



2008 LEGISLATIVE HIGHLIGHTS

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AGRICULTURE AND NATURAL RESOURCES

Republican River Settlement Moneys

Sub. for SB 89 establishes the procedure for the distribution of moneys recovered from disputes relating to the Republican River Compact from either Colorado or Nebraska and creates the Republican River Water Conservation Projects-Nebraska Moneys Fund and the Republican River Water Conservation Projects-Colorado Moneys Fund. Out of the first moneys received from any dispute in any litigation from both Nebraska and Colorado involving the Republican River Compact, 100 percent will be credited to the Interstate Water Litigation Fund. When those moneys are credited to the Interstate Water Litigation Fund, moneys will be transferred from the Fund to the Interstate Water Litigation Reserve Account of the State General Fund until it reaches \$20 million. The Attorney General is to certify the expenses incurred in any litigation to resolve disputes with Nebraska and Colorado. After the amount required to be placed in the Interstate Water Litigation Fund Reserve Account is satisfied, any remaining moneys from Nebraska are to be deposited in the Nebraska Moneys Fund. Likewise, any remaining moneys from Colorado are to be credited to the Colorado Moneys Fund. Moneys in the two Republican River Water Conservation Projects funds will be expended for water conservation projects with priority given to those projects which will ensure that Kansas remains in compliance with the Republican River Compact and to fund conservation

projects in the Lower and Upper Republican River basins.

Food Service and Lodging Transfer

SB 584 transfers responsibility for the inspection and licensing of food service establishments and lodging facilities from the Department of Health and Environment (KDHE) to the Secretary of Agriculture effective October 1, 2008. The Division of Food Safety within the Department of Agriculture (KDA) will be the continuation of the KDHE program concerning food service and lodging following the transfer. The bill provides for the transfer and continuation of applicable rules and regulations, orders, real property, employees, and agency records as well as preserves any ongoing legal actions. Certain restrictions on the expenditure of appropriated funds by the Secretary of KDHE prior to the transfer are provided upon publication in the *Kansas Register* and prior to October 1, 2008. The Secretary of KDA and the Secretary of KDHE are to establish a mechanism for ongoing communication and access between the Division of Food Safety and the Division of Health of KDHE. KDHE will continue to be the lead agency for public health matters when human illness or disease occurs. The two agencies are required to cooperate in the investigation of food borne illnesses (effective October 1, 2008).

National Bio and Agro Defense Facility (NBAF)

Senate Sub. for HB 2001 authorizes the issuance of up to a net of \$105.0 million in revenue bonds for the purpose of supporting a capital improvement project relating

to the NBAF and requires the Kansas Bioscience Authority to approve any such capital improvement project, including infrastructure related improvements such as electrical, water and sewer and a central utility plant, prior to the issuance of any bonds by the Kansas Development Finance Authority. Debt service will be financed by the State General Fund or any other appropriate special revenue fund or funds, subject to appropriation by the Legislature. The term for debt service is not to exceed 20 years from the date of issuance. No debt service payments will be required prior to July 1, 2009.

Grain Commodity Commission Changes

HB 2897 allows the grain commodity commissions each to appoint a first purchaser as a member of the Commission

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in addition to the other two potential at-large members provided by law. The bill allows the assessment rate set by the corn and grain sorghum commissions to increase from not more than 5 mills per bushel to not more than 10 mills per bushel; the assessment rate set by the soybean commission to change from not more than 20 mills per bushel to one-half of 1 percent of the net market price received by the grower; the assessment rate set by the wheat commission to increase from not more than 10 mills per bushel to not more than 20 mills per bushel; the assessment rate set by the sunflower commission to increase from not more than seven and one-half mills per bushel (\$0.03) to \$0.06 per cwt; and, under most circumstances, prohibits any grain commodity commission from engaging in lobbying.

BUSINESS AND ECONOMIC DEVELOPMENT

Kansas Commission on Rural Policy

Sub. for SB 453 creates the Kansas Commission on Rural Policy. The Commission is tasked with developing recommendations for rural economic development based on four pillars: (1) Fostering leadership; (2) Youth retention; (3) Promoting and financing rural entrepreneurship through the coordination of existing programs; and (4) Wealth retention and generation.

The Commission will have a Board of Directors consisting of nine voting members, subject to confirmation by the Senate, each of whom must have outstanding knowledge in an area relating to rural policy and development. The members will serve four-year terms. The Secretary of Commerce, the Secretary of Agriculture, and the President of Kansas, Inc., will serve as *ex officio* members of the Board.

The Commission will develop recommendations for improving rural development efforts. The Commission must submit annual reports to the Legislature beginning in 2009. The Commission will not duplicate or compete with the functions of other state or federal agencies.

The Department of Commerce is authorized to provide administrative assistance to the Commission until September 1, 2010. By that date, it is anticipated that the Commission will find its own funding either through a direct appropriation or through the acceptance of grants. The Commission will sunset on July 1, 2011.

The bill also requires regional foundations to administer a regional business development fund to carry out their economic development projects. The bill also requires that 60.0 percent of the money in the fund be spent on job creation or retention and not more than 10.0 percent on administrative costs. These limits can be waived at the discretion of the Secretary of Commerce.

The bill also increases the Rural Housing Incentive Act population limits as follows: Cities with a population less than 40,000 (current law) to 60,000; in a county with a population less than 60,000 (current law) to 80,000; and Counties with a population less than 40,000 (current law) to 60,000.

KDFA Bonds for Specific Aviation Projects

Senate Sub. for HB 2006 amends the provisions of the Economic Revitalization and Reinvestment Act. The bill provides that the Kansas Development Finance Authority (KDFA) may issue bonds up to \$33.0 million plus certain bonding expenses for an eligible aviation project and in an aggregate principal amount not to exceed \$150.0 million for all eligible aviation projects. Under current law, KDFA can issue bonds of up to \$500.0 million plus certain bonding expenses for a project involving research, development, engineering, or manufacturing for an eligible business engaged in manufacturing (this provision remains in law).

On the bonds issued, the principal and interest payments are paid by income tax withholding moneys collected by the eligible aviation business from the company's employees. Under prior law, the interest on the bonds was to be paid, in whole or in part, by income tax withholding moneys collected by the eligible business

from employees involved in the eligible project.

