

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 March 3, 2010, in Room 144-S of the Capitol.

All members were present except:  
Senator Steve Morris- excused

Committee staff present:  
Jason Long, Office of the Revisor of Statutes  
Julian Eford, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Connie Burns, Committee Assistant

Conferees appearing before the Committee:  
Thomas Witt

Others attending:  
See attached list.

**Introduction of bills:**

Thomas Witt requested a bill introduction concerning the campaign finance act; pertaining to coverage for certain retention elections.

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

**Final Action:**

**SB 454 - License to sell alcoholic beverages; fees, term and eligibility**

Staff provided an overview of the balloon. (Attachment 1) The license fee amounts in the balloon are simply twice the current annual fee to account for the change to two-year licenses. Primary amendments are on pages 10 and 14. This balloon includes provisions governing the 2-year payment plan, automatic revocation for failure to pay the 2<sup>nd</sup> half of fee, 30-day discretionary extension for time to pay 2<sup>nd</sup> half of fee, and expansion of methods of payment. On pages 11 and 14 you will see a balloon that mandates the refund of one-half of the license fee if the licensee has paid the full fee up front and ceases operations voluntarily for the entire 2<sup>nd</sup> year of the license term. Under current law a liquor license is issued for a specified premise. If that premise is leased and the lease expires or the tenant licensee is otherwise unable to operate the business at the specified premise then the licensee must notify ABC to transfer the license to another premise. If the licensee does not transfer the license they cannot operate under the license at a different premise. For these reasons there are no amendments to the provision on page 6, lines 18-20.

The committee requested an introductory paragraph prior to the sub sections on page 10 and 14, and staff clarified the wording between revocation and cancellation.

Senator Reitz moved to change revocation to cancellation on page 10 in large balloon. Senator Abrams seconded the motion. The motion carried.

Senator Reitz moved the 30-day discretionary extension decision is up to the Director of ABC. Senator Faust-Goudeau seconded the motion. The motion carried.

Senator Reitz moved to the city a bi-annual local fees set as same as bi-annual licenses. Senator Owens seconded the motion. The motion carried.

CONTINUATION SHEET

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on March 3, 2010, in Room 144-S of the Capitol.

**HB 2445 - Land uses adjacent to military installations**

Testimony and responses were received on the bill:

Representative Tom Sloan provided written testimony in support of the bill as written. (Attachment 2)

Representative Don Myers provided a written response in support of the bill as written. (Attachment 3)

Representative Tom Hawk provided a written response in support of the bill as written. (Attachment 4)

Clancy Holeman, Riley County Counselor, provided a written response in support of the bill as written. (Attachment 5)

Sandy Jacquot, Director of Law/General Counsel, League of Kansas Municipalities, provided a written response in support of the bill as written. (Attachment 6)

Melissa Wangemann, General Counsel, Kansas Association of Counties, provided a written response in support of the bill as written. (Attachment 7)

Stephen C. Scanlon, DoD Regional Environmental Coordinator, Region VII, provided a written response in support of the bill as written. (Attachment 8)

Senator Reitz moved to pass **HB2445** out favorably. Senator Francisco seconded the motion. The motion carried.

The next meeting is scheduled for March 4, 2010. The meeting was adjourned at 11:20 a.m.

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

DATE 3-3-10

NAME	REPRESENTING
Phil Bradley	KLBA
THOMAS WITT	KANSAS EQUALITY COALITION
Barb Lewenz for	Rep Don Myers
Dave Swodgrass	US Army
Ken Dene	W.C.
Mark Wayne	KAC
Kent Eckles	Kansas Chamber of Commerce
Rebecca Fin	H's Beer Wholesalers
Marty Wedel	Riley County
Mike Kearns	Riley County
Clay Hoban	Riley County
DICK CARTER	city of Manhattan
Spencer Dungan	Capitol Connection
Amy Campbell	KABR

**SENATE BILL No. 454**

By Committee on Federal and State Affairs

1-26

9 AN ACT concerning alcoholic beverages; relating to license fees, term  
10 of license and eligibility; amending K.S.A. 41-326, 41-2607 and 41-  
11 2629 and K.S.A. 2009 Supp. 41-308a, 41-310, 41-311, 41-317, 41-350,  
12 41-2606, 41-2622 and 41-2623 and repealing the existing sections.

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

15 Section 1. K.S.A. 2009 Supp. 41-308a is hereby amended to read as  
16 follows: 41-308a. (a) A farm winery license shall allow:

17 (1) The manufacture of domestic table wine and domestic fortified  
18 wine in a quantity not exceeding 100,000 gallons per year and the storage  
19 thereof;

20 (2) the sale of wine, manufactured by the licensee, to licensed wine  
21 distributors, retailers, clubs, drinking establishments, holders of tempo-  
22 rary permits as authorized by K.S.A. 41-2645, and amendments thereto,  
23 and caterers;

24 (3) the sale, on the licensed premises in the original unopened con-  
25 tainer to consumers for consumption off the licensed premises, of wine  
26 manufactured by the licensee;

27 (4) the serving free of charge on the licensed premises and at special  
28 events, monitored and regulated by the division of alcoholic beverage  
29 control, of samples of wine manufactured by the licensee or imported  
30 under subsection (f), if the premises are located in a county where the  
31 sale of alcoholic liquor is permitted by law in licensed drinking  
32 establishments;

33 (5) if the licensee is also licensed as a club or drinking establishment,  
34 the sale of domestic wine, domestic fortified wine and other alcoholic  
35 liquor for consumption on the licensed premises as authorized by the  
36 club and drinking establishment act;

37 (6) if the licensee is also licensed as a caterer, the sale of domestic  
38 wine, domestic fortified wine and other alcoholic liquor for consumption  
39 on the unlicensed premises as authorized by the club and drinking estab-  
40 lishment act;

41 (7) the sale and shipping, in the original unopened container, to con-  
42 sumers outside this state of wine manufactured by the licensee, provided  
43 that the licensee complies with applicable laws and rules and regulations

Senate Federal and State Affairs

Proposed amendments to SB 454

Prepared by: J. Long

1 of the jurisdiction to which the wine is shipped; and

2 (8) the sale and shipping of wine within this state pursuant to a permit  
3 issued pursuant to K.S.A. 2009 Supp. ~~41-348~~ 41-350, and amendments  
4 thereto.

5 (b) Upon application and payment of the fee prescribed by K.S.A.  
6 41-310, and amendments thereto, by a farm winery licensee, the director  
7 may issue not to exceed three winery outlet licenses to the farm winery  
8 licensee. A winery outlet license shall allow:

9 (1) The sale, on the licensed premises in the original unopened con-  
10 tainer to consumers for consumption off the licensed premises, of wine  
11 manufactured by the licensee;

12 (2) the serving on the licensed premises of samples of wine manu-  
13 factured by the licensee or imported under subsection (f), if the premises  
14 are located in a county where the sale of alcoholic liquor is permitted by  
15 law in licensed drinking establishments; and

16 (3) the manufacture of domestic table wine and domestic fortified  
17 wine and the storage thereof; provided, that the aggregate quantity of  
18 wine produced by the farm winery licensee, including all winery outlets,  
19 shall not exceed 100,000 gallons per year.

20 (c) Not less than 60% of the products utilized in the manufacture of  
21 domestic table wine and domestic fortified wine by a farm winery shall  
22 be grown in Kansas except when a lesser proportion is authorized by the  
23 director based upon the director's findings and judgment. The label of  
24 domestic wine and domestic fortified wine shall indicate that a majority  
25 of the products utilized in the manufacture of the wine at such winery  
26 were grown in Kansas.

27 (d) A farm winery or winery outlet may sell domestic wine and do-  
28 mestic fortified wine in the original unopened container to consumers for  
29 consumption off the licensed premises at any time between 6 a.m. and  
30 12 midnight on any day except Sunday and between 12 noon and 6 p.m.  
31 on Sunday. If authorized by subsection (a), a farm winery may serve sam-  
32 ples of domestic wine, domestic fortified wine and wine imported under  
33 subsection (e) and serve and sell domestic wine, domestic fortified wine  
34 and other alcoholic liquor for consumption on the licensed premises at  
35 any time when a club or drinking establishment is authorized to serve  
36 and sell alcoholic liquor. If authorized by subsection (b), a winery outlet  
37 may serve samples of domestic wine, domestic fortified wine and wine  
38 imported under subsection (e) at any time when the winery outlet is  
39 authorized to sell domestic wine and domestic fortified wine.

