

Journal of the House

FORTY-SEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, March 19, 2012, 10:00 a.m.

The House met pursuant to adjournment with Speaker O'Neal in the chair.

The roll was called with 123 members present.

Reps. Peterson and B. Wolf were excused on excused absence by the Speaker.

Present later: Rep. B. Wolf.

Reps. Hermanson and LeDoux were excused later in the day on verified illness.

Prayer by guest chaplain, the Rev. Paul Tessaro, pastor, St. Paul Lutheran Church, Clay Center, and guest of Rep. Swanson:

Heavenly Father,

We thank You for Your presence with us today, for bringing us to the beginning of this new week. Thank you for the opportunities to serve You in this new day and new week. Grant wisdom and strength to our Representatives as they make difficult decisions in these times of uncertainty and struggle for many. We pray the same wisdom and strength for our Senators and Governor Brownback.

We pray for Your blessing to be upon all areas of our state, on our farms and fields, on our cities and towns and each of our citizens. Grant peace, safety and prosperity according to Your divine will.

We pray also for our nation's armed forces who are serving to keep and restore peace. Protect them, lead them and give them success as they serve to bring stability in many areas. Guard also their families as they anxiously await the return home of their loved ones.

Father, we pray also for the family and friends of Don Dunn. Please bring them comfort during these difficult times.

As we go through life we are often faced with difficult decisions, sometimes there is no clear solution, sometimes we are forced to choose the lesser of two evils. In those situations, let us, as Luther stated, "Sin boldly." Not because we promote sin, but because Your grace is sufficient for difficult situations, and for all of life. In that grace we pray, live and have our being. In Jesus' name. Amen.

The Pledge of Allegiance was led by Rep. Calloway.

Kansas Trivia Question – What is the largest free outdoor concrete municipal swimming pool in the world?

Answer: The Big Pool in Garden City's Finnup Park, said to hold 2.5 million gallons of water.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Agriculture and Natural Resources: **SB 314, SB 447.**

Appropriations: **SB 311, SB 436.**

Committee of the Whole: **Sub SB 397; SCR 1616.**

Federal and State Affairs: **SB 379, SB 390.**

Financial Institutions: **SB 431.**

CONSENT CALENDAR

No objection was made to **SB 353** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

H Sub for SB 294, AN ACT making and concerning appropriations for fiscal years ending June 30, 2012, June 30, 2013, June 30, 2014, and June 30, 2015, for state agencies; authorizing and directing payment of certain claims against the state; authorizing certain transfers, capital improvement projects and fees imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2011 Supp. 2-223, 12-5256, 55-193, 72-8814, 74-50,107, 74-99b34, 75-2319, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-34,171 and 82a-953a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 87; Nays 36; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alford, Arpke, Aurand, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Colloton, Crum, DeGraaf, Denning, Donohoe, Fawcett, Garber, Goico, Gonzalez, Goodman, Gordon, Grange, Gregory, Grosserode, Hayzlett, Hedke, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, Kleebe, Knox, LeDoux, Mast, McLeland, Meigs, Mesa, Montgomery, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Peck, Phillips, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Smith, Spalding, Suellentrop, Swanson, Vickrey, Weber, K. Wolf, Worley.

Nays: Ballard, Bethell, Burroughs, Carlin, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Grant, Henderson, Henry, Kuether, Landwehr, Lane, Loganbill, Mah, McCray-Miller, Meier, Pauls, Phelps, Ruiz, Slattery, Sloan, Tietze, Trimmer, Tyson, Victors, Ward, Wetta, Williams, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Peterson, B. Wolf.

The substitute bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: We vote yes on **H Sub for SB 294** but believe that the deficiencies in this budget can and must be corrected later in the process. We shouldn't have to choose between adequately funding K-12 and fully supporting KDOT's T-Works. Funding early childhood programs through the CIF is unnecessarily restrictive and funds should be restored at omnibus. If we demand the courts be efficient then we must provide resources to begin transitioning to e-filing, and swift access to justice will be threatened if we won't fund additional court personnel. This budget is only a start. Improvement is possible. – DON HINEMAN, J. ROBERT BROOKENS, VERN SWANSON, RICH PROEHL, CHARLIE ROTH, RON WORLEY, KAY WOLF, DON HILL, SHERYL SPALDING, TOM MOXLEY, BARBARA BOLLIER

Mr. Speaker: This is a budget of misguided priorities and missed opportunities. It fails to restore any cuts schools have endured in recent years. It cuts funding for children's programs and eliminates funding for programs for seniors and the disabled, all while adding \$1 million to the Legislature's own budget and growing a \$500 million ending balance. If we can afford new tax cuts for big businesses and the wealthiest Kansans, we can afford to properly fund public education and essential state services. Unfortunately, this budget ignores those needs. For that reason, I vote NO on **H Sub for SB 294**. – Bill Feuerborn, Jerry Henry, Stan Frownfelter, Janice L. Pauls, Ed Trimmer, Valdenia Winn, Melanie Meier, Annie Kuether, Judith Loganbill, Gail Finney, Vincent Wetta, Ann Mah, Doug Gatewood, Louis Ruiz, Bob Grant, Sydney Carlin, Melody McCray-Miller, Jerry Williams, Eber Phelps, Barbara W. Ballard, Annie Tietze, Mike Slattery, Harold Lane, Geraldine Flaharty, Nile Dillmore, Paul Davis, Kathy Wolfe Moore, Tom Burroughs

On motion of Rep. Siegfried, the House resolved into the Committee of the Whole, with Rep. Kinzer in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Kinzer, Committee of the Whole report, as follows, was adopted: Recommended that **SB 252**; **HB 2777**; **SB 280** be passed.