In order to be eligible for income tax withholding bonds for the eligible aviation project, a person, corporation, partnership, or other entity doing business in Kansas must meet conditions imposed by the Secretary of Commerce which may include the following criteria: (1) Had an average payroll of at least \$300.0 million in the base eligibility period, which would be defined as the three taxable years immediately preceding the date of application for benefits under the Act; (2) Had paid an average gross compensation of at least \$50,000 per employee during the base eligibility period; (3) Had invested at least \$500.0 million in real and tangible personal property located and currently in use in Kansas; and (4) Was classified as being in the manufacturing sector using the North American Industrial Classification System (NAICS).

Aviation projects which are eligible for income tax withholding bonds are research, development, engineering, or manufacturing projects. The projects are required to be: (1) Undertaken by an eligible business relating to the development of a new or improved business component or product; (2) Proposed to invest a minimum of \$500.0 million in Kansas in direct connection with the project; and (3) Proposed to employ up to 4,000 full-time employees in Kansas for the project.

If the Secretary of Commerce finds that the application is from an eligible aviation business and that the project is an eligible aviation project, the Secretary may enter into an agreement for withholding tax bonds under the amended act. This agreement would be subject to review and approval by the State Finance Council. The bill prohibits the use of bond proceeds to increase financial benefits for the chief executive officer, chief financial officer, or any officers of the eligible business.

Kansas Home Inspectors Registration Board

HB 2315 creates the Kansas Home Inspectors Registration Board and

requires all individuals who conduct home inspections in counties with populations of more than 60,000 to register with the Board by July 1, 2009, unless they are specifically exempted by the bill. Home inspectors working in counties with populations of 60,000 or less would be required to register with the Board by January 1, 2011, unless they are specifically exempted by the bill. The bill also sets \$10,000 as the standard liability amount on errors or omissions for home inspectors, and requires inspectors to carry a minimum of \$100,000 in general liability insurance. Inspectors are prohibited from entering into contracts setting their liability below this amount, but it can be set higher if the customer agrees in writing.

Real Estate Brokers and Salespersons

HB 2746 amends the law concerning real estate brokers and salespersons regarding licensure and prohibited acts, and it creates a new section dealing with advertising by real estate brokers and salespersons. The Kansas Real Estate Commission has expanded authority to determine whether to grant or renew a real estate license. In addition, the bill sets out the prohibitions and guidelines for advertising by a licensee.



EDUCATION

Education Initiatives

SB 531 contained several major education initiatives: (1) Increase Base State Aid Per Pupil by \$59 (from \$4,433 to \$4,492) for the 2009 – 2010 school year and beyond; (2) Create Medicaid Replacement State Aid providing a portion (not to exceed \$9.0 million per year) of special education funding to school districts based upon the number of exceptional students receiving Medicaid services; (3) Create a Special Education Funding Task Force; and (4) Amend the high-density at risk weighting in the school finance plan by adding a medium-density at risk weighting eliminating drastic losses of funding with small changes in numbers of at risk pupils.



ELECTIONS AND ETHICS

Satellite Advance Voting

SB 65 expands to all counties the ability of county elections officers to designate places, other than the central county elections office, as satellite advance voting sites. Current law restricts this to counties with a population exceeding 250,000 (Sedgwick and Johnson counties).

Campaign Finance Reporting; Use of Public Resources for Express Advocacy

SB 196 makes a number of changes and additions to campaign finance reporting laws, including the addition of reporting requirements for campaign contributions and independent expenditures made during the 11-day “blackout period” just prior to primary and general elections. Additional reporting changes are made. The bill also addresses the use of public money and property to expressly advocate the nomination, election or defeat of a clearly identified candidate by: (1) Expanding to all municipalities the current restriction on the use of public funds, vehicles, machinery, equipment or supplies for express advocacy by a public officer or employee; and (2) Adding a further restriction, prohibiting any municipality from allowing any person to distribute express advocacy political brochures or other documents in any structure owned by the municipality unless each candidate for the office concerned is provided the same opportunity.

SB 562 addresses a number of election topics. The bill establishes a process whereby, beginning on January 1, 2010, every nursing facility, assisted living facility, and hospital-based long-term care unit could serve as a voting place for its residents who are registered to vote. With respect to mail ballot elections, effective upon publication in the *Kansas Register*, the bill prohibits a county election officer from mailing ballots to any inactive voter who (1) Appears to have moved to a location outside the county in which the voter

currently is registered or for whom mail cannot be forwarded, based on information provided by the postal service; and (2) Has been mailed a confirmation notice as required when the postal service provides such information. Beginning on July 1, 2008, the bill revises current requirements regarding when a primary election may be held for school district boards, city officers, and community college district boards so as to reduce the number of primaries.

Finally, the bill invalidates any provision of a restrictive covenant prohibiting the display of political yard signs of a certain size, 45 days before or two days after an election. The bill applies to any restrictive covenant in existence on the day the act becomes effective, which is upon publication in the *Kansas Register*.



ENERGY

Joint Committee on Energy and Environmental Policy; Nuclear Generation Facilities

SB 586 establishes the Joint Committee on Energy and Environmental Policy, an 11-member bipartisan committee composed of six members of the House of Representatives and five members of the Senate. The Committee may introduce legislation, and is required to submit an annual report of any findings and recommendations it deems necessary concerning energy and environmental policy. The report must be submitted before December 31 each year to the Legislature and to standing committees assigned to utility, energy, environment and natural resources issues.

The bill also requires the Kansas Corporation Commission to authorize regulated electric utilities to recover in consumers’ rates the cost of certain prudent expenditures for development of new nuclear generation capacity. The bill authorizes the cost of construction of a new nuclear generation facility to be included in the customer rates before the facility becomes operational.

Long-Term Care Insurance

SB 443 enacts the Long-Term Care Partnership Program Act to provide for the financing of long-term care through a combination of private insurance and medical assistance. Individuals who are partnership program policy beneficiaries would be eligible for assistance under the state's medical assistance program (Medicaid) using the asset disregard, a dollar-for-dollar asset protection (amount equal to insurance benefit payments would not be counted as assets in determining eligibility).