40 (e) The director may issue to the Kansas state fair or any bona fide  
41 group of grape growers or wine makers a permit to import into this state  
42 small quantities of wines. Such wine shall be used only for bona fide  
43 educational and scientific tasting programs and shall not be resold. Such

1 wine shall not be subject to the tax imposed by K.S.A. 41-501, and amend-  
 2 ments thereto. The permit shall identify specifically the brand and type  
 3 of wine to be imported, the quantity to be imported, the tasting programs  
 4 for which the wine is to be used and the times and locations of such  
 5 programs. The secretary shall adopt rules and regulations governing the  
 6 importation of wine pursuant to this subsection and the conduct of tasting  
 7 programs for which such wine is imported.

8 (f) A farm winery license or winery outlet license shall apply only to  
 9 the premises described in the application and in the license issued and  
 10 only one location shall be described in the license.

11 (g) No farm winery or winery outlet shall:

12 (1) Employ any person under the age of 18 years in connection with  
 13 the manufacture, sale or serving of any alcoholic liquor;

14 (2) permit any employee of the licensee who is under the age of 21  
 15 years to work on the licensed premises at any time when not under the  
 16 on-premise supervision of either the licensee or an employee of the li-  
 17 censee who is 21 years of age or over;

18 (3) employ any person under 21 years of age in connection with mix-  
 19 ing or dispensing alcoholic liquor; or

20 (4) employ any person in connection with the manufacture or sale of  
 21 alcoholic liquor if the person has been convicted of a felony.

22 (h) Whenever a farm winery or winery outlet licensee is convicted of  
 23 a violation of the Kansas liquor control act, the director may revoke the  
 24 licensee's license and order forfeiture of all fees paid for the license, after  
 25 a hearing before the director for that purpose in accordance with the  
 26 provisions of the Kansas administrative procedure act.

27 (i) This section shall be part of and supplemental to the Kansas liquor  
 28 control act.

29 Sec. 2. K.S.A. 2009 Supp. 41-310 is hereby amended to read as fol-  
 30 lows: 41-310. (a) At the time application is made to the director for a  
 31 license of any class, the applicant shall pay the fee provided by this section.

32 (b) The ~~annual~~ fee for a manufacturer's license to manufacture al-  
 33 cohol and spirits shall be ~~\$2,500~~ ~~[\$6,000]~~ \$5,000

34 (c) The ~~annual~~ fee for a manufacturer's license to manufacture beer  
 35 and cereal malt beverage shall be:

- |  |         |         |
|--|---------|---------|
| 36 (1) For 1 to 100 barrel daily capacity or any part thereof, <del>\$200</del> <del>[\$500]</del> | \$400   |         |
| 37 (2) For 100 to 150 barrel daily capacity, <del>\$400</del> <del>[\$1,000]</del>                 | \$800   | \$800   |
| 38 (3) For 150 to 200 barrel daily capacity, <del>\$700</del> <del>[\$2,000]</del>                 | \$1,400 |         |
| 39 (4) For 200 to 300 barrel daily capacity, <del>\$1,000</del> <del>[\$3,000]</del>               | \$2,000 | \$2,000 |
| 40 (5) For 300 to 400 barrel daily capacity, <del>\$1,300</del> <del>[\$4,000]</del>               | \$2,600 |         |
| 41 (6) For 400 to 500 barrel daily capacity, <del>\$1,400</del> <del>[\$5,000]</del>               | \$2,800 | \$2,800 |
| 42 (7) For 500 or more barrel daily capacity, <del>\$1,600</del> <del>[\$6,000]</del>              | \$3,200 |         |

43 As used in this subsection, "daily capacity" means the average daily

1 barrel production for the previous 12 months of manufacturing operation.  
 2 If no basis for comparison exists, the licensee shall pay in advance for  
 3 operation during the first year's operation term of the license a fee of  
 4 ~~\$1,000~~ ~~[\$3,000]~~ \$2,000

5 (d) The annual fee for a manufacturer's license to manufacture wine  
 6 shall be ~~\$500~~ ~~[\$1,500]~~ \$1,000

7 (e) (1) The annual fee for a microbrewery license or a farm winery  
 8 license shall be ~~\$250~~ ~~[\$600]~~ \$500

9 (2) The annual fee for a winery outlet license shall be ~~\$50~~ ~~[\$300]~~ \$100

10 (3) The annual fee for a microbrewery packaging and warehousing  
 11 facility license shall be ~~\$100~~ ~~[\$300]~~ \$200

12 (f) The annual fee for a spirits distributor's license for the first and  
 13 each additional distributing place of business operated in this state by the  
 14 licensee and wholesaling and jobbing spirits shall be ~~\$1,000~~ ~~[\$3,000]~~ \$2,000

15 (g) The annual fee for a wine distributor's license for the first and  
 16 each additional distributing place of business operated in this state by the  
 17 licensee and wholesaling and jobbing wine shall be ~~\$1,000~~ ~~[\$3,000]~~ \$2,000

18 (h) The annual fee for a beer distributor's license, for the first and  
 19 each additional wholesale distributing place of business operated in this  
 20 state by the licensee and wholesaling or jobbing beer and cereal malt  
 21 beverage shall be ~~\$1,000~~ ~~[\$3,000]~~ \$2,000

22 (i) The annual fee for a nonbeverage user's license shall be:

23 (1) For class 1, ~~\$10~~ ~~[\$50]~~ \$20

24 (2) For class 2, ~~\$50~~ ~~[\$150]~~ \$100

25 (3) For class 3, ~~\$100~~ ~~[\$300]~~ \$200

26 (4) For class 4, ~~\$200~~ ~~[\$500]~~ \$400

27 (5) For class 5, ~~\$500~~ ~~[\$1,500]~~ \$1,000

28 (j) In addition to the license fees prescribed by subsections (b), (c),  
 29 (d), (f), (g), (h) and (i):

30 (1) Any city in which the licensed premises are located may levy and  
 31 collect an annual occupation or license tax on the licensee in an amount  
 32 not exceeding the amount of the annual license fee required to be paid  
 33 under this act to obtain the license, but no city shall impose an occupation  
 34 or privilege tax on the licensee in excess of that amount; and

35 (2) any township in which the licensed premises are located may levy  
 36 and collect an annual occupation or license tax on the licensee in an  
 37 amount not exceeding the amount of the annual license fee required to  
 38 be paid under this act to obtain the license, but no township shall impose  
 39 an occupation or privilege tax on the licensee in excess of that amount;  
 40 the township board of the township is authorized to fix and impose the  
 41 tax and the tax shall be paid by the licensee to the township treasurer,  
 42 who shall issue a receipt therefor to the licensee and shall cause the tax  
 43 paid to be placed in the general fund of the township.

1 (k) The annual fee for a retailer's license shall be ~~\$250~~ ~~\$1,000~~ \$500

2 (l) In addition to the license fee prescribed by subsection (k):

3 (1) Any city in which the licensed premises are located shall levy and  
4 collect an annual occupation or license tax on the licensee in an amount  
5 not less than \$100 nor more than \$300, but no other occupation or excise  
6 tax or license fee shall be levied by any city against or collected from the  
7 licensee; and

8 (2) any township in which the licensed premises are located shall levy  
9 and collect an annual occupation or license tax on the licensee in an  
10 amount not less than \$100 nor more than \$300; the township board of  
11 the township is authorized to fix and impose the tax and the tax shall be  
12 paid by the licensee to the township treasurer, who shall issue a receipt  
13 therefor to the licensee and shall cause the tax paid to be placed in the  
14 general fund of the township.

15 (m) The license ~~year~~ term for a license shall commence on the date  
16 the license is issued by the director and shall end ~~one year~~ two years after  
17 that date. *The director may, at the director's sole discretion and after*  
18 *examination of the circumstances, extend the license term of any license*  
19 *for not more than 30 days beyond the date such license would expire*  
20 *pursuant to this section.*

21 Sec. 3. K.S.A. 2009 Supp. 41-311 is hereby amended to read as fol-  
22 lows: 41-311. (a) No license of any kind shall be issued pursuant to the  
23 liquor control act to a person:

24 (1) Who has not been a citizen of the United States for at least 10  
25 years, except that the spouse of a deceased retail licensee may receive  
26 and renew a retail license notwithstanding the provisions of this subsec-  
27 tion (a)(1) if such spouse is otherwise qualified to hold a retail license and  
28 is a United States citizen or becomes a United States citizen within one  
29 year after the deceased licensee's death;

30 (2) who has been convicted of a felony under the laws of this state,  
31 any other state or the United States;

32 (3) who has had a license revoked for cause under the provisions of  
33 the liquor control act, the beer and cereal malt beverage keg registration  
34 act or who has had any license issued under the cereal malt beverage laws  
35 of any state revoked for cause except that a license may be issued to a  
36 person whose license was revoked for the conviction of a misdemeanor  
37 at any time after the lapse of 10 years following the date of the revocation;

38 (4) who has been convicted of being the keeper or is keeping a house  
39 of prostitution or has forfeited bond to appear in court to answer charges  
40 of being a keeper of a house of prostitution;

