

SESSION OF 2006

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE
FOR SENATE BILL NO. 35**

As Recommended by House Committee on
Transportation

Brief*

House Sub. for SB 35 would allow a railroad company to sell its right-of-way that it owns in fee simple. (The owner is entitled to the entire property with unconditional power of disposition.)

Background

Bob Alderson appeared on behalf of Mid-States Port Authority in support of the bill. He stated, among other things, that the bill would clarify the circumstances under which railroad right-of-way may be conveyed and to whom it may be sold. He also said that the bill is in response to a Kansas Supreme Court case, *Stone v. U.S.D. No. 222*, 278 Kan. 166, 91 P.3d 1194 (2004). This case held that if the deed by which a railroad acquires property is a general warranty deed, without restriction how the property is to be used, or otherwise limits the railroad's use, the railroad acquires fee simple title. The bill would comport to this court decision.

The provisions in House Sub. for SB 35 were originally contained in HB 2854.

The fiscal prepared on HB 2854 indicates that bill would have no fiscal effect on the Kansas Department of Transportation's operations.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>