Credit Unions

Sub. for SB 535 enacts new law and amends existing statutes governing the field of membership (FOM) of, and the branching, merging, and other procedures for state-chartered credit unions. The bill requires a credit union's members to be linked by a common bond of occupation, association, or geographic area. A credit union that chooses to be limited by a geographic FOM could include one or more common bonds of occupation or association, if the employer or association is located in its geographic area. Under this new law, a geographic area could not consist of any congressional district or the entire state and provisions are created to address current geographic FOM using specified population data. Groups would be allowed to organize a credit union with multiple common bonds of association and occupation, under certain criteria.

Stranger-Originated Life Insurance

Senate Sub. for HB 2110 amends the Viatical Settlement Act of 2002 and enacts new requirements governing viatical settlements. "Stranger-originated life insurance" (STOLI) is defined in the Act and is designated as a "fraudulent viatical settlement act." A STOLI, generally, is an arrangement to initiate a life insurance policy

for the benefit of a third-party investor who, at the time of the policy's origination, has no insurable interest in the policyholder. The bill also clarifies the two-year prohibition on most sales of life insurance policies by the policyholder.



Health and Insurance Initiatives

House Sub. for SB 81 enacts the Health Care Reform Act of 2008, makes amendments to several health and insurance statutes, and establishes the Physician Workforce and Accreditation Task Force. The bill also appropriates moneys from the State General Fund for the Wichita Center for Graduate Medical Education (WCGME), contingent upon the submission of a request for research-oriented grant funding from the Kansas Bioscience Authority.

Insurance Initiatives. The bill: (1) Enacts new law to require insurers who offer group health insurance provide the option of establishing a premium only (cafeteria) plan (POP). Employers providing group health insurance may offer POPs. (2) Increases the maximum lifetime benefit for participants in the state High Risk Pool. (3) Extends the state continuation of coverage period for health insurance from 6 to 18 months. (4) Amends "health benefit plan" in the uniform policy provisions of the Insurance Code to include a section 125 plan (may be offered through High Deductible Health Plan). (5) Requires the state's employer contribution to any employee Health Savings Account (HSA) plan be equal to the employer contribution to any other state benefit plan offered to state employees.

Health Initiatives, Kansas Health Policy Authority directives. The bill: (1) Creates a definition in the Primary Care Safety Net Clinic Capital Loan Guarantee Act for a "provider-based indigent care clinic." (2) Adds the Commissioner of Education to the KHPA Board. (3) Defines a "medical home."

KHPA in conjunction with KDHE and state stakeholders, is required to develop systems and standards for the implementation and administration of a "medical home." (4) Directs notification to Medical Assistance recipients (issuance of medical card) to be provided on an annual basis. (5) Directs KHPA, subject to appropriations, to provide coverage under SCHIP in 2009 to children at or under 225 percent of the federal poverty guidelines; for 2010 and following, coverage would be at or under 250 percent of the 2008 guidelines. The SCHIP law also is amended to specify documentary evidence of citizenship or other lawful status necessary for eligibility determination. (6) Also amends the SCHIP law to allow contributions for health insurance premiums to be made to an HSA (if applicable) and specifies that payments for health insurance premiums could be made in conjunction with an employer sponsored health insurance premium assistance plan (ESI), providing that the supplemental benefits may be purchased outside of the capitated managed care plan. The bill deletes all references to a phased in premium assistance plan (had been adopted in 2007 SB 11).

Legislative Committees, Task Forces. The bill: (1) Amends the statutory authority of the Joint Committee on Children's Issues to specify the Committee is to study children's issues. The previous scope (oversight of SCHIP) is assigned to the Joint Committee on Health Policy Oversight. (2) Creates the 13-member Physician Workforce and Accreditation Task Force.

FY 2009 Appropriations; Funding Recommendations. The bill: (1) Appropriates \$1.5 million from the State General Fund for WCGME (contingent upon a submitted request to the Bioscience Authority). (2) Requires KHPA to establish and implement dental coverage for pregnant Medicaid beneficiaries (\$545,833); expansion of Medicaid eligibility and smoking cessation programs for pregnant women (approx. \$460,000); and statewide Community Health Records program (\$383,600). (3) Requires KDHE

to establish and implement a program to increase access to screenings for certain cancers (\$1.5 million). (4) Establishes a funding recommendation for Safety Net Clinics of \$2.5 million SGF. (5) Allows KHPA to establish a pilot program implementing access to care program for outreach to increase enrollment of children in Medicaid and HealthWave (two-year pilot; not to exceed \$550,000 each year). All funding recommendations are subject to appropriations from the State General Fund.

Prescription Monitoring Program Act, Pharmacy Act Amendments

Sub. for SB 491 enacts the Prescription Monitoring Program Act and creates the Prescription Monitoring Program Advisory Committee, the Methamphetamine Precursor Scheduling Task Force, and the Veterinary Prescription Monitoring Program Task Force. The bill also requires each pharmacy in Kansas to establish a continuous quality improvement program, and gives the Board of Pharmacy new authority to assess a civil fine against any nonresident pharmacy that fails to supply information requested by the Board.

Unused Medications Act

HB 2578 creates the Utilization of Unused Medications Act. The bill creates a voluntary program by which adult care homes, mail service pharmacies, and medical care facilities may donate unused medications to be distributed by indigent health care clinics, federally qualified health centers, or community mental health centers to Kansas residents who are medically indigent. The bill also establishes criteria regarding implementation of the program by the Board of Pharmacy.

Board of Healing Arts; Board of Nursing

HB 2620 gives the Board of Healing Arts new authority to place a licensee on probationary status and authorizes the Board, in certain circumstances, to take appropriate disciplinary action or enter

into a non-disciplinary resolution on the basis of a single action of a licensee that, if continued, would reasonably be expected to constitute professional incompetency or unprofessional conduct as those terms are defined in the Healing Arts Act. The bill also authorizes the Board to contract with one or more persons who are licensed to practice the healing arts and who are not members of the Board to provide advice and assistance as necessary. The bill creates a new statute that authorizes the Board of Nursing to require any applicant for an original license to practice as a professional nurse, practical nurse, or mental health technician to be fingerprinted and to submit to a state and national criminal history record check.

Satellite Dental Offices

HB 2781 allows dentists to own two satellite offices in addition to their primary location, so long as the satellite offices are within a 125-mile radius of the primary office, and are located in counties with a population of less than 10,000. The bill amends existing law, which requires dentists who own practices to be in the office(s) operating as a dentist or personally overseeing operations during a majority of the time the office(s) are open.