41 (5) who has been convicted of being a proprietor of a gambling house,  
42 pandering or any other crime opposed to decency and morality or has  
43 forfeited bond to appear in court to answer charges for any of those



- 1 crimes;
- 2 (6) who is not at least 21 years of age;
- 3 (7) who, other than as a member of the governing body of a city or  
4 county, appoints or supervises any law enforcement officer, who is a law  
5 enforcement official or who is an employee of the director;
- 6 (8) who intends to carry on the business authorized by the license as  
7 agent of another;
- 8 (9) who at the time of application for renewal of any license issued  
9 under this act would not be eligible for the license upon a first application,  
10 except as provided by subsection (a)(12);
- 11 (10) who is the holder of a valid and existing license issued under  
12 article 27 of chapter 41 of the Kansas Statutes Annotated unless the per-  
13 son agrees to and does surrender the license to the officer issuing the  
14 same upon the issuance to the person of a license under this act, except  
15 that a retailer licensed pursuant to K.S.A. 41-2702, and amendments  
16 thereto, shall be eligible to receive a retailer's license under the Kansas  
17 liquor control act;
- 18 (11) who does not own the premises for which a license is sought, or  
19 does not, *at the time of application*, have a written lease thereon ~~for at~~  
20 ~~least 3/4 of the period for which the license is to be issued;~~
- 21 (12) whose spouse would be ineligible to receive a license under this  
22 act for any reason other than citizenship, residence requirements or age,  
23 except that this subsection (a)(12) shall not apply in determining eligibility  
24 for a renewal license;
- 25 (13) whose spouse has been convicted of a felony or other crime  
26 which would disqualify a person from licensure under this section and  
27 such felony or other crime was committed during the time that the spouse  
28 held a license under this act; or
- 29 (14) who does not provide any data or information required by K.S.A.  
30 2009 Supp. 41-311b, and amendments thereto.
- 31 (b) No retailer's license shall be issued to:
- 32 (1) A person who is not a resident of this state;
- 33 (2) a person who has not been a resident of this state for at least four  
34 years immediately preceding the date of application;
- 35 (3) a person who has a beneficial interest in a manufacturer, distrib-  
36 utor, farm winery or microbrewery licensed under this act;
- 37 (4) a person who has a beneficial interest in any other retail estab-  
38 lishment licensed under this act, except that the spouse of a licensee may  
39 own and hold a retailer's license for another retail establishment;
- 40 (5) a copartnership, unless all of the copartners are qualified to obtain  
41 a license;
- 42 (6) a corporation; or
- 43 (7) a trust, if any grantor, beneficiary or trustee would be ineligible

1 to receive a license under this act for any reason, except that the provi-  
2 sions of subsection (a)(6) shall not apply in determining whether a ben-  
3 eficiary would be eligible for a license.

4 (c) No manufacturer's license shall be issued to:

5 (1) A corporation, if any officer or director thereof, or any stockholder  
6 owning in the aggregate more than 25% of the stock of the corporation  
7 would be ineligible to receive a manufacturer's license for any reason  
8 other than citizenship and residence requirements;

9 (2) a copartnership, unless all of the copartners shall have been res-  
10 idents of this state for at least five years immediately preceding the date  
11 of application and unless all the members of the copartnership would be  
12 eligible to receive a manufacturer's license under this act;

13 (3) a trust, if any grantor, beneficiary or trustee would be ineligible  
14 to receive a license under this act for any reason, except that the provi-  
15 sions of subsection (a)(6) shall not apply in determining whether a ben-  
16 eficiary would be eligible for a license;

17 (4) an individual who is not a resident of this state;

18 (5) an individual who has not been a resident of this state for at least  
19 five years immediately preceding the date of application; or

20 (6) a person who has a beneficial interest in a distributor, retailer,  
21 farm winery or microbrewery licensed under this act.

22 (d) No distributor's license shall be issued to:

23 (1) A corporation, if any officer, director or stockholder of the cor-  
24 poration would be ineligible to receive a distributor's license for any rea-  
25 son. It shall be unlawful for any stockholder of a corporation licensed as  
26 a distributor to transfer any stock in the corporation to any person who  
27 would be ineligible to receive a distributor's license for any reason, and  
28 any such transfer shall be null and void, except that: (A) If any stockholder  
29 owning stock in the corporation dies and an heir or devisee to whom stock  
30 of the corporation descends by descent and distribution or by will is in-  
31 eligible to receive a distributor's license, the legal representatives of the  
32 deceased stockholder's estate and the ineligible heir or devisee shall have  
33 14 months from the date of the death of the stockholder within which to  
34 sell the stock to a person eligible to receive a distributor's license, any  
35 such sale by a legal representative to be made in accordance with the  
36 provisions of the probate code; or (B) if the stock in any such corporation  
37 is the subject of any trust and any trustee or beneficiary of the trust who  
38 is 21 years of age or older is ineligible to receive a distributor's license,  
39 the trustee, within 14 months after the effective date of the trust, shall  
40 sell the stock to a person eligible to receive a distributor's license and  
41 hold and disburse the proceeds in accordance with the terms of the trust.  
42 If any legal representatives, heirs, devisees or trustees fail, refuse or ne-  
43 glect to sell any stock as required by this subsection, the stock shall revert

1 to and become the property of the corporation, and the corporation shall  
2 pay to the legal representatives, heirs, devisees or trustees the book value  
3 of the stock. During the period of 14 months prescribed by this subsection,  
4 the corporation shall not be denied a distributor's license or have its  
5 distributor's license revoked if the corporation meets all of the other  
6 requirements necessary to have a distributor's license;

7 (2) a copartnership, unless all of the copartners are eligible to receive  
8 a distributor's license;

9 (3) a trust, if any grantor, beneficiary or trustee would be ineligible  
10 to receive a license under this act for any reason, except that the provisions  
11 of subsection (a)(6) shall not apply in determining whether a beneficiary  
12 would be eligible for a license; or

13 (4) a person who has a beneficial interest in a manufacturer, retailer,  
14 farm winery or microbrewery licensed under this act.

15 (e) No nonbeverage user's license shall be issued to a corporation, if  
16 any officer, manager or director of the corporation or any stockholder  
17 owning in the aggregate more than 25% of the stock of the corporation  
18 would be ineligible to receive a nonbeverage user's license for any reason  
19 other than citizenship and residence requirements.

20 (f) No microbrewery license or farm winery license shall be issued to  
21 a:

22 (1) Person who is not a resident of this state;

23 (2) person who has not been a resident of this state for at least four  
24 years immediately preceding the date of application;

25 (3) person who has a beneficial interest in a manufacturer or distributor  
26 licensed under this act or a person who currently has a beneficial  
27 interest in a farm winery;

28 (4) person, copartnership or association which has a beneficial interest  
29 in any retailer licensed under this act or under K.S.A. 41-2702, and  
30 amendments thereto;

31 (5) copartnership, unless all of the copartners are qualified to obtain  
32 a license;

33 (6) corporation, unless stockholders owning in the aggregate 50% or  
34 more of the stock of the corporation would be eligible to receive such  
35 license and all other stockholders would be eligible to receive such license  
36 except for reason of citizenship or residency; or

37 (7) a trust, if any grantor, beneficiary or trustee would be ineligible  
38 to receive a license under this act for any reason, except that the provisions  
39 of subsection (a)(6) shall not apply in determining whether a beneficiary  
40 would be eligible for a license.

41 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),  
42 (f)(1), (f)(2) and K.S.A. 2009 Supp. 41-311b, and amendments thereto,  
43 shall not apply in determining eligibility for the 10th, or a subsequent,

1 consecutive renewal of a license if the applicant has appointed a citizen  
 2 of the United States who is a resident of Kansas as the applicant's agent  
 3 and filed with the director a duly authenticated copy of a duly executed  
 4 power of attorney, authorizing the agent to accept service of process from  
 5 the director and the courts of this state and to exercise full authority,  
 6 control and responsibility for the conduct of all business and transactions  
 7 within the state relative to alcoholic liquor and the business licensed. The  
 8 agent must be satisfactory to and approved by the director, except that  
 9 the director shall not approve as an agent any person who:

- 10 (1) Has been convicted of a felony under the laws of this state, any  
 11 other state or the United States;
- 12 (2) has had a license issued under the alcoholic liquor or cereal malt  
 13 beverage laws of this or any other state revoked for cause, except that a  
 14 person may be appointed as an agent if the person's license was revoked  
 15 for the conviction of a misdemeanor and 10 years have lapsed since the  
 16 date of the revocation;
- 17 (3) has been convicted of being the keeper or is keeping a house of  
 18 prostitution or has forfeited bond to appear in court to answer charges of  
 19 being a keeper of a house of prostitution;
- 20 (4) has been convicted of being a proprietor of a gambling house,  
 21 pandering or any other crime opposed to decency and morality or has  
 22 forfeited bond to appear in court to answer charges for any of those  
 23 crimes; or
- 24 (5) is less than 21 years of age.

