record of conviction of the necessary number
33 of prior convictions for the felony enhancement and the defendant has
34 not stipulated, in writing, to the number of prior convictions necessary
35 for the felony enhancement; or

36 (iii) due to any other facts or circumstances, the defendant may be
37 sentenced for only a misdemeanor in district court.

38 (B) Charging of the case as an ordinance violation shall not be done
39 to avoid the enhanced penalty.

40 (2) (A) A violation that, due to a statutory enhancement provision,
41 could have been charged as a felony in the district court due solely to an
42 enhancement based upon the dollar amount of damage or loss if the county
43 or district attorney has declined felony prosecution.

1 (B) Charging of the case as an ordinance violation shall not be done
2 in an effort to avoid the enhanced penalty. The municipal court shall have
3 jurisdiction to hear such case as an ordinance violation if a dollar amount
4 of damage or loss exists.

5 Sec. 2. K.S.A. 22-2601 is hereby amended to read as follows: 22-
6 2601. The district court shall have exclusive jurisdiction to try all cases of
7 felony and other criminal cases under the laws of the state of Kansas,
8 except that the district court shall have concurrent jurisdiction with mu-
9 nicipal courts as provided in K.S.A. 12-4104, and amendments thereto.

10 Sec. 3. K.S.A. 12-4104 and 22-2601 are hereby repealed.

11 Sec. 4. This act shall take effect and be in force from and after its
12 publication in the statute book.

5-2

PROPOSED Substitute for SENATE BILL NO. 37

By

AN ACT concerning e-mailing; providing for certain employers to participate in the state health care benefits program; amending K.S.A. 75-6508 and K.S.A. 2006 Supp. 75-6501 and 75-6506 and repealing the existing sections.

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

New Section 1. (a) As used in this section:

(1) "Employer" means any person, partnership, association, corporation or nonprofit entity, that employs not more than 25 persons.

(2) "Smoking" means possession of a lighted cigarette, cigar, pipe or any other lighted smoking equipment.

(b) Any employer who prohibits smoking in such employer's place of business may qualify to participate in the state health care benefits program under K.S.A. 75-6501 et seq., and amendments thereto.

Sec. 2. K.S.A. 2006 Supp. 75-6501 is hereby amended to read as follows: 75-6501. (a) Within the limits of appropriations made or available therefor and subject to the provisions of appropriation acts relating thereto, the Kansas state employees health care commission shall develop and provide for the implementation and administration of a state health care benefits program.

(b) The state health care benefits program may provide benefits for persons qualified to participate in the program for hospitalization, medical services, surgical services, nonmedical remedial care and treatment rendered in accordance with a religious method of healing and other health services. The program may include such provisions as are established by the Kansas state employees health care commission, including but not limited to qualifications for benefits, services covered, schedules and graduation of benefits, conversion privileges, deductible amounts, limitations on eligibility for benefits by reason of termination of employment or other change of status, leaves of absence, military service or other interruptions in service and other reasonable provisions as may be established by

the commission.

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

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

(e) Nothing in this act shall be construed to permit the

Kansas state employees health care commission to discontinue the student health care benefits component of the state health care benefits program until the state board of regents has contracts in effect that provide student coverage pursuant to the authority granted therefor in K.S.A. 75-4101, and amendments thereto.

Sec. 3. K.S.A. 2006 Supp. 75-6506 is hereby amended to read as follows: 75-6506. (a) The participation of a person qualified to participate in the state health care benefits program shall be voluntary, and the cost of the state health care benefits program for such person shall be established by the Kansas state employees health care commission.

(b) Periodic deductions from state payrolls may be made in accordance with procedures prescribed by the secretary of administration to cover the costs of the state health care benefits program payable by persons who are on the state payroll when authorized by such persons. Any such periodic payroll deductions in effect on an implementation date for biweekly payroll periods shall be collected in the manner prescribed by the secretary of administration.

