

HOUSE BILL No. 2036

By Representatives Otto, Carlson, DeGraaf, Donohoe, Garber, Grange, Osterman,
Rhoades and B. Wolf

1-19

1 AN ACT relating to interpretation of federal statutes, regulations and
2 national codes; amending K.S.A. 77-619 and repealing the existing
3 section.

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

6 New Section 1. In the event a Kansas state agency is interpreting or
7 enforcing a federal regulation, a federal statute or a national building or
8 fire code and such regulation, statute or code is interpreted less
9 restrictively by state officials in other states, such less restrictive
10 interpretation shall be applicable in Kansas unless such less restrictive
11 interpretation conflicts with a Kansas statute, regulation or local
12 ordinance or resolution.

13 Sec. 2. K.S.A. 77-619 is hereby amended to read as follows: 77-619.

14 (a) The court may receive evidence, in addition to that contained in the
15 agency record for judicial review, only if it relates to the validity of the
16 agency action at the time it was taken and is needed to decide disputed
17 issues regarding:

18 (1) Improper constitution as a decision-making body; or improper
19 motive or grounds for disqualification, of those taking the agency action;

20 ~~or~~

21 (2) unlawfulness of procedure or of decision-making process; *or*

22 (3) *interpretations in other states when a party is claiming the*
23 *application of section 1, and amendments thereto.*

24 (b) The court may remand a matter to the agency, before final
25 disposition of a petition for judicial review, with directions that the
26 agency conduct fact-finding and other proceedings the court considers
27 necessary and that the agency take such further action on the basis thereof
28 as the court directs, if:

29 (1) The agency was required to base its action exclusively on a
30 record of a type reasonably suitable for judicial review, but the agency
31 failed to prepare or preserve an adequate record;

32 (2) the court finds that (A) new evidence has become available that
33 relates to the validity of the agency action at the time it was taken, that
34 one or more of the parties did not know and was under no duty to
35 discover, or did not know and was under a duty to discover but could not

1 reasonably have discovered until after the agency action, and (B) the
2 interests of justice would be served by remand to the agency;

3 (3) the agency improperly excluded or omitted evidence from the
4 record; or

5 (4) a relevant provision of law changed after the agency action and
6 the court determines that the new provision may control the outcome.

7 Sec. 3. K.S.A. 77-619 is hereby repealed.

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