25 Sec. 4. K.S.A. 2009 Supp. 41-317 is hereby amended to read as fol-  
 26 lows: 41-317. (a) Applications for all licenses under this act shall be upon  
 27 forms prescribed and furnished by the director and shall be filed with  
 28 the director in duplicate *completed and submitted to the director in a*  
 29 *manner prescribed by the director.* Each application shall be accompanied  
 30 ~~by a state registration~~ *applicant shall submit an application fee of \$50*  
 31 ~~\$100~~ *\$50* for each initial application and ~~\$10~~ *\$50* for each renewal application  
 32 to defray the cost of preparing and furnishing standard forms incident to  
 33 the administration of this act and the cost of processing the application.  
 34 Each application shall also be accompanied by a deposit of a certified or  
 35 cashier's check of a bank within this state, United States post office money  
 36 order or cash in the full amount of the license fee required to be paid for  
 37 the kind of license applied for, which license fee shall be returned to the  
 38 applicant if the application is denied. All registration fees shall be remitted  
 39 by the director to the state treasurer in accordance with the provisions of  
 40 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
 41 remittance, the state treasurer shall deposit the entire amount in the state  
 42 treasury to the credit of the state general fund. All license fees received  
 43 by the director, including fees received for licenses to manufacture beer,

\$50

\$10

1 regardless of its alcoholic content, shall be paid into the state treasury by  
2 the director and shall be credited to the state general fund.

3 (b) ~~An application for renewal of a license shall be submitted to the~~  
4 ~~director not less than 30 days prior to the expiration of the current license.~~  
5 ~~Any applicant that fails to submit an application for renewal when due~~  
6 ~~may pay an additional fee for expedited service according to the following~~  
7 ~~schedule:~~

- 8 (1) ~~For applications submitted 20 to 29 days prior to expiration, \$100;~~
- 9 (2) ~~for applications submitted 10 to 19 days prior to expiration, \$250;~~
- 10 (3) ~~for applications submitted 3 to 9 days prior to expiration, \$500;~~
- 11 ~~and~~
- 12 (4) ~~for applications submitted less than three days prior to expiration,~~  
13 ~~\$1,000.~~

14 (c) ~~Payment of the additional fee for expedited service pursuant to~~  
15 ~~subsection (b) does not guarantee the issuance of applicant's license prior~~  
16 ~~to the expiration of the current license.~~

17 (d) ~~Each applicant shall submit to the division of alcoholic beverage~~  
18 ~~control a certified or cashier's check, United States post office money order~~  
19 ~~or cash, or shall authorize electronic payment in a manner proscribed by~~  
20 ~~the director, in the full amount of the application fee, any additional fee~~  
21 ~~provided for by this section and the license fee required to be paid for the~~  
22 ~~kind of license applied for, which license fee shall be returned to the~~  
23 ~~applicant if the application is denied.~~

24 (e) ~~All fees received by the director pursuant to this section shall be~~  
25 ~~remitted by the director to the state treasurer in accordance with the~~  
26 ~~provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of~~  
27 ~~each such remittance, the state treasurer shall deposit the entire amount~~  
28 ~~in the state treasury to the credit of the state general fund.~~

29 (b) ~~(f)~~ Every applicant for a manufacturer's, distributor's, nonbeverage  
30 user's, microbrewery, farm winery, retailer's or special order shipping  
31 license shall file with the application a joint and several bond on a form  
32 prescribed by the director and executed by good and sufficient corporate  
33 sureties licensed to do business within the state of Kansas to the director,  
34 in the following amounts:

- 35 (1) For a manufacturer, \$25,000;
- 36 (2) for a spirits distributor, \$15,000 or an amount equal to the highest  
37 monthly liability of the distributor for taxes imposed by the Kansas liquor  
38 control act for any of the 12 months immediately prior to renewal of the  
39 distributor's license, whichever amount is greater;
- 40 (3) for a beer or wine distributor, \$5,000 or an amount equal to the  
41 highest monthly liability of the distributor for taxes imposed by the Kansas  
42 liquor control act for any of the 12 months immediately prior to renewal  
43 of the distributor's license, whichever amount is greater;

(1) Each applicant shall submit to the division of alcoholic beverage control the full amount of the application fee and:

- (A) The full amount of the license fee required to be paid for the kind of license specified in the application; or
- (B) one-half of the full amount of the license fee required to be paid for the kind of license specified in the application.

(2) If the applicant elects to pay only one-half of the license fee pursuant to paragraph (1)(B), the remaining one-half of the license fee plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license. Notwithstanding any other provision of law, failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic revocation of such license. The director may, at the director's sole discretion and after examination of the circumstances, extend the date payment is due pursuant to this paragraph for not more than 30 days beyond the date such payment is originally due.

(3) Any license fee paid by an applicant shall be returned to the applicant if the application is denied.

(4) Payment of all fees required to be paid pursuant to this section may be made by personal, certified or cashier's check, United States post office money order, debit or credit card or cash, or by electronic payment authorized by the applicant in a manner proscribed by the director.

(c)

(d)

- 1 (4) for a retailer, \$2,000;
- 2 (5) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000
- 3 for class 3, \$5,000 for class 4 and \$10,000 for class 5;
- 4 (6) for a microbrewery or a farm winery, \$2,000; and
- 5 (7) for a winery holding a special order shipping license, \$750, unless
- 6 the winery has already complied with subsection ~~(b)(6)~~ (f)(6).

7 If a distributor holds or applies for more than one distributor's license,  
 8 only one bond for all such licenses shall be required, which bond shall be  
 9 in an amount equal to the highest applicable bond.

(e)

10 ~~(e)(5)~~ All bonds required by this section shall be conditioned on the  
 11 licensee's compliance with the provisions of this act and payment of all  
 12 taxes, fees, fines and forfeitures which may be assessed against the  
 13 licensee.

14 Sec. 5. K.S.A. 41-326 is hereby amended to read as follows: 41-326.  
 15 A license shall be purely a personal privilege, valid for not to exceed ~~one~~  
 16 ~~year~~ two years after issuance, *except as otherwise provided by law*, unless  
 17 sooner suspended or revoked, and shall not constitute property, nor shall  
 18 it be subject to attachment, garnishment or execution, nor shall it be  
 19 alienable or transferable, voluntarily or involuntarily, or subject to being  
 20 encumbered or hypothecated. A license shall not descend by the laws of  
 21 testate or intestate devolution but shall cease and expire upon the death  
 22 of the licensee except that executors, administrators or representatives of  
 23 the estate of any deceased licensee and the trustee of any insolvent or  
 24 bankrupt licensee, when such estate consists in part of alcoholic liquor,  
 25 may continue the business of the sale, distribution or manufacture of  
 26 alcoholic liquor under order of the appropriate court and may exercise  
 27 the privilege of the deceased, insolvent or bankrupt licensee after the  
 28 death of such decedent, or after such insolvency or bankruptcy, until the  
 29 expiration of such license but not longer than one year after the death,  
 30 bankruptcy or insolvency of such licensee.

When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this section for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee.

31 ~~A refund shall may be made of that portion of the license fee paid for~~  
 32 ~~any period in which the licensee shall be prevented from operating under~~  
 33 ~~such license in accordance with the provisions of this section.~~ The sec-  
 34 retary of revenue may adopt rules and regulations pursuant to K.S.A. 41-  
 35 210, and amendments thereto, which provide for the authorization of  
 36 refunds of ~~that portion of the license fees paid for any period in which~~  
 37 the licensee does not use such license, ~~as a result of the cancellation of~~  
 38 the license upon the request of the licensee for voluntary reasons.

one-half of the license fee paid when

for the entire second year of the license term

39 Sec. 6. K.S.A. 2009 Supp. 41-350 is hereby amended to read as fol-  
 40 lows: 41-350. (a) For the purposes of this act, the term "winery" means  
 41 any maker or producer of wine whether in this state or in any other state,  
 42 who holds a valid federal basic wine manufacturing permit. The terms  
 43 "director" and "secretary" have the meaning ascribed to these terms in