(c) In the event that the Kansas state employees health care commission designates by rules and regulations a group of persons on the payroll of a county, township, city, special district or other local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq. and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, as qualified to participate in the state health care benefits program, periodic deductions from payrolls of the local governmental entity, public school district, licensed child care facility operated by a

not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq. and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq. and amendments thereto, ~~or~~ nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, or employers who qualify under section 1, and amendments thereto, may be made to cover the costs of the state health care benefits program payable by such persons when authorized by such persons. All such moneys deducted from payrolls shall be remitted to the Kansas state employees health care commission in accordance with the directions of the commission.

(d) On and after July 1, 2002, whenever the Kansas state employees health care commission designates any entity listed in subsection (c) as qualified to participate in the state health care benefits program, such entity's participation shall be conditioned upon the following:

(1) At least 70% of such entity's employees shall participate in the state health care plan;

(2) except as provided by paragraph (6) of this subsection, the rate of the premium paid by the entity as the employer's share of the total amount of premium paid shall be at least equal to the rate paid by the state of Kansas for its employees;

(3) the entity shall not create, maintain or permit any exemption from participation in the state health care plan for such entity's employees;

(4) the rate charged to such entity shall be sufficient to pay for any administrative or underwriting costs incurred by the state employees health care commission;

(5) the rate charged to such entity shall not increase the rate of premium paid by the state of Kansas for its employees;

(6) the entity shall elect to participate for a minimum of

three consecutive years in the state health care benefits program; and

(7) the commission may authorize an entity to pay less than the state rate for the employee coverage for no more than three years and no more than five years for dependent coverage on the condition that the entity elects to participate for at least three consecutive years after first paying the state rate for employee coverage.

Sec. 4. K.S.A. 75-6508 is hereby amended to read as follows: 75-6508. (a) (1) Each state agency which has on its payroll persons participating in the state health care benefits program shall pay from any moneys available to the agency for such purpose an amount specified by the Kansas state employees health care commission, including any amounts prescribed under a cafeteria plan established under K.S.A. 75-6512, and amendments thereto. All such payments shall continue on the behalf of employees otherwise eligible for participation in the state health care benefits program in accordance with the continuation provisions of the federal family and medical leave act of 1993, P.L. 103-03, 107 Stat. 6. The commission may charge each state agency a uniform amount per person as the cost to the agency for the state's contribution for persons participating in the state health care benefits program. Such amounts may include the costs of administering the program.

(2) In the event that the Kansas state employees health care commission designates by rules and regulations a group of persons on the payroll of a county, township, city, special district or other local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq., and

amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, as qualified to participate in the state health care benefits program, each local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq., and amendments thereto, ~~or~~ nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, or employers who qualify under section 1, and amendments thereto, which has on its payroll persons participating in the state health care benefits program shall pay from any moneys available to the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, for such purpose an amount specified by the commission. The commission may charge each local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq., and amendments

thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, a uniform amount per person as the cost to the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, for the contribution of the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq., and amendments thereto, ~~or~~ nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, or employers who qualify under section 1, and amendments thereto, for persons participating in the state health care benefits program. Such amounts may include the costs of administering the program.

(b) Payments from public funds for coverage under the state health care benefits program for persons participating in that program shall not be deemed a payment or supplement of wages of such person notwithstanding any other provision of law or rules and regulations relating to wages of any such person.

Sec. 5. K.S.A. 75-6508 and K.S.A. 2006 Supp. 75-6501 and 75-6506 are hereby repealed.

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

SENATE BILL No. 37

By Committee on Judiciary

1-9

9 AN ACT concerning crimes and punishments; relating to smoking;
10 amending K.S.A. 21-4009, 21-4010, 21-4011, 21-4012 and 65-530 and
11 K.S.A. 2006 Supp. 20-350 and repealing the existing sections; also re-
12 pealing K.S.A. 21-4017.

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

15 Section 1. K.S.A. 21-4009 is hereby amended to read as follows: 21-
16 4009. As used in this act:

17 (a) "Auditorium" means the part of a public building where an au-
18 dience gathers to attend a performance, and includes any corridors, hall-
19 ways, or lobbies adjacent thereto.

20 (b) "Bar" means any indoor area that is operated and licensed pri-
21 marily for the sale and service of alcoholic beverages for on-premises
22 consumption and where the service of food is secondary to the consump-
23 tion of such beverages.