Child Custody and Military Deployment

House Sub. for SB 32 amends current law regarding divorce, child custody, and parenting time when a parent receives military deployment, mobilization, temporary duty orders, or unaccompanied tour. The bill requires permanent parenting plans which would include provisions for custody and parenting time upon deployment, mobilization, temporary duty, or unaccompanied tour. It would be presumed that such an agreement is in the best interest of the child.

Indemnification Agreements

House Sub. for SB 379 amends the law on contracts to prohibit a provision in

a construction contract, motor carrier transportation contract, or other agreement that requires the first party to secure against damages or losses caused by the second party's intentional acts or omissions. Additionally, the bill prohibits a provision in a covered contract that would require a party to provide liability coverage to another party, as an additional insured, for the other party's negligence, intentional acts, or omissions.

Stalking

House Sub. for SB 414 redefines the crime of stalking to make either a "course of conduct" targeted at a specific person or violation of a properly served protective order an essential element of the crime. "Course of conduct" means two or more acts over a period of time, however short, which evidence a continuity of purpose. The penalty for the crime of stalking is dependant upon which subsection the person is charged with and whether it is a first conviction or a subsequent conviction. The penalty ranges from a class A person misdemeanor to a level 5 person felony.

The bill requires all law enforcement agencies and prosecutors to adopt written policies regarding the protocol to be used when investigating or prosecuting an allegation of stalking.

Revised Kansas Code for Care of Children and the Revised Kansas Juvenile Justice Code

SB 435 primarily makes clarifying amendments to the Revised Kansas Code for Care of Children and the Revised Kansas Juvenile Justice Code. However, the bill added language to the statute on permanent custodianship that requires the consent of the parent to be in writing and acknowledged before a judge or officer authorized by law to take acknowledgments. If the acknowledgment is before a judge, the judge is required to advise the consenting parent of the consequences of consenting to the permanent custodianship. The bill also added language to authorize a court

to consider the result of action or inaction attributable to the parent when determining the unfitness of a parent in order to terminate the parental rights of the parent.

Hallucinogenic Drug

SB 481 amends current law to add the hallucinogenic drugs *salvia divinorum* (*salvinorum A*) and *datura stramonium* (gypsum weed or jimson weed) to the schedule I of the Kansas Controlled Substances Act. The bill makes it illegal to possess, use, or sell these drugs.

Implied Consent

HB 2617 requires a law enforcement officer to request a person to submit to a test for alcohol or drugs, or both, when the law enforcement officer has probable cause to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs; or the person was driving a commercial motor vehicle while having alcohol or other drugs in such person's system; or the person was under the age of 21 years while having alcohol or other drugs in such person's system; and "The person was operating or attempting to operate the vehicle under the influence of alcohol or drugs, or both, and was involved in a vehicle accident or collision resulting in serious injury or death and such person could be cited for any traffic offense." The bill authorizes the forced withdrawal of blood as well as urine, under the direction of a law enforcement officer.

Guardian and Conservator Act

HB 2644 amends existing law regarding the Guardian and Conservator Act by requiring that a petition for a guardian or conservator contain additional information including the age, date of birth, gender, place of employment, relationship to the petitioner and any personal or agency interest of the proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed conservatee. Such disclosure also requires details of any financial agency or other transactions

between the guardian or conservator and the ward or conservatee.

Sex Offenses

HB 2726 prohibits law enforcement personnel from requesting or requiring an alleged victim of sex offenses, including incest or aggravated incest, to submit to a polygraph examination or similar truth-telling device.

Age Discrimination—Domestic Violence Discrimination

HB 2771 amends the Kansas Age Discrimination in Employment Act to raise the age of protection from the prior 18 years of age to 40 years of age. The bill also adds a new provision stating that nothing in the Act can be construed to be inconsistent with the non-discrimination provisions under another provision of state or federal law.

The bill also allows the Department of Labor to establish rules and regulations necessary to enforce laws against discrimination in employment relating to domestic and sexual abuse victims. The bill also makes two changes to the Employment Security Law. The first allows the Department of Labor to not make refunds for contributions for less than \$5. Second, the bill requires employers or third-party administrators to file wage reports and contribution returns, and make payment of contributions, benefit cost payments, or reimburse payments electronically. The requirements will be phased in over the next three years. This requirement can be waived by the Secretary of Labor if an employer demonstrates a hardship in complying with these requirements.

Sealing Court Records

HB 2825 provides that, in a civil or criminal case, the court upon the court's own motion may hold a hearing or any party may request a hearing to seal or redact the court records or to close a court proceeding. Reasonable notice of such hearing must be given to all parties in the case. In a criminal case,

reasonable notice also has to be given to the victim if ascertainable. If the court grants the request, it must make and enter a written finding of good cause before closing the proceedings or granting leave to file the records under seal. Good cause to close a proceeding or seal or redact records does not exist unless the court makes a finding on the record that there exists an identified safety, property, or privacy interest of a litigant or a public or private harm that predominates the case and such interest or harm outweighs the strong public interest in access to court records and proceedings. The bill does not apply to the Kansas Code for Care of Children, the revised Kansas Juvenile Justice Code, the Kansas Adoption and Relinquishment Act, or to Supreme Court Rules which allow motions, briefs, opinions, and orders of the Court to identify parties by initials or by familial relationship. A court in these matters must be allowed to issue a protective order.



LOCAL GOVERNMENT

Various Local Government Provisions

HB 2217 adds and makes changes to the laws authorizing dissolution, disorganization or consolidation of townships. It allows for the creation of a new, consolidated fire district between the City of De Soto and Johnson County Fire District No. 3 and makes changes regarding other fire districts. Effective upon publication in the *Kansas Register*, existing law is amended to void all liens, existing on the property on and after January 1, 2003, on abandoned cemeteries for which the title has been vested in the municipality where the cemetery is located. The bill requires the governing body of any city to act upon any appointment made by the mayor, which is subject to approval, within 45 days of the mayor's appointment and makes related changes regarding the governing body's ability to reject a mayoral appointment. Finally, the bill requires all taxing subdivisions and municipalities to file electronically all required annual budget forms and related information, beginning in 2009.