- 1 K.S.A. 2009 Supp. 41-102, and amendments thereto.
- 2 (b) Any winery may be authorized to make direct shipments of wine  
3 to consumers in this state upon obtaining a special order shipping license  
4 from the secretary pursuant to this act.
- 5 (1) A special order shipping license shall only be issued to a winery  
6 upon compliance with all applicable provisions of this act and the regu-  
7 lations promulgated pursuant to this act, and upon payment of a license  
8 fee in the amount of ~~\$50~~ \$100. *The license term for a special order ship-*  
9 *ping license shall commence on the date the license is issued by the di-*  
10 *rector and shall end two years after that date.*
- 11 (2) A special order shipping license shall entitle the winery to ship  
12 wine upon order directly to consumers for personal or household use in  
13 this state. The purchaser shall pay the purchase price and all shipping  
14 costs directly to the permit holder. Enforcement taxes collected herein  
15 shall be paid solely on the purchase price and not on the shipping costs.
- 16 (c) No holder of a special order shipping license shall be permitted  
17 to ship in excess of 12 standard cases of wine of one brand or a combi-  
18 nation of brands into this state to any one consumer or address per cal-  
19 endar year.
- 20 (d) (1) Before accepting an order from a consumer in this state, the  
21 holder of a special order shipping license shall require that the person  
22 placing the order to state affirmatively that he or she is 21 years of age  
23 or older and shall verify the age of such person placing the order either  
24 by the physical examination of an approved government issued form of  
25 identification or by utilizing an internet based age and identification serv-  
26 ice approved by the director of alcoholic beverage control, or the direc-  
27 tor's designee.
- 28 (2) Every shipment of wine by the holder of a special order shipping  
29 license shall be clearly marked 'Alcoholic Beverages, Adult Signature Re-  
30 quired' and the carrier delivering such shipment shall be responsible for  
31 obtaining the signature of an adult who is at least 21 years of age as a  
32 condition of delivery.
- 33 (e) A special order shipping license shall not authorize the shipment  
34 of any wine to any premises licensed to sell alcoholic beverages pursuant  
35 to this act or the club and drinking establishment act.
- 36 (f) The failure to comply strictly with the requirements of this act and  
37 rules and regulations promulgated pursuant to this act shall be grounds  
38 for the revocation of a special order shipping license or other disciplinary  
39 action by the director. After notice and an opportunity for hearing in  
40 accordance with the provisions of the Kansas administrative procedure  
41 act, the director may refuse to issue or renew or may revoke a shipping  
42 permit upon a finding that the permit holder has failed to comply with  
43 any provision of this section or K.S.A. 2009 Supp. 41-501 et seq., and

1 amendments thereto, or any rules and regulations adopted pursuant to  
2 such statutes. Upon revocation of a special order shipping license for  
3 shipment of wine to a person not of legal age as required herein such  
4 winery shall not be issued any special order shipping license pursuant to  
5 this act for a period of one year from the date of revocation.

6 (g) The holder of a special order shipping license shall collect all  
7 gallonage taxes imposed by K.S.A. 2009 Supp. 41-501 et seq., and amend-  
8 ments thereto, shall remit such taxes annually in a manner prescribed by  
9 the secretary and shall accompany such remittance with such reports,  
10 documentation and other information as may be required by the secre-  
11 tary. In addition, an applicant for and a holder of a special order shipping  
12 license, as a condition of receiving and holding a valid license, shall:

13 (1) Collect and pay the applicable Kansas enforcement tax on each  
14 sale shipped to a consumer in Kansas imposed by K.S.A. 79-4101 et seq.,  
15 and amendments thereto;

16 (2) accompany each remittance with such sales tax reports, docu-  
17 mentation and other information as may be required by the director of  
18 taxation; and

19 (3) if the holder of the license is an out-of-state shipper, the licensee  
20 shall be deemed to have appointed the secretary of state as the resident  
21 agent and representative of the licensee to accept service of process from  
22 the secretary of revenue, the director and the courts of this state con-  
23 cerning enforcement of this section, K.S.A. 2009 Supp. 41-501 et seq.,  
24 and amendments thereto, and any related laws and rules and regulations  
25 and to accept service of any notice or order provided for in the liquor  
26 control act.

27 (h) The secretary of revenue may adopt rules and regulations to im-  
28 plement, administer and enforce the provisions of this section.

29 (i) This section shall be part of and supplemental to the Kansas liquor  
30 control act.

31 Sec. 7. K.S.A. 2009 Supp. 41-2606 is hereby amended to read as  
32 follows: 41-2606. (a) Applications for all licenses under this act shall be  
33 ~~upon forms prescribed and furnished by the director and shall be filed~~  
34 ~~with the director in duplicate~~ *completed and submitted to the director in*  
35 *a manner prescribed by the director. Each application shall be accom-*  
36 *panied by applicant shall submit an application fee of \$50* ~~\$100~~, for each  
37 initial application, and ~~\$10~~ ~~\$50~~ for each renewal application, to defray  
38 the cost of ~~preparing and furnishing standard forms incident to the ad-~~  
39 ~~ministration of this act and the cost of processing such application. Each~~  
40 ~~application shall also be accompanied by a certified or cashier's check of~~  
41 ~~a bank within this state, United States post office money order or cash in~~  
42 ~~the full amount of the license fee prescribed by K.S.A. 41-2622, and~~  
43 ~~amendments thereto, which fee shall be returned to the applicant if the~~

\$50

\$10



1 application is denied.

2 (b) Each application for licensure as a club shall be accompanied by  
3 a copy of the current bylaws and rules of the club and a current list of  
4 the officers of the club.

5 (c) ~~An application for renewal of a license shall be submitted to the  
6 director not less than 30 days prior to the expiration of the current license.  
7 Any applicant that fails to submit an application for renewal when due  
8 may pay an additional fee for expedited service according to the following  
9 schedule:~~

- 10 (1) ~~For applications submitted 20 to 29 days prior to expiration, \$100;~~
- 11 (2) ~~for applications submitted 10 to 19 days prior to expiration, \$250;~~
- 12 (3) ~~for applications submitted 3 to 9 days prior to expiration, \$500;~~
- 13 and
- 14 (4) ~~for applications submitted less than three days prior to expiration,~~  
15 ~~\$1,000.~~

16 (d) ~~Payment of the additional fee for expedited service pursuant to  
17 subsection (c) does not guarantee the issuance of applicant's license prior  
18 to the expiration of the current license.~~

19 (e) ~~Each applicant shall submit to the division of alcoholic beverage  
20 control a certified or cashier's check, United States post office money order  
21 or cash, or shall authorize electronic payment in a manner prescribed by  
22 the director, in the full amount of the application fee, any additional fee  
23 provided for by this section and the license fee required to be paid for the  
24 kind of license applied for, which license fee shall be returned to the  
25 applicant if the application is denied.~~

26 (e) ~~(f)~~ All application fees collected by the director pursuant to this  
27 section shall be remitted to the state treasurer in accordance with the  
28 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
29 each such remittance, the state treasurer shall deposit the entire amount  
30 in the state treasury to the credit of the state general fund.

31 Sec. 8. K.S.A. 41-2607 is hereby amended to read as follows: 41-  
32 2607. (a) The license provided herein shall be issued for a term of ~~one~~  
33 ~~year~~ two years, renewable on expiration. ~~The secretary of revenue shall~~  
34 ~~adopt, in accordance with K.S.A. 41-210 and amendments thereto, rules~~  
35 ~~and regulations providing for the authorization of refunds of the license~~  
36 ~~fees paid for any period in which the licensee shall not use such license~~  
37 ~~as the result of the license being canceled at the request of the licensee~~  
38 ~~and for voluntary reasons. A refund may be made of that portion of the~~  
39 ~~license fee paid for any period in which the licensee shall be prevented~~  
40 ~~from operating under such license in accordance with the provisions of~~  
41 ~~this act, other than that caused by suspension or revocation. The secretary~~  
42 ~~shall adopt, in accordance with K.S.A. 41-210, and amendments thereto,~~  
43 ~~rules and regulations providing for the authorization of refunds of the~~

(1) Each applicant shall submit to the division of alcoholic beverage control the full amount of the application fee and:

- (A) The full amount of the license fee required to be paid for the kind of license specified in the application; or
- (B) one-half of the full amount of the license fee required to be paid for the kind of license specified in the application.

(2) If the applicant elects to pay only one-half of the license fee pursuant to paragraph (1)(B), the remaining one-half of the license fee plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license. Notwithstanding any other provision of law, failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic revocation of such license. The director may, at the director's sole discretion and after examination of the circumstances, extend the date payment is due pursuant to this paragraph for not more than 30 days beyond the date such payment is originally due.

(3) Any license fee paid by an applicant shall be returned to the applicant if the application is denied.

(4) Payment of all fees required to be paid pursuant to this section may be made by personal, certified or cashier's check, United States post office money order, debit or credit card or cash, or by electronic payment authorized by the applicant in a manner prescribed by the director.

(d)

When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this section for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee.

1 ~~License fees paid for any period in which~~ the licensee does not use such  
 2 ~~license as a result of the cancellation of the license upon the request of the~~  
 3 ~~licensee for voluntary reasons.~~

one-half of the license fee paid when  
 for the entire second year of the license term

4 (b) The director, may, at the director's sole discretion and after ex-  
 5 amination of the circumstances, extend the license term of any license for  
 6 not more than 30 days beyond such date the license would expire pursuant  
 7 to this section.