24 (c) "Cigar-tobacco bar" means an establishment whose business is
25 devoted to the serving of only tobacco products and alcohol for consump-
26 tion by guests on the premises and prohibits the entry of persons 18 years
27 of age and under at all times. The establishment must have revenue gen-
28 erated from the serving of tobacco products equal to or greater than 20%
29 of the total combined revenue generated by the service of tobacco and
30 beverage.

31 (d) "Cigarette" means any roll for smoking, made wholly or in part
32 of tobacco, irrespective of size or shape, and irrespective of tobacco being
33 flavored, adulterated or mixed with any other ingredient if the wrapper
34 is in greater part made of any material except tobacco.

35 (e) "Employee" means any person who:

36 (1) Performs any type of work for benefit of another in consideration
37 of direct or indirect wages or profit; or

38 (2) provides uncompensated work or services to a business or non-
39 profit entity.

40 (f) "Employer" means any person, partnership, association, corpo-
41 ration or nonprofit entity that employs one or more persons. "Employer"
42 includes, without limitation, the legislative, executive and judicial
43 branches of state government; any county, city and county, city, or town,

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1 or instrumentality thereof, or any other political subdivision of the state,
2 special district, authority, commission or agency; or any other separate
3 corporate instrumentality or unit of state or local government.

4 (g) "Entryway" means the outside of any doorway leading into a
5 building or facility that is not exempted from this act. "Entryway" also
6 includes the area of public or private property within a 10 foot radius
7 outside of the doorway.

8 (h) "Food service establishment" means any indoor area or portion
9 thereof in which the principal business is the sale of food for on-premises
10 consumption. The term includes, without limitation, restaurants, bar and
11 grills, cafeterias, coffee shops, diners, sandwich shops and short-order
12 cafes.

13 (i) "Indoor area" means any enclosed area or portion thereof. The
14 opening of windows or doors, or the temporary removal of wall panels,
15 does not convert an indoor area into an outdoor area.

16 (j) "Local authority" means a county, city and county, city or town.

17 (k) "Medical care facility" means a general hospital, special hospital,
18 ambulatory surgery center or recuperation center, as defined by K.S.A.
19 65-425, and amendments thereto, and any psychiatric hospital licensed
20 under K.S.A. 75-3307b, and amendments thereto.

21 (l) "Place of employment" means any indoor area or portion thereof
22 under the control of an employer in which employees of the employer
23 perform services for, or on behalf of, the employer.

24 (m) "Public building" means any building owned or operated by:

25 (1) The state, including the legislative, executive and judicial branches
26 of state government;

27 (2) any county, city and county, city or town, or instrumentality
28 thereof, or any other political subdivision of the state, a special district,
29 an authority, a commission or an agency; or

30 (3) any other separate corporate instrumentality or unit of state or
31 local government.

32 (n) "Public place" means enclosed indoor areas open to the public or
33 used by the general public including but not limited to: ~~Restaurants, Food~~
34 ~~service establishments, bars,~~ retail stores, public means of mass transpor-
35 tation, passenger elevators, health care institutions or any other place
36 where health care services are provided to the public, educational facili-
37 ties, libraries, courtrooms, ~~state, county or municipal buildings,~~ rest-
38 rooms, grocery stores, school buses, museums, theaters, auditoriums, are-
39 nas, ~~bowling alleys, billiard pool halls and any other recreational facilities.~~

40 ~~(b) "Public meeting" includes all meetings open to the public.~~

41 ~~(c)~~ (o) "Public meeting" means any meeting open to the public pur-
42 suant to K.S.A. 75-4317 et seq., and amendments thereto, or any other
43 law of this state.

(l) "Motor vehicle" shall have the meaning ascribed to it in K.S.A. 8-1437, and amendments thereto.

Reletter accordingly

1 (p) "Secondhand smoke" means the complex mixture formed from the
2 escaping smoke of a burning tobacco product, also known as "sidestream
3 smoke", and smoke exhaled by the smoker.

4 (q) "Smoking" means possession of a lighted cigarette, cigar, pipe or
5 any other lighted smoking equipment.