RETIREMENT

Public Retirement Plans

House Sub. for Sub. for SB 309 modifies several public retirement plans, including the Kansas Public Employees Retirement System (KPERs) plans and the Washburn University retirement plan. The three major provisions in the bill: (1) Exempt retirement benefit payments from Kansas income tax for the retired employees of Washburn University who were covered by the university's 403(b) retirement plan; (2) Remove a June 30, 2008 sunset date and make permanent an exemption in the KPERs law regarding working after retirement. The exemption applies to nurses at certain state institutions who would be exempt from the statutory \$20,000 salary cap on retirees who return to work for the same KPERs participating employer from whom they retired. The state institutions that currently are participating employers are Osawatomie State Hospital, Larned State Hospital, Parsons State Hospital, Rainbow Mental Health Facility, Kansas Neurological Institute, the Kansas Soldiers' Home, and the Kansas Veterans' Home. The bill adds other participating state institutions, including the juvenile correctional facilities at Atchison, Beloit, Larned, and Topeka; and (3) Make a series of technical amendments to various statutes pertaining to the KPERs law, including the current plans and the authorized new plan that will be effective on July 1, 2009.

Post-Retirement Benefit Payment

Senate Sub. for HB 2390 authorizes a one-time post-retirement payment of \$300 to certain Kansas Public Employees Retirement System (KPERs), Kansas Police and Firemen's (KP&F) Retirement System, and the Retirement System for Judges members who are retirees, beneficiaries, and disabled members of the state, school and local groups and who have at least 10 years of service credit and retired or became disabled on or before July 1, 1998.

The bill passed by the Legislature authorizes a \$300 one-time benefit payment from the KPERs Trust Fund to retirees and beneficiaries of the state, school, and local groups. In addition, the bill establishes a repayment mechanism for the local group by raising local employer contribution rates for 10 years. Finally, the bill authorizes payments for certain eligible disabled members from the Insured Disability Benefit Fund. The funding for the KPERs, KP&F and Judges state groups and for the school group is authorized in the Omnibus appropriations bill.

Eligibility for the \$300 payments is specified as follows: (1) Retirees who retired on or before July 1, 1998, and have 10 or more years of service credit, and (2) Their joint survivors, and (3) Disability recipients who began receiving disability benefits on or before July 1, 1998.

Contingent Funding for State and School Groups; Implementation of HB 2390

Senate Sub. for HB 2946 (the Omnibus appropriations bill), authorizes funding to repay the KPERs Trust Fund for the cost of the \$300 payment to the state and school groups. In order for the post-retirement benefit payment to be authorized, both bills (HB 2390 and HB 2946, including certain sections in the Omnibus bill) require approval of the Governor. The Legislature established that the \$300 payment is contingent upon the following events and requirements in FY 2009 before disbursements may be made:

- (1) One section in Senate Sub. for HB 2946 provides that the \$300 payment is funded indirectly through the new expanded gaming revenues. As a result, the payment's funding is contingent on the upcoming Kansas Supreme Court decision on the constitutionality of the Kansas Expanded Lottery Act and subsequent receipts of expanded gaming revenues during FY 2009.
- (2) Another section in Senate Sub. for HB 2946 provides that a reimbursement of \$7.06 million for debt reduction, all from the Expanded Lottery Act Revenues Fund, must be transferred to the State General Fund as

partial reimbursement of \$36.1 million in principal and interest payments for pension obligation bonds that are appropriated in FY 2009. (3) First, if there is a favorable Supreme Court decision, and second, if there is adequate expanded gaming revenue, then the one-time \$300 payment will be paid on or after October 1, 2008.

The fiscal note for Senate Sub. for HB 2390 estimates the \$300 one-time payment will result in total costs of \$9.42 million, of which \$7.06 million is for the state and school groups (23,528 eligible members), \$2.1 million is for the local group (6,989 eligible members), and \$260,000 is for the disabled group (874 eligible members). The post-retirement benefit would be received by a total of 31,391 eligible members on or after October 1, 2008.

The fiscal note for Senate Sub. for HB 2946 is \$7.06 million, all from the State General Fund, to be reimbursed by a transfer of \$7.06 million from the Expanded Lottery Act Revenues Fund, in FY 2009.



SOCIAL SERVICES

Matching Liability Insurance Claimants Against Child Support Debtor Information

House Sub. for SB 273 authorizes the Secretary of Social and Rehabilitation Services to enter into a business agreement to match information about child support debtors against information about liability insurance claimants. Insurance companies that provide liability coverage are required to disclose information about a claimant, as instructed by the Secretary, if the claimant's aggregate claim totals \$1,000 or more.

Home and Community Based Services

House Sub. for SB 365 creates a comprehensive and coordinated system for long-term care services, including home and community based services, in the state of Kansas. The bill directs the Department on Aging, the Department of Social and Rehabilitation Services, and the Kansas

Health Policy Authority to design and implement the system, in consultation with stakeholders and advocates. In addition, an annual report is to be submitted to the Governor and the Legislature. The bill establishes the Joint Committee on Home and Community Based Services Oversight which is to review the number of individuals transferred from institutional settings to home and community based settings, the funding associated with the transfers and other related topics.



STATE FINANCES

FY 2008 and FY 2009 State Budget (SB 534 and Senate Sub. for HB 2946)

FY 2008. The approved amount for FY 2008 increases amounts approved by the 2007 Legislature by \$49.2 million from the State General Fund and \$541.8 million from all funding sources. Most of the State General Fund increase is reflected in the budgets of the Department of Education (\$24.4 million, primarily for increased school finance estimates), and the Adjutant General (\$11.1 million, primarily for additional disaster related expenditures). The increases in expenditures from all funding sources are largely reflected in the budgets of the Department of Transportation (\$172.0 million, primarily in capital improvement projects carried forward from FY 2007), the Adjutant General (\$116.7 million, primarily for additional disaster related expenditures) and the Department of Social and Rehabilitation Services and the state hospitals (\$79.7 million, largely for caseload adjustments). Approved FY 2008 State General Fund expenditures total \$6.138 billion, \$6.5 million above the amount recommended by the Governor. Approved expenditures from all funding sources total \$13.167 billion, \$51.7 million above the amount recommended by the Governor.

Prison Bonding Authority Adjustments. The 2008 Legislature also approved modifications to the prison bonding which had been authorized by the 2007 Legislature. The bonding authority was reduced from the previously approved \$39.5 million to \$20

million; a one-year moratorium was placed on the issuance of prison bonds; and the bonding authority was increased by one year.