8 Sec. 9. K.S.A. 2009 Supp. 41-2622 is hereby amended to read as  
 9 follows: 41-2622. (a) At the time application is made to the director for a  
 10 license pursuant to the club and drinking establishment act, the applicant  
 11 shall pay the following ~~annual~~ license fee in the manner provided by  
 12 K.S.A. 41-2606, and amendments thereto:

13 (1) For a class A club which is a bona fide nonprofit fraternal or war  
 14 veterans' club, as defined by rules and regulations of the secretary, ~~\$250~~  
 15 ~~\$600~~

\$500

16 (2) for a class A club which is a bona fide nonprofit social club, as  
 17 defined by rules and regulations of the secretary, and which has not more  
 18 than 500 members, ~~\$500~~ ~~\$1,500~~

\$1,000

19 (3) for a class A club which is a bona fide nonprofit social club, as  
 20 defined by rules and regulations of the secretary, and which has more  
 21 than 500 members, ~~\$1,000~~ ~~\$3,000~~

\$2,000

\$2,000

22 (4) for a class B club, ~~\$1,000~~ ~~\$3,000~~

23 (5) for a drinking establishment, ~~\$1,000~~ ~~\$1,500~~  
 24 (6) for a hotel of which the entire premises are licensed as a drinking  
 25 establishment, ~~\$3,000~~ ~~\$4,000~~

\$1,000

\$3,000

\$1,000

26 (7) for a caterer, ~~\$500~~ ~~\$1,500~~

27 (8) for a drinking establishment/caterer, ~~\$1,500~~ ~~\$2,000~~ and  
 28 (9) for a drinking establishment/caterer, if the drinking establishment  
 29 is a hotel of which the entire premises are licensed as a drinking estab-  
 30 lishment, ~~\$3,500~~ ~~\$5,000~~

\$1,500

\$3,500

31 If a licensee is described by more than one of the above, the highest  
 32 fee shall apply.

33 (b) On and after July 1, 2011, at the time an application is submitted  
 34 to the director for a drinking establishment license pursuant to the club  
 35 and drinking establishment act, the applicant shall pay the following li-  
 36 cense fee in the manner provided by K.S.A. 41-2606, and amendments  
 37 thereto:

38 (1) For a drinking establishment, ~~\$3,000~~

\$2,000

39 (2) for a hotel of which the entire premises are licensed as a drinking  
 40 establishment, ~~\$8,000~~

\$6,000

41 (3) for a drinking establishment/caterer, ~~\$4,000~~ and

\$3,000

42 (4) for a drinking establishment/caterer, if the drinking establishment  
 43 is a hotel of which the entire premises are licensed as a drinking estab-

1 lishment, ~~\$10,000~~

**\$7,000**

2 ~~(b)~~ (c) In addition to the fee provided by subsection ~~(a)~~ subsections  
3 (a) and (b), any city where the licensed premises of a club or drinking  
4 establishment are located or, if such licensed premises are not located in  
5 a city, the board of county commissioners of the county where the li-  
6 censed premises are located may levy and collect an annual occupation  
7 or license tax from the licensee in an amount equal to not less than \$100  
8 nor more than \$250.

9 ~~(c)~~ (d) No occupational or excise tax or license fee other than that  
10 authorized by subsection ~~(b)~~ (c) shall be levied by any city or county  
11 against or collected from a licensed club or drinking establishment.

12 ~~(d)~~ (e) The director shall remit all moneys received under this section  
13 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
14 and amendments thereto. Upon receipt of each such remittance, the state  
15 treasurer shall deposit the entire amount in the state treasury. Of each  
16 such deposit, 50% shall be credited to the state general fund, and the  
17 remaining 50% shall be credited to the other state fees fund of the de-  
18 partment of social and rehabilitation services. In addition to other pur-  
19 poses for which expenditures may be made from the other state fees fund  
20 of the department of social and rehabilitation services, expenditures may  
21 be made by the secretary of social and rehabilitation services for the  
22 purpose of implementing the powers and duties of the secretary under  
23 the provisions of K.S.A. 65-4006 and 65-4007, and amendments thereto.

24 Sec. 10. K.S.A. 2009 Supp. 41-2623 is hereby amended to read as  
25 follows: 41-2623. (a) No license shall be issued under the provisions of  
26 this act to:

27 (1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7),  
28 (8), (9), (12) or (13) of K.S.A. 41-311, and amendments thereto, except  
29 that the provisions of subsection (a)(7) of such section shall not apply to  
30 nor prohibit the issuance of a license for a class A club to an officer of a  
31 post home of a congressionally chartered service or fraternal organization,  
32 or a benevolent association or society thereof.

33 (2) A person who has had the person's license revoked for cause un-  
34 der the provisions of this act.

35 (3) A person who has not been a resident of this state for a period of  
36 at least one year immediately preceding the date of application.

37 (4) A person who has a beneficial interest in the manufacture, prep-  
38 aration or wholesaling or the retail sale of alcoholic liquors or a beneficial  
39 interest in any other club, drinking establishment or caterer licensed here-  
40 under, except that:

41 (A) A license for premises located in a hotel may be granted to a  
42 person who has a beneficial interest in one or more other clubs or drinking  
43 establishments licensed hereunder if such other clubs or establishments

1 are located in hotels.

2 (B) A license for a club or drinking establishment which is a restau-  
3 rant may be issued to a person who has a beneficial interest in other clubs  
4 or drinking establishments which are restaurants.

5 (C) A caterer's license may be issued to a person who has a beneficial  
6 interest in a club or drinking establishment and a license for a club or  
7 drinking establishment may be issued to a person who has a beneficial  
8 interest in a caterer.

9 (D) A license for a class A club may be granted to an organization of  
10 which an officer, director or board member is a distributor or retailer  
11 licensed under the liquor control act if such distributor or retailer sells  
12 no alcoholic liquor to such club.

13 (E) Any person who has a beneficial interest in a microbrewery or  
14 farm winery licensed pursuant to the Kansas liquor control act may be  
15 issued any or all of the following: (1) Class B club license; (2) drinking  
16 establishment license; and (3) caterer's license.

17 (5) A copartnership, unless all of the copartners are qualified to ob-  
18 tain a license.

19 (6) A corporation, if any officer, manager or director thereof, or any  
20 stockholder owning in the aggregate more than 5% of the common or  
21 preferred stock of such corporation would be ineligible to receive a li-  
22 cense hereunder for any reason other than citizenship and residence  
23 requirements.

24 (7) A corporation, if any officer, manager or director thereof, or any  
25 stockholder owning in the aggregate more than 5% of the common or  
26 preferred stock of such corporation, has been an officer, manager or di-  
27 rector, or a stockholder owning in the aggregate more than 5% of the  
28 common or preferred stock, of a corporation which:

29 (A) Has had a license revoked under the provisions of the club and  
30 drinking establishment act; or

31 (B) has been convicted of a violation of the club and drinking estab-  
32 lishment act or the cereal malt beverage laws of this state.

33 (8) A corporation organized under the laws of any state other than  
34 this state.

35 (9) A trust, if any grantor, beneficiary or trustee would be ineligible  
36 to receive a license under this act for any reason, except that the provi-  
37 sions of subsection (a)(6) of K.S.A. 41-311, and amendments thereto shall  
38 not apply in determining whether a beneficiary would be eligible for a  
39 license.

40 (b) No club or drinking establishment license shall be issued under  
41 the provisions of the club and drinking establishment act to:

42 (1) A person ~~described in subsection (a)(11) of K.S.A. 41-311, and~~  
43 ~~amendments thereto~~ who does not own the premises for which a license

1 is sought, or does not, at the time the application is submitted, have a  
 2 written lease thereon, except that an applicant seeking a license for a  
 3 premises which is owned by a city or county, or is a stadium, arena,  
 4 convention center, theater, museum, amphitheater or other similar prem-  
 5 ises may submit an executed agreement to provide alcoholic beverage serv-  
 6 ices at the premises listed in the application in lieu of a lease.

7 (2) A person who is not a resident of the county in which the premises  
 8 sought to be licensed are located.

9 Sec. 11. K.S.A. 41-2629 is hereby amended to read as follows: 41-  
 10 2629. (a) A class B club license, ~~drinking establishment license~~ or caterer's  
 11 license shall be ~~purely a personal privilege, good for~~ issued for a term not  
 12 to exceed ~~one year~~ two years after issuance, except as otherwise provided  
 13 by law, unless sooner suspended or revoked as provided in this act.