6 (r) "Tobacco" means cigars, cheroots, stogies, periques; granulated,
7 plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff
8 flour, cavendish; plug and twist tobacco; fine cut and other chewing to-
9 baccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco,
10 and other kinds and forms of tobacco, prepared in such manner as to be
11 suitable for chewing or smoking in a pipe or otherwise, or both for chew-
12 ing and smoking. Tobacco products does not include cigarettes.

13 (s) "Tobacco business" means a sole proprietorship, corporation,
14 partnership or other enterprise engaged in the sale, manufacture or pro-
15 motion of tobacco, tobacco products or smoking devices or accessories,
16 either at wholesale or retail, and in which less than 25% of its revenue is
17 derived from the sale, manufacture or promotion of other products.

18 (t) "Work area" means an area in a place of employment where one
19 or more employees are routinely assigned and perform services for or on
20 behalf of their employer.

21 Sec. 2. K.S.A. 21-4010 is hereby amended to read as follows: 21-
22 4010. (a) No person shall smoke in a public place or at a public meeting
23 except in designated smoking areas.

24 ~~—(b)—Smoking areas may be designated by proprietors or other persons~~
25 ~~in charge of public places, except in passenger elevators, school buses,~~
26 ~~public means of mass transportation and any other place in which smoking~~
27 ~~is prohibited by the fire marshal or by other law, ordinance or regulation.~~

28 ~~—(c)—Where smoking areas are designated, existing physical barriers~~
29 ~~and ventilation systems shall be used to minimize the toxic effect of smoke~~
30 ~~in adjacent nonsmoking areas.~~ ~~any indoor area, including, but not limited~~
31 to:

(1) Any

- (A) 32 ~~1~~ Public places;
- (B) 33 ~~2~~ public buildings;
- (C) 34 ~~3~~ public meetings;
- (D) 35 ~~4~~ taxicabs and limousines;
- (E) 36 ~~5~~ gymnasiums;
- (F) 37 ~~6~~ child day care facilities licensed by the Kansas department of
38 health and environment;
- (G) 39 ~~7~~ medical care facilities;
- (H) 40 ~~8~~ any place of employment that is not exempted;
- (I) 41 ~~9~~ restrooms, lobbies, hallways and other common areas in public
42 and private buildings, condominiums and other multiple-residential
43 facilities;

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1 ~~[(10)]~~ restrooms, lobbies and other common areas in hotels and motels
2 and in at least 75% of the sleeping quarters within a hotel or motel that
3 may be rented to guests;

(K) 4 ~~[(11)]~~ the common areas of retirement facilities, publicly owned hous-
5 ing facilities and nursing homes, not including any resident's private res-
6 idential quarters; and

(L) 7 ~~[(12)]~~ the entryways of all buildings and facilities listed in paragraphs
(A) 8 ~~[(1)]~~ through ~~[(11)]~~ of this subsection ~~BY~~

(K) 9 (b) A cigar-tobacco bar shall display a sign in at least one conspicuous
10 place and at least four inches by six inches in size stating: "Smoking al-
11 lowed. Children under 18 years of age prohibited".

12 (c) Smoking shall be prohibited within 10 feet of any operable win-
13 dows and ventilation systems of enclosed areas where smoking is prohib-
14 ited, so as to insure that tobacco smoke does not enter those areas.

15 (d) The provisions of this section shall not apply to:

16 (1) Private homes, private residences and private ~~automobiles~~ except
17 if any such home ~~residence~~ ~~or vehicle~~ is being used for a licensed child
18 care or day care or if a private ~~vehicle is being used for the public trans-~~
19 ~~portation of children by a licensed health care facility or day care facility;~~

20 (2) limousines under private hire;

21 (3) a hotel or motel room rented to one or more guests if the total
22 percentage of such hotel or motel rooms in such hotel or motel does not
23 exceed 25%;

24 (4) any retail tobacco business;

25 (5) a cigar-tobacco bar;

26 (6) the outdoor area of any business beyond 10 feet of any entrance
27 or exit to such business; or

28 (7) any private club licensed pursuant to K.S.A. 41-2601 et seq., and
29 amendments thereto.