FY 2009. For FY 2009, the approved amount is \$6.405 billion from the State General Fund and \$13.561 billion from all funding sources. The FY 2009 amount is \$10.9 million below the amount recommended by the Governor from the State General Fund and \$41.1 million below the amount recommended by the Governor from all funding sources. The approved FY 2009 State General Fund amount is \$266.7 million, or 4.3 percent, above the approved FY 2008 amount, while the approved FY 2009 expenditures from all funding sources are an increase of \$394.1 million, or 3.0 percent, above the approved FY 2008 amount. The State General Fund increase is primarily attributable to school finance funding included in 2006 SB 549, and other school finance adjustments (\$165.9 million); and state employee salary increases (\$42.4 million). The approved number of full-time equivalent (FTE) positions totals 42,076.3 for FY 2009, an increase of 17.7 FTE positions from the FY 2008 approved amount of 42,058.6.

Other Legislation Containing Appropriations. In addition, four other bills approved by the 2008 Legislature include direct appropriations of FY 2009 funding: Senate Sub. for HB 2916 contains appropriations for the FY 2009 pay plan recommendations approved by the Legislature (\$82.2 million, including \$42.4 million from the State General Fund); HB 2858 includes multi-year State General Fund appropriations (\$295,000 in FY 2009) for the Kansas Academy of Math and Science (KAMS) in the budget of the Board of Regents; Senate Sub. for HB 2923 appropriates \$60,000, all from the State General Fund, in FY 2009 to fund a new position in the budget of the Kansas Commission on Veterans' Affairs, and adds \$75,392, all from the State General Fund, in FY 2009 in the budget of the Department of Wildlife and Parks to provide annual hunting and fishing licenses to certain honorably discharged veterans

with certified service-related disabilities; and House Sub. for SB 81 appropriates \$1.5 million, all from the State General Fund, in FY 2009 to the Wichita Center for Graduate Medical Education (WCGME) in the budget of the University of Kansas Medical Center. (Note: identical funding of \$1.5 million, all from the State General Fund, is included in the Omnibus appropriation bill, but will lapse once House Sub. for SB 81 becomes law). Amounts appropriated in the first three other bills are included in the FY 2009 approved budget amount.

Economic Development Initiatives Fund and State Water Plan Adjustments. To partially address projected shortfalls in the Economic Development Initiatives Fund (EDIF) in FY 2009, the 2008 Legislature authorized expenditure reductions and reductions to transfers from the EDIF. In the budget of the Kansas Technology Enterprise Corporation, a reduction of \$500,000 in expenditures from the agency's operations, assistance and grants account was approved, along with a reduction of the same amount in the EDIF transfer to the account. In addition, reductions in a number of transfers from the EDIF fund to other special revenue funds also were approved, including a \$1.25 million reduction in the transfer to the Kansas Economic Opportunity Initiatives Fund (from \$2.5 million to \$1.25 million), deletion of a \$125,000 transfer to the Small Employer Cafeteria Plan Development Fund, a reduction of \$1.6 million (from \$2.0 million to \$0.4 million) in the EDIF transfer to the Kansas Qualified Biodiesel Fuel Producer Incentive Fund, and a \$0.5 million reduction in the transfer to the Association Assistance Plan Fund. In addition, to partially address a projected shortfall in the State Water Plan Fund, the transfer from the EDIF to the State Water Plan Fund was increased by \$1.0 million, from \$2.0 million to \$3.0 million.

Major Items of Expenditure. In addition to pay plan changes contained in Senate Sub. for HB 2916, other major items in the approved FY 2009 budget include: State General Fund expenditures for the Department of Education increase by

\$165.9 million or, 5.3 percent (primarily for additional funding included in 2006 SB 549, the school finance bill, which increases Base State Aid Per Pupil (BSAPP) by \$59 in FY 2009 (from \$4,374 to \$4,433); State General Fund expenditures for the Health Policy Authority increase \$34.2 million, or 7.1 percent, largely for caseload adjustments; The Legislature approved \$9.4 million, including \$7.1 million from the State General Fund, for a \$300 one-time payment to **Kansas Public Employees Retirement System** retirees and disabled members with at least 10 years of service who retired on or before July 1, 1998. The State General Fund expenditure will be reimbursed with a transfer from the Expanded Lottery Act Revenues Fund to the State General Fund of the same amount.



STATE GOVERNMENT

Governmental Operations Accountability

Sub. for Sub. for SB 316 requires the Legislative Post Audit Committee to direct the Post Auditor to conduct at least four audits each year of state agencies or agency programs, under the Kansas Governmental Operations Accountability Law (K-GOAL). The Committee will choose specific audit topics from a list compiled by the Post Auditor but suggested by interested parties, including members of the general public. Each audit may determine whether the agency is still needed and whether the agency or program could be operated more efficiently and still fulfill its intended purpose. Select additional legislative committees may review the operations of the state agency or program that is audited.

The bill also includes the Kansas Taxpayer Transparency Act, requiring the Secretary of Administration to create a searchable website where the public can access certain state and local revenue and expenditure information, by March 1, 2009. A Public Finance Transparency Board will advise the Secretary on the website's content, format, and reports. State agencies must provide information requested by the Secretary to implement the Act.

Amusement Rides Inspection and Regulation

Senate Sub. for HB 2504 requires amusement rides operated in the State of Kansas to have a valid certificate of inspection. No amusement ride can be operated unless non-destructive testing of the ride by standards of the American Society for Testing and Materials has been documented. Amusement rides erected at a permanent location will have to be self-inspected by a qualified inspector every 12 months. Temporary amusement rides will have to be self-inspected every 30 days. A visible inspection decal is required to be posted in plain view on or near the amusement ride. In addition, the safety

instructions for the ride must be posted in a location where they can easily be read.

The bill requires operators to have satisfactorily completed training, which includes instruction on operation procedures, duties of the operator, safety and emergency procedures, and demonstration of physical operation of the ride. No amusement ride may be operated unless the name of each trained operator and a certificate of each operator's completion of such training is available to any person contracting with the owner for the amusement ride's operation.