14 (b) Prior to July 1, 2011, a drinking establishment license shall be  
 15 issued for a term not to exceed one year after issuance, except as otherwise  
 16 provided by law, unless sooner suspended or revoked as provided by this  
 17 act. On and after July 1, 2011, a drinking establishment license shall be  
 18 issued for a term not to exceed two years after issuance, except as other-  
 19 wise provided by law, unless sooner suspended or revoked as provided  
 20 by this act.

21 (c) The director, may, at the director's sole discretion and after ex-  
 22 amination of the circumstances, extend the license term of any license for  
 23 not more than 30 days beyond such date the license would expire pursuant  
 24 to this section.

25 (d) A class B license, drinking establishment license or caterer's li-  
 26 cense shall be purely a personal privilege and shall not constitute property,  
 27 nor shall it be subject to attachment, garnishment or execution, nor shall  
 28 it be alienable or transferable, voluntarily or involuntarily, or subject to  
 29 being encumbered or hypothecated. A class B club license, drinking es-  
 30 tablishment license or caterer's license shall not descend by the laws of  
 31 testate or intestate devolution but shall cease or expire upon the death of  
 32 the licensee subject to the following provision.

33 (e) An executor, administrator or representative of the estate of any  
 34 deceased holder of a class B club, drinking establishment or caterer's  
 35 license or the trustee of any insolvent or bankrupt class B club, drinking  
 36 establishment or caterer's license may continue the licensee's business  
 37 under order of the appropriate court and may exercise the privilege of  
 38 the deceased, insolvent or bankrupt licensee after the death of such li-  
 39 censee or after such insolvency or bankruptcy until the expiration of such  
 40 license, but in no case longer than one year after the death, insolvency  
 41 or bankruptcy of such licensee.

42 (f) ~~A refund shall may be made of that portion of the license fee paid~~  
 43 ~~for any period in which the licensee shall be prevented from operating]~~

1 ~~Under such license in accordance with the provisions of this act, other~~  
 2 ~~than that caused by suspension or revocation.~~ The secretary shall adopt,  
 3 in accordance with K.S.A. 41-210, and amendments thereto, rules and  
 4 regulations providing for the authorization of refunds of the license fees  
 5 ~~paid for any period in which~~ the licensee does not use such license being  
 6 ~~cancelled upon the request of the licensee and for voluntary reasons, as a~~  
 7 ~~result of the cancellation of the license upon the request of the licensee for~~  
 8 ~~voluntary reasons.~~

9 Sec. 12. K.S.A. 41-326, 41-2607 and 41-2629 and K.S.A. 2009 Supp.  
 10 41-308a, 41-310, 41-311, 41-317, 41-350, 41-2606, 41-2622 and 41-2623  
 11 are hereby repealed.

12 Sec. 13. This act shall take effect and be in force from and after its  
 13 publication in the statute book.

When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this section for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee.

one-half of the license fee paid when

for the entire second year of the license term

1-19

STATE OF KANSAS

TOM SLOAN  
REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY

STATE CAPITOL, 55-S  
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LAWRENCE, KANSAS 66049-4174  
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TOPEKA  
HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
CHAIRMAN: VISION 2020

MEMBER: ENERGY AND UTILITIES  
GOVERNMENT EFFICIENCY  
AND FISCAL OVERSIGHT  
JOINT COMMITTEE ON ENERGY  
AND ENVIRONMENT

February 24, 2010

Senator Pete Brungardt, Chairman  
Federal & State Affairs Committee  
136-E  
State Capitol  
Topeka, KS 66612

Dear Senators:

While I did not testify before the Federal & State Affairs Committee today, I am a sponsor of HB 2445. As Rep. Hawk noted in his testimony, I have been working with Pentagon level Dept. of Defense officers on this legislative issue for several years. As retired Army Colonel David Snodgrass and the uniformed officers from each military facility in Kansas and the Kansas National Guard representative noted, this is an important piece of legislation.

HB 2445 is important because it codifies best communications and coordinated planning practices between the military installations and local governments. There will be additional BRAC (base realignment and closure) rounds in the future. The persons constituting the BRAC Committee will look for reasons to close facilities – HB 2445 demonstrates a long-term commitment between Kansans and our military to ensure that the Army, Air Force, and National Guard troops can continue to “train as they will fight.” This sustainable training capability is key to surviving and thriving in the BRAC rounds.

No one plans to “hurt” the military facilities that contribute almost \$8 billion annually to the Kansas economy, but incremental decisions by local governments result in homes and businesses being built in places that adversely impact military training capabilities. For example, a mall shopping center parking lot located next to a night-vision training ground could easily result in the closure of the training area because parking lot lights “leak” over the fence and negate the night vision goggles’ effectiveness. Similarly, military and civilian decisions about the siting of firing ranges and schools can have adverse public relations consequences for both parties.

HB 2445 seeks to prevent inadvertent conflict through increased communications and coordination. Both parties ultimately remain in control of their own decision-making processes and decisions, but the expectation is that mutual education and conversations will result in decisions that support the objectives of both civilian and military communities.

Rep. Hawk and I have reviewed Rep. Powell’s suggested amendments and do not support them. While on their surface they appear innocuous, they represent an unnecessary complication to the military-

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Not every interaction between the two parties necessitates "coordination." The two parties may meet and "determine" an area of interest with one party having no real role in a "coordinated" policy or action. For example, the parties might identify part of a dirt tank track/road on a military post from which dust causes problems on a nearby county road. The military may use a water truck to contain the dust – such an action does not require coordination with the county government. They jointly determine an issue, but one party addresses it – not a "coordinated" action.

The above example, I believe, demonstrates that the proposed amendments are not necessary. The military and civilian parties will determine what needs to be "coordinated" through the communications processes required by best practices and HB 2445. encourage you to pass HB 2445 as passed by the House. Thank you for your consideration.



Tom Sloan  
45<sup>th</sup> District Representative



STATE OF KANSAS



TOPEKA

HOUSE OF REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIRPERSON: VETERANS, MILITARY & HOMELAND SECURITY  
MEMBER: ECONOMIC DEVELOPMENT AND TOURISM  
ENERGY AND UTILITIES

DON MYERS  
REPRESENTATIVE, 82ND DISTRICT  
SEDGWICK COUNTY  
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DERBY, KANSAS 67037  
(316) 788-0014 HOME

STATE CAPITOL BUILDING, ROOM <sup>511W</sup>~~448-N~~  
TOPEKA, KANSAS 66612  
(785) 296-7695

March 1, 2010

Chairman Pete Brungardt  
Senate Federal and State Committee  
State Capitol Building Room 136-E  
Topeka, KS. 66612

Dear Senator,

**HB 2445 - Land uses adjacent to military installations** received a hearing in the Senate Federal and State Committee on February 24, 2010. An amendment was suggested which would substantially alter the intent of the legislation.

Replacing "interlocal agreement" with "coordination" potentially removes the documentation that results from an "interlocal agreement."

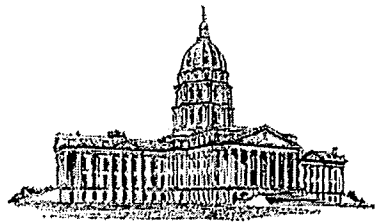
The intent of the "as written" bill encourages dialogue between local government and military installations, resulting in agreements regarding safety near military installations.

I urge the Committee to not change the wording of the bill.

Sincerely,

Don Myers

Tom Hawk  
 REPRESENTATIVE, 67TH DISTRICT  
 STATE CAPITOL BUILDING  
 300 SW 10<sup>th</sup> Ave. (mail)  
 Docking State Office Building (office)  
 7<sup>th</sup> Floor—L10  
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STATE OF KANSAS  
 TOPEKA  
 HOUSE OF REPRESENTATIVES

**COMMITTEE ASSIGNMENTS**

**MEMBER:**

Tax (M-F, 9 AM, Docking 783)  
 Social Services Budget (M-T, 3:30 PM, D785)  
 State Employee Pay Plan Oversight

**RANKING MINORITY:**

Vision 2020 (M,W; 1:30 PM, D785)

February 28, 2010

Senator Pete Brungardt, Chairman  
 Federal and State Affairs Committee  
 State Capitol 136-E  
 Topeka, Kansas 66612

Dear Chairman Brungardt:

I left you a short handwritten note in your office on Friday to respond to your request on my reaction to Representative Larry Powell's suggested amendments. I have read them and will address my four major concerns:

1. Potential language conflicts with "coordination agreements" and "interlocal agreements"
2. Previous amendments placed on HB2445 by House Military Affairs Committee this year
3. Primary purpose of this bill is formal communication process to protect our BRAC position
4. Advantage of keeping HB2445 clean in the Senate

I do very much appreciate your leadership, that of Vice Chair Reitz and President Morris in getting an early hearing on this bill. The bill and its concept of formalizing military and community communication to avoid encroachment problems has been a long and serious working process, especially with my County Commissioners and the citizen working group in Riley County for the past two years. This bill is a good win-win compromise between our military installations and our local governments.....good evidence for that is the strong support from County Counselor Clancy Holeman and our Riley County Commissioners. They have changed from critics of the original bill (HB2169) to very strong advocates for the compromise language currently in HB2445!