30 Sec. 3. K.S.A. 21-4011 is hereby amended to read as follows: 21-
31 4011. The proprietor or other person in charge of the premises of a public
32 place shall post or cause to be posted in a conspicuous place signs clearly
33 stating that smoking is prohibited by state law. ~~The person in charge of~~
34 ~~the premises shall also post or cause to be posted in any designated smok-~~
35 ~~ing area, signs stating that smoking is permitted in such room or area.~~
36 ~~The proprietor or person in charge of the public place shall have the~~
37 ~~authority to establish the percentage of area in the public place which~~
38 ~~shall be posted and designated as a smoking area.~~

39 Sec. 4. K.S.A. 21-4012 is hereby amended to read as follows: 21-
40 4012. (a) Any person found guilty of smoking in violation of ~~this act~~ K.S.A.
41 21-4010, and amendments thereto, is guilty of a class C nonperson mis-
42 demeanor punishable by a fine of not more than ~~\$20 for each violation.~~
43 ~~\$200 for a first violation within a calendar year, a fine of not more than~~

; or
(2) any motor vehicle if transporting persons
less than 18 years of age.

motor vehicles
or
motor vehicle is transporting persons less
than 18 years of age
, except if such limousines are transporting
persons less than 18 years of age

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1 \$300 for a second violation within a calendar year and a fine of not more
2 than \$500 for each additional violation within a calendar year. Each day
3 of a continuing violation shall be deemed a separate violation.

4 (b) Any person found guilty of failing to post signs as required by ~~this~~
5 ~~act~~ K.S.A. 21-4011, and amendments thereto, is guilty of a class C non-
6 person misdemeanor punishable by a fine of not more than \$50. In ad-
7 dition, the department of health and environment, or local department
8 of health, may institute an action in any court of competent jurisdiction
9 to enjoin repeated violations of this act.

10 (c) All moneys received by the clerks of the district court from the
11 payment of fines collected as a result of a conviction of any persons for
12 violation of any provision of this section shall be remitted in the following
13 manner:

14 (1) Seventy-five percent of any such fine for a violation occurring
15 within the corporate limits of a city, town or county shall be
16 remitted to the treasurer or chief financial officer of such city, town or
17 city and county and the remaining 25% shall be remitted to the state
18 treasurer who shall deposit the entire amount in the state treasury to the
19 credit of the state general fund.

20 (2) Seventy-five percent of any fine for a violation occurring outside
21 the corporate limits of a city or town shall be remitted to the treasurer of
22 the county in which the city or town is located, and the remaining 25%
23 shall be remitted to the state treasurer who shall deposit the entire amount
24 in the state treasury to the credit of the state general fund.

25 Sec. 5. K.S.A. 2006 Supp. 20-350 is hereby amended to read as fol-
26 lows: 20-350. (a) Except for fines and penalties authorized to be paid
27 pursuant to K.S.A. 21-4012, and amendments thereto, or to counties pur-
28 suant to K.S.A. 19-101e, and amendments thereto, and subsection (b),
29 and amendments thereto, all moneys received by the clerk of the district
30 court from the payment of fines, penalties and forfeitures shall be remit-
31 ted to the state treasurer in accordance with the provisions of K.S.A. 75-
32 4215, and amendments thereto. Upon receipt of each such remittance,
33 the state treasurer shall deposit the entire amount in the state treasury
34 to the credit of the state general fund, except as provided in K.S.A. 74-
35 7336, and amendments thereto, or K.S.A. 8-1345, and amendments
36 thereto.

37 (b) Except as provided by K.S.A. 2006 Supp. 20-368, and amend-
38 ments thereto, all moneys received by the clerk of the district court from
39 the payment of bail forfeitures shall be remitted to the state treasurer in
40 accordance with the provisions of K.S.A. 75-4215, and amendments
41 thereto. Upon receipt of each such remittance, the state treasurer shall
42 deposit the entire amount in the state treasury and shall credit equal
43 portions of such remittance to the indigents' defense services fund and

1 the state general fund.