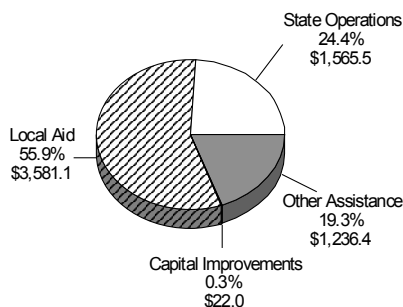
The bill requires patrons, by participation, to accept the risks inherent in such participation by exercising the judgement of and acting in a manner of an ordinary prudent person, obey all instructions and warnings, and refrain from participation in an amusement ride while under the influence of drugs or alcohol. A patron or patron's parent or guardian is required to report any injury sustained on the ride. The failure to report an injury will not affect the patron's right to civil action. The bill requires the operation of the ride to be discontinued if a serious injury occurs, and operation can not be resumed until the ride has been inspected.

If an owner or operator knowingly operated an amusement ride in violation of the Act, it is a class B misdemeanor. It will be a class C misdemeanor to knowingly violate inspection requirements or not have an inspection certificate, to fail to keep maintenance and inspection records, and to fail to post safety instructions.

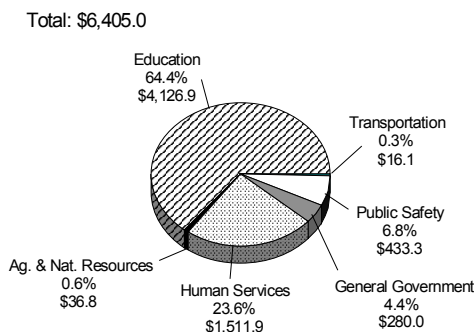
The Attorney General or the county or district attorney in the county where the amusement ride is operated can apply to the district court for an order enjoining operation of an amusement ride operated in violation of the Act. The governing body of any city or county can establish and enforce safety standards.

In addition, the Secretary of Labor is required to adopt rules and regulations specifying

FY 2009 STATE GENERAL FUND EXPENDITURES
By Major Purpose of Expenditure
As Approved by the 2008 Legislature
(in Millions)



FY 2009 STATE GENERAL FUND EXPENDITURES
By Function of Government
As Approved by the 2008 Legislature
(In Millions)



programs that issue certification. The Secretary is to develop an inspection checklist on the Department of Labor's website. Finally, the Secretary is required to conduct random inspections and issue a warning citation before any citation can be issued for a first violation, but no criminal proceedings can be brought against any owner or operator.

State Employee Compensation

Senate Sub. for HB 2916 creates a new state pay plan for Executive Branch classified state employees and provides salary increases for all state employees in FY 2009. The bill provides \$82.2 million (including \$42.4 million from the State General Fund) in FY 2009 for various state employee salary adjustments. Classified employees will receive a base salary adjustment of 2.5 percent, while the appointing authority of unclassified employees will receive a merit pool of 2.5 percent to be distributed as determined by the appointing authority. The bill also provides an additional salary increase for selected classified employees (basic vocational classes) to move their salaries closer toward their respective market rates. Longevity bonus payments will be continued for all current employees, but new employees hired in FY 2009 and thereafter will not be eligible for longevity bonus payments. The bill also establishes five different pay plans for classified employees: Basic Vocational; General Classified; Management; Professional Individual Contributor; and Protective Services. In addition, the bill authorizes additional out-year appropriations for below market pay adjustments for classified employees in FY 2010 through FY 2013.



TAXATION

State Court of Tax Appeals—Creation

Sub. for HB 2018 renames the State Board of Tax Appeals (BOTA) the State Court of Tax Appeals (COTA) and makes a number of other changes relative to the composition and duties of that entity, which is construed

to be an administrative law court within the executive branch of government. Various sections provide for the transfer of all jurisdiction, rights, powers, duties, and functions of BOTA to COTA. In addition to the three board members, who are renamed as “tax law judges,” the bill creates a new position, chief hearing officer. The chief hearing officer, who will serve as a judge *pro tempore* of the Court, will be appointed by the Governor and subject to Senate confirmation. Any member of BOTA appointed prior to July 1, 2008 may continue to serve as a judge until his or her term expires. Additional language clarifies that the Governor may reappoint any judge, including the chief hearing officer, to additional four-year terms. All judges and the chief hearing officer are required to be selected with special reference to tax, legal, or accounting training and experience. Existing requirements that at least one member be a certified public accountant and another be a lawyer are retained relative to the judges. A prohibition against more than one member from any congressional district is retained but modified such that it may be waived if the Governor, after exercising due diligence, has been unable to find a qualified replacement within 90 days of a vacancy.

Income Tax, Property Tax, Sales Tax

Senate Sub. for HB 2434 makes a number of changes in income tax, property tax, and sales tax law.

SELECTED INCOME TAX PROVISIONS

Corporation Income Tax Provisions. New language provides for greater apportionment of business income, effective in tax year 2008, by authorizing the state to use the functional test (in addition to the current transactional test) as a method for identifying such income.

A second new provision clarifies the definition of gross receipts to prevent companies from utilizing “income churning” – a practice that inflates the denominator of the sales factor of the apportionment

formula by including certain extraordinary items.

Finally, the top corporation income tax rate, which is effective for taxable incomes above \$50,000, is reduced from 7.35 percent to 7.10 percent, effective for tax year 2008; 7.05 percent for tax years 2009 and 2010; and to 7.00 percent for tax year 2011 and thereafter.

Individual Income Tax—Reciprocity. One section disallows a Kansas individual income tax deduction relative to certain property tax and assessments paid in other states by residents of those states when such states have similarly prevented Kansas residents from claiming property taxes and assessments paid in Kansas as income tax deductions. The disallowance, which is structured as an “addition modification” to federal adjusted gross income prior to the determination of Kansas adjusted gross income, is retroactive to tax year 2007.

Income Tax Credits—Disaster Relief. The bill provides income, premiums or privilege tax credits for certain qualified capital investments made in businesses located in and around nine cities (Chanute, Coffeyville, Erie, Fredonia, Greensburg, Independence, Iola, Neodesha, and Osawatimie) damaged during two specific federal disaster declarations in 2007.

The maximum amount of credits is capped at \$5.0 million for any given year.

SAFE Senior Tax Credit Provisions. The bill enacts the Selective Assistance for Effective Senior Relief (SAFE Senior) Act, which provides a refundable income tax credit beginning in tax year 2008 that will be available to certain senior citizens to help reimburse a portion of property taxes paid on their homesteads.