Now for my more detailed responses to the amendments by Rep. Powell:

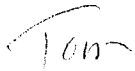
1. In visiting with Riley County Counselor Holeman and Commissioner Kearns, some of the Powell language on "coordination agreement" raises some statutory concerns that affect our current language that is clearer using the term "interlocal agreement". It seems unwise to me to create that kind of conflict when this bill simply brings the parties officially to the table to communicate and clearly in Section 4 leaves the final authority with local cities and counties. This change is not necessary.
2. In the House, the Military Affairs Committee heard this bill and did incorporate Rep. Powell's concerns without changing the focus of the bill. He was heard and I am a little surprised that he would potentially try to add additional language that might kill the bill or compromise its simple intent. I know he does not support anything that deals with "ACUB" or any kind of conservation easement. This bill does not prescribe any easements....it simply defines those programs and planning processes that currently exist.
3. Again, this bill in its current form represents a long compromise process involving local government, State Associations, local citizens, DoD, Kansas military installation representatives,

the Kansas National Guard, the Governor's Military Council, and a final group stakeholder "get the language straight" meeting in November with Rep. Lee Tahanelli and myself. The bill changed from a prescriptive focus in HB2169 to the current "communication" focus in HB2445 with local government having final authority. This language was agreed to by all stakeholders in that November meeting.

4. I believe, not knowing when the next BRAC may be called with the current national economic situation, it is in our state's best interest to get this priority legislation passed and signed by the Governor in this session. If a sudden BRAC is called, then we have moved ahead of other states once again in showing the commitment of Kansas to our military installations. Our Kansas Legislative delegation's NCSL trip in 2008 to Camp Bullis in Texas demonstrated how important this issue can become if not addressed early. By keeping the bill clean, we avoid a possible distortion of the simple intent of "communication" and the addition of amendments such as Rep. Powell's and possible others that could keep this bill from passing.

I thank you and Vice Chair Reitz for your timely attention to this bill and offer any additional help for you and your committee as you continue deliberations on this matter.

Sincerely,



Tom Hawk



COUNSELOR'S OFFICE

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Email: [adillon@rileycountyks.gov](mailto:adillon@rileycountyks.gov)

February 26, 2010

The Honorable Pete Brungardt, Chairman  
Senate Committee on Federal and State Affairs  
Capitol Building, Rm. 144-S  
Topeka, KS 66612

Re: H.B. 2445

Dear Chairman Brungardt:

I am the lawyer representing the Board of Riley County Commissioners, and I testified before your committee Wednesday, February 24, 2010, as a proponent of the above bill.

Representative Powell has proposed several balloon amendments to H.B. 2445. My client opposes two of them. First, Representative Powell's proposed amendment on page 4, line 9, changing "interlocal agreements" to "*coordination* agreements," would be a mistake. Interlocal agreements are specifically authorized by K.S.A. 2008 Supp. 12-2904, and specific legal formalities are required to be observed in such agreements, pursuant to that statute's subparagraphs (d)(1),(2),(3),(4),(5),(6), (e)(1)-(2). Further, as pointed out during Wednesday's testimony by lawyers representing the League of Municipalities and the Kansas Association of Counties, all such interlocal agreements must be reviewed and either approved or disapproved by the Kansas Attorney General, before they can become legally effective.

There is no statutory authority for a municipality to enter into the "*coordination* agreement" which Representative Powell's language would create, and so none of the foregoing statutory requirements for all *interlocal* agreements would apply to govern the agreement terms required. That prevents the legislature from requiring a military installation and a municipality to address potentially important contractual issues in their written agreement. When important contractual issues are not resolved in the text of a document, the cooperative relationship between the parties can be damaged, or even destroyed. That can leave litigation as the only means to resolve the dispute. Avoidable litigation between a municipality and its neighboring military installation in the "BRAC" era is not in the long-term interest of municipalities, or the State of Kansas.

The Second proposed change by Representative Powell which my client opposes is his alteration on page 3, line 25. If that amendment were made, my client would have to conform its comprehensive plan and all its zoning regulations with the distinct comprehensive plans and zoning regulations of Sedgwick, Clay, Geary and Leavenworth counties. That absolutely cannot be done, because each county's land use regulations are based upon unique local concerns, as they must be.

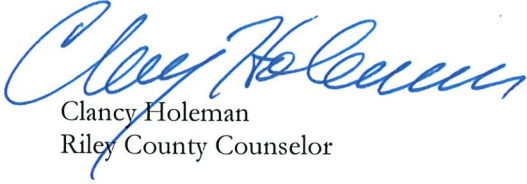
On behalf of the Riley County Commissioners, please encourage your committee to reject at least the foregoing two amendments to H.B. 2445, as proposed by Representative Powell.

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Attachment 5

3-03-10

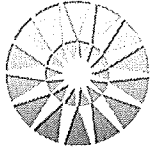
Feel free to share this letter with the members of your committee, and please contact me with any questions you may have.

Sincerely,



Clancy Holeman  
Riley County Counselor

cc: Michael B. Kearns, Chairman, Board of Riley County Commissioners  
Karen McCulloh, Vice-Chair, Board of Riley County Commissioners  
Alvan D. Johnson, Member, Board of Riley County Commissioners



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TO: Senate Federal and State Affairs Committee  
FROM: Sandy Jacquot, Director of Law/ General Counsel  
DATE: March 1, 2010  
RE: Proposed Amendment of HB 2445

I want to thank the Committee for hearing HB 2445. The Committee received some proposed amendments from Representative Larry Powell and LKM opposes one amendment in particular. On page 4, line 9, he proposes to substitute "interlocal" with "coordination" when referring to agreements. First, there really is no such thing as a coordination agreement, but certainly interlocal agreements are specifically authorized by K.S.A. 12-2901 *et seq.*, the Interlocal Cooperation Act. Thus, removing the word "interlocal" and substituting cooperation has an unintended consequence. While local governments could probably still enter into interlocal agreements, there really is no reason to muddy the water by substituting meaningful language with meaningless language. Therefore, LKM would request that the committee not amend the bill with this proposed change. Thank you for your consideration when working this bill.



March 2, 2010

Chairman Pete Brungardt  
Senate Federal and State Affairs Committee  
State Capitol  
Topeka, Kansas 66612

Re: HB 2445

Dear Chairman Brungardt and Members of the Committee:

The Kansas Association of Counties testified last week in support of HB 2445. Amendments were proposed to this bill by Representative Larry Powell. While KAC takes no position on the merits of the amendments, we do register concerns about the language proposed on page 4. Representative Powell's amendment removes the reference to "interlocal" agreements and inserts "coordination" in its place.

Interlocal agreements are agreements between local jurisdictions and have specific requirements outlined in statute, including approval by the Attorney General. The term "coordination agreement" has no meaning to local jurisdictions. We think the reference to "interlocal" agreement should remain in the bill.

I appreciate your consideration of our request.

Sincerely,

Melissa A. Wangemann  
General Counsel

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Topeka, KS 66603-3912  
785•272•2585  
Fax 785•272•3585

Sn Fed & State  
Attachment 7  
3-03-10



**DEPARTMENT OF THE ARMY**  
**OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY**  
**INSTALLATIONS AND ENVIRONMENT**  
**CENTRAL REGION ENVIRONMENTAL & GOVERNMENT AFFAIRS**  
**601 EAST 12<sup>TH</sup> STREET, SUITE 0417**  
**KANSAS CITY, MO 64106-2896**

February 26, 2010

Re: House Bill 2445

The Honorable Pete Brungardt  
Chairperson, Senate Committee on Federal and State Affairs  
Room 136-E  
Kansas State Capitol  
300 SW 10<sup>th</sup> Street  
Topeka, KS 66612

Dear Chairman Brungardt,

After reviewing the revisions proposed by Representative Powell to HB 2445 and discussing the proposed revisions with local government representatives, we recommend the suggestions on page 3 of his proposed changes at line 25 and page 4 of his proposed changes at line 9 not be adopted. It is our understanding that coordinating "with all jurisdictions named herein, and shall," imposes excessive coordination requirements for communities and the term "interlocal" proposed for replacement is a legal term local authorities would prefer to keep in the bill language. Because all other suggested revisions by Representative Powell do not substantially modify the intent and meaning of the bill language, we have no objection to their adoption.

Sincerely,

A handwritten signature in blue ink, which appears to read "S. Scanlon", is positioned above the typed name.

Stephen C. Scanlon  
DoD Regional Environmental Coordinator, Region VII