2 (c) The chief judge may invest any moneys on deposit in the district
3 court account if the moneys are not immediately required for the pur-
4 poses for which they were collected or received. Such moneys may be
5 invested in: (1) Time deposits, open account or certificates of deposit, for
6 periods not to exceed six months, or savings deposits, in commercial banks
7 located in the county, except that amounts invested which are not insured
8 by the United States government shall be secured in the manner and
9 amounts provided by K.S.A. 9-1402, and amendments thereto; (2) United
10 States treasury bills or notes with maturities not to exceed six months; or
11 (3) savings and loan associations located in the county. No investment of
12 more than the amount insured by the federal deposit insurance corpo-
13 ration shall be made in any one savings and loan association. Interest
14 received from the investment of moneys pursuant to this subsection shall
15 be remitted to the state treasurer in accordance with the provisions of
16 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
17 remittance, the state treasurer shall deposit the entire amount in the state
18 treasury to the credit of the state general fund.

19 (d) Upon application of a party to an action in which such party claims
20 ownership of moneys held by the district court, the chief judge may invest
21 such moneys in the same manner as provided by subsection (c). Interest
22 received from the investment of moneys pursuant to this subsection shall
23 become the property of the person found to be the owner of the moneys.

24 Sec. 6. K.S.A. 65-530 is hereby amended to read as follows: 65-530.

25 (a) As used in this section:

26 (1) "Day care home" means a day care home as defined under Kansas
27 administrative regulation 28-4-113, a group day care home as defined
28 under Kansas administrative regulation 28-4-113 and a family day care
29 home as defined under K.S.A. 65-517 and amendments thereto.

30 (2) "Smoking" means possession of a lighted cigarette, cigar, pipe or
31 burning tobacco in any other form or device designed for the use of
32 tobacco.

33 (b) Smoking within any room, enclosed area or other enclosed space
34 of a facility or facilities of a day care home during a time when children
35 who are not related by blood, marriage or legal adoption to the person
36 who maintains the home are being cared for, as part of the operation of
37 the day care home, within the facility or facilities is hereby prohibited.
38 Nothing in this subsection shall be construed to prohibit smoking on the
39 premises of the day care home *10 feet away from the entryway* outside
40 the facility or facilities of a day care home, including but not limited to
41 porches, yards or garages.

42 (c) Each day care home registration certificate or license shall contain
43 a statement in bold print that smoking is prohibited within a room, en-

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1 closed area or other enclosed space of the facility or facilities of the day
2 care home under the conditions specified in subsection (b). The state-
3 ment shall be phrased in substantially the same language as subsection
4 (b). The registration certificate or license shall be posted in a conspicuous
5 place in the facility or facilities.

6 (d) *In addition to the criminal penalties in K.S.A. 21-4010, and*
7 *amendments thereto*, the secretary of health and environment may levy a
8 civil fine under K.S.A. 65-526 and amendments thereto against any day
9 care home for a first or second violation of this section. A third or sub-
10 sequent violation shall be subject to the provisions of K.S.A. 65-523 and
11 amendments thereto.

12 Sec. 7. K.S.A. 21-4009, 21-4010, 21-4011, 21-4012, 21-4017 and 65-
13 530 and K.S.A. 2006 Supp. 20-350 are hereby repealed.

14 Sec. 8. This act shall take effect and be in force from and after its
15 publication in the statute book.

SENATE BILL No. 37

By Committee on Judiciary

1-9

Representative Wysong
Balloon Amendments
1-22-07

Senate Judiciary
1-24-07
Attachment 8

9 AN ACT concerning crimes and punishments; relating to smoking;
10 amending K.S.A. 21-4009, 21-4010, 21-4011, 21-4012 and 65-530 and
11 K.S.A. 2006 Supp. 20-350 and repealing the existing sections; also re-
12 pealing K.S.A. 21-4017.