Those taxpayers age 65 or older with household income of 120 percent or less of the federal poverty level for two persons (currently \$16,800) are eligible to claim the tax credit, which is equivalent to 45 percent of property taxes actually and

timely paid on real or personal property used for residential purposes which was also their principal place of residence. Beginning in tax year 2011, the credit increases to 75 percent of such amount.

The SAFE Senior credit is supplemental to the Homestead Property Tax Refund Act, and taxpayers may not claim the credit for a given tax year if they have also claimed a Homestead refund.

SELECTED PROPERTY TAX PROVISIONS

Exemption for Beds, Bodies, and Boxes. The bill clarifies that the property tax exemption for farm machinery and equipment includes certain beds, bodies, and boxes attached to motor vehicles actually and regularly used for farming or ranching operations.

Penalties—Late Filing by Utilities. Additional sections enact assessed valuation penalties for the late filing of certain property tax returns public utilities are required to file with the Director of Property Valuation, and for any property of public utilities which has escaped taxation.

Exemption for Certain Personal Property. Another section provides a property tax exemption, effective in tax year 2009, for certain property classified as “all other tangible personal property” which has a purchase price of \$750 or less.

Exemption for Certain Single-Parent Family Housing. The bill adds a section to exempt certain real and personal property that is used for housing low-income single-parent families. The property must be used by a religious or charitable organization exclusively for the temporary housing (24 months or less) of limited or low-income single-parent families in need of financial assistance. The single parent must be enrolled in a life-training skills program.

Higher Education Exemption Clarification. Additional language clarifies the existing property tax law to provide that certain real and personal property leased and used for research and development at a postsecondary educational institution will retain exempt status.

An additional exemption is extended to buildings and personal property located on property of the University of Kansas or a related endowment association and owned or operated by a Kansas not-for-profit entity for the purpose of strategic technology acquisition and commercialization incubation.

SELECTED SALES TAX PROVISIONS

Not-for-Profit Exemptions. New sales tax exemptions are provided for entry or participation fees, charges or tickets by Guadalupe Health Foundation for such group’s annual fund-raising event for the purpose of providing health care services for uninsured workers; and for purchases by or on behalf of Wayside Waifs, Inc., relative to an annual fund-raising event to support the care of homeless and abandoned animals, animal adoption efforts, education programs for children, efforts to reduce animal overpopulation, and animal welfare services, as well as all sales by or on behalf of such group (including entry or participation fees or charges).

Disaster-Related Exemptions. The bill provides a sales tax exemption relative to certain purchases incurred in the construction, reconstruction, enlarging, or remodeling of business facilities located in counties declared to be disaster areas pursuant to Presidential Disaster Declaration DR 1711, provided such facilities were damaged or destroyed by flooding or other severe weather. Project exemption certificates must be obtained within 60 days of the effective date of the legislation (publication in the *Kansas Register*).

Tax-Based Financing of Capital Improvements

Senate Sub. for HB 2590 provides for the financing of certain capital improvement and other projects in various counties. Brown, Barton, Butler, Jefferson, and Wilson counties are granted new sales tax authority for a variety of purposes. Any such taxes imposed first require the approval of voters. An additional section provides for the transfer of certain severance tax receipts

to a new capital improvements fund for Wilson County that under prior law would have been set aside for the county’s special trust account.



TRANSPORTATION

Regulation of Micro Utility Trucks

Senate Sub. for HB 2119 defines micro utility trucks and regulates their operation. The bill makes it unlawful to operate a micro utility truck on any interstate, federal, or state highway; within the corporate limits of any city unless authorized by such city; or on any public highway or street unless the vehicle complies with equipment requirements for lamps, brakes, and other miscellaneous equipment (e.g., horns, mufflers). The bill includes a micro utility truck among nonhighway vehicles, and their owners will therefore be required to obtain non-highway titles. Also, on the list of types of vehicles that need not be registered, the bill replaces work-site utility vehicles with micro utility trucks. The fine for unlawful operation of a micro utility truck will be \$60.



VETERANS

Benefits for Active-Duty Military Personnel and for Veterans

Senate Sub. for HB 2923 makes multiple changes to provisions having to do with active-duty military personnel and with veterans. Those for active-duty personnel include increasing the one-time activation payment, allowing deferral of property taxes in the case of a foreign deployment, and allowing their eligibility for distinctive military license plates previously available only to veterans. Those for veterans include appropriating funds for a new position at the Kansas Commission on Veterans Affairs, allowing the Kansas Lottery to sell Veterans Benefit Game lottery tickets year-round (proceeds currently benefit National Guard scholarships and veterans homes), and providing annual hunting and fishing licenses at no cost to honorably discharged veterans with certified service-related disabilities of 30.0 percent or more.

Kansas Quick Facts

POPULATION 2000-2007 – ESTIMATED

Kansas July, 2007 Population Estimate:	2,775,997
Increase from 2000 Census:	2.5%
Largest County: Johnson	526,319
Smallest County: Greeley	1,297
Greatest percent growth: Johnson	14.5%
Greatest percent decline: Lane	(18.2)%

NATURAL INCREASE (DECREASE) BIRTHS-DEATHS

Greatest natural decrease: Marion	(376)
Greatest natural increase: Johnson	32,639

MIGRATION

Net internal migration – Statewide	(67,315)
Net international migration – Statewide	46,314
Highest net internal in-migration: Johnson	34,863
Highest net internal out-migration: Wyandotte	(19,705)
Highest net international in-migration: Johnson	9,230

Source: Population Division, U.S. Census Bureau, March 20, 2008

PER CAPITA 2007 PERSONAL INCOME ESTIMATES (MARCH 2008)

Kansas	\$ 36,768
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PER CAPITA 2006 PERSONAL INCOME ESTIMATES

COUNTIES

Highest – Johnson	\$ 50,781
Lowest – Comanche	\$ 20,073

AREAS

Kansas Metropolitan Portion	\$ 38,349
Kansas Non-metropolitan Portion	\$ 28,656

COMBINED STATISTICAL AREAS

Kansas City – Overland Park – KCMO	\$ 37,154
Wichita – Winfield	\$ 37,046

METROPOLITAN STATISTICAL AREAS

Lawrence	\$ 29,137
Topeka	\$ 31,679

Source: U.S. Bureau of Economic Analysis, April 2008