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

15 Section 1. K.S.A. 21-4009 is hereby amended to read as follows: 21-
16 4009. As used in this act:

17 (a) *“Auditorium” means the part of a public building where an au-*
18 *dience gathers to attend a performance, and includes any corridors, hall-*
19 *ways, or lobbies adjacent thereto.*

20 (b) *“Bar” means any indoor area that is operated and licensed pri-*
21 *marily for the sale and service of alcoholic beverages for on-premises*
22 *consumption and where the service of food is secondary to the consump-*
23 *tion of such beverages.*

24 (c) *“Cigar-tobacco bar” means an establishment whose business is*
25 *devoted to the serving of only tobacco products and alcohol for consump-*
26 *tion by guests on the premises and prohibits the entry of persons 18 years*
27 *of age and under at all times. The establishment must have revenue gen-*
28 *erated from the serving of tobacco products equal to or greater than 20%*
29 *of the total combined revenue generated by the service of tobacco and*
30 *beverage.*

31 (d) *“Cigarette” means any roll for smoking, made wholly or in part*
32 *of tobacco, irrespective of size or shape, and irrespective of tobacco being*
33 *flavored, adulterated or mixed with any other ingredient if the wrapper*
34 *is in greater part made of any material except tobacco.*

35 (e) *“Employee” means any person who:*

36 (1) *Performs any type of work for benefit of another in consideration*
37 *of direct or indirect wages or profit; or*

38 (2) *provides uncompensated work or services to a business or non-*
39 *profit entity.*

40 (f) *“Employer” means any person, partnership, association, corpo-*
41 *ration or nonprofit entity that employs one or more persons. “Employer”*
42 *includes, without limitation, the legislative, executive and judicial*
43 *branches of state government; any county, city and county, city, or town,*

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1 (10) restrooms, lobbies and other common areas in hotels and motels
2 and in at least 75% of the sleeping quarters within a hotel or motel that
3 may be rented to guests;

4 (11) the common areas of ~~retirement facilities~~ publicly owned hous-
5 ing facilities ~~and nursing homes~~, not including any resident's private res-
6 idential quarters; and

7 (12) the entryways of all buildings and facilities listed in paragraphs
8 (1) through (11) of this subsection.

9 (b) A cigar-tobacco bar shall display a sign in at least one conspicuous
10 place and at least four inches by six inches in size stating: "Smoking al-
11 lowed. Children under 18 years of age prohibited".

12 (c) Smoking shall be prohibited within 10 feet of any operable win-
13 dows and ventilation systems of enclosed areas where smoking is prohib-
14 ited, so as to insure that tobacco smoke does not enter those areas.

15 (d) The provisions of this section shall not apply to:

16 (1) Private homes, private residences and private automobiles, except
17 if any such home, residence or vehicle is being used for a licensed child
18 care or day care or if a private vehicle is being used for the public trans-
19 portation of children by a licensed health care facility or day care facility;

20 (2) limousines under private hire;

21 (3) a hotel or motel room rented to one or more guests if the total
22 percentage of such hotel or motel rooms in such hotel or motel does not
23 exceed 25%;

24 (4) any retail tobacco business;

25 (5) a cigar-tobacco bar;

26 (6) the outdoor area of any business beyond 10 feet of any entrance
27 or exit to such business; ~~for~~

28 (7) any ~~private~~ club licensed pursuant to K.S.A. 41-2601 et seq., and
29 amendments thereto; ~~and~~

30 Sec. 3. K.S.A. 21-4011 is hereby amended to read as follows: 21-
31 4011. The proprietor or other person in charge of the premises of a public
32 place shall post or cause to be posted in a conspicuous place signs clearly
33 stating that smoking is prohibited by state law. ~~The person in charge of~~
34 ~~the premises shall also post or cause to be posted in any designated smok-~~
35 ~~ing area, signs stating that smoking is permitted in such room or area.~~
36 ~~The proprietor or person in charge of the public place shall have the~~
37 ~~authority to establish the percentage of area in the public place which~~
38 ~~shall be posted and designated as a smoking area.~~

39 Sec. 4. K.S.A. 21-4012 is hereby amended to read as follows: 21-
40 4012. (a) Any person found guilty of smoking in violation of ~~this act~~ K.S.A.
41 ~~21-4010, and amendments thereto,~~ is guilty of a class C nonperson mis-
42 ~~demeanor punishable by a fine of not more than \$20 for each violation.~~
43 ~~\$200 for a first violation within a calendar year, a fine of not more than~~

Class A

;

(8) any adult care home licensed pursuant to K.S.A. 39-923 et seq., and amendments thereto; or *et seq*
(9) any veterans administration hospital within the state.