HB 2718 (see Afternoon Session); **Sub HB 2709** (see Afternoon Session); **SB 261**; **HB 2425** (see Afternoon Session) be passed over and retain a place on the Calendar.

Committee report to **SB 258** be adopted; and the bill be passed as amended.

Committee reports to **HB 2018** be adopted; and the bill be passed as amended.

Committee report to **SB 120** be adopted; also on motion to recommend the bill favorably for passage, the motion did not prevail.

On motion of Rep. Bowers, **SB 300** be amended on page 30, in line 41, by striking "Kansas Register" and inserting "statute book"; and the bill be passed as amended.

On motion of Rep. Siegfried, pursuant to House Rule 2311, Rule 1704 be suspended or the purpose of allowing designated members to speak more than twice on **H Sub for SB 259**, those members being Reps. Grange, Ruiz, Flaharty, Johnson, Roth, M. Holmes and Trimmer.

Committee report recommending a substitute bill to **H Sub for SB 259** be adopted; also, on motion of Rep. Grange be amended on page 4, following line 38, by inserting:

"(e) For a member to be eligible for an additional interest credit, the member must be employed by a participating employer both at the time when the system earned the interest and when the interest credit is paid out.";

On page 6, in line 21, by striking "(b)" and inserting "(a)"

Also, on further motion of Rep. Grange, **H Sub for SB 259** be amended on page 24, following line 3, by inserting:

"Sec. 29. K.S.A. 2011 Supp. 74-4927 is hereby amended to read as follows: 74-4927. (1) The board may establish a plan of death and long-term disability benefits to be paid to the members of the retirement system as provided by this section. The long-term disability benefit shall be payable in accordance with the terms of such plan as established by the board, except that for any member who is disabled prior to the effective date of this act, the annual disability benefit amount shall be an amount equal to $66\frac{2}{3}\%$ of the member's annual rate of compensation on the date such disability commenced. Such plan shall provide that:

(A) For deaths occurring prior to January 1, 1987, the right to receive such death benefit shall cease upon the member's attainment of age 70 or date of retirement whichever first occurs. The right to receive such long-term disability benefit shall cease (i) for a member who becomes eligible for such benefit before attaining age 60, upon the date that such member attains age 65 or the date of such member's retirement, whichever first occurs, and (ii) for a member who becomes eligible for such benefit at or after attaining age 60, the date that such member has received such benefit for a period of five years, or upon the date of such member's retirement, whichever first occurs.

(B) Long-term disability benefit payments shall be in lieu of any accidental total disability benefit that a member may be eligible to receive under subsection (3) of K.S.A. 74-4916, and amendments thereto. The member must make an initial application for social security disability benefits and, if denied such benefits, the member must pursue and exhaust all administrative remedies of the social security administration which include, but are not limited to, reconsideration and hearings. Such plan may provide that any amount which a member receives as a social security benefit or a disability benefit or compensation from any source by reason of any employment including, but not limited to, workers compensation benefits may be deducted from the amount of long-term disability benefit payments under such plan. However, in no event shall the amount of long-term disability benefit payments under such plan be reduced by any amounts a member receives as a supplemental disability benefit or compensation from any source by reason of the member's employment, provided such supplemental disability benefit or compensation is based solely upon the portion of the member's monthly compensation that exceeds the maximum monthly compensation taken into account under such plan. As used in this paragraph, "maximum monthly compensation" means the dollar amount that results from dividing the maximum monthly disability benefit payable under such plan by the percentage of compensation that is used to calculate disability benefit payments under such plan. During the period in which such member is pursuing such administrative remedies prior to a final decision of the social security administration, social security disability benefits may be estimated and may be deducted from the amount of long-term disability benefit payments under such plan. If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment other than a supplemental benefit

based solely on compensation in excess of the maximum monthly compensation taken into account under such plan, or any part thereof, is paid in a lump-sum, the amount of the reduction shall be calculated on a monthly basis over the period of time for which the lump-sum is given. As used in this section, "workers compensation benefits" means the total award of disability benefit payments under the workers compensation act notwithstanding any payment of attorney fees from such benefits as provided in the workers compensation act.

(C) The plan may include other provisions relating to qualifications for benefits; schedules and graduation of benefits; limitations of eligibility for benefits by reason of termination of employment or membership; conversion privileges; limitations of eligibility for benefits by reason of leaves of absence, military service or other interruptions in service; limitations on the condition of long-term disability benefit payment by reason of improved health; requirements for medical examinations or reports; or any other reasonable provisions as established by rule and regulation of uniform application adopted by the board.

(D) Any visually impaired person who is in training at and employed by a sheltered workshop for the blind operated by the secretary of social and rehabilitation services and who would otherwise be eligible for the long-term disability benefit as described in this section shall not be eligible to receive such benefit due to visual impairment as such impairment shall be determined to be a preexisting condition.

(2) (A) In the event that a member becomes eligible for a long-term disability benefit under the plan authorized by this section such member shall be given participating service credit for the entire period of such disability. Such member's final average salary shall be computed in accordance with subsection (17) of K.S.A. 74-4902, and amendments thereto, except that the years of participating service used in such computation shall be the years of salaried participating service.

(B) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding retirement, such member's final average salary shall be adjusted upon retirement by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's final average salary shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's final average salary shall be adjusted upon retirement by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent *per annum*, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(C) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding death, such member's current annual rate shall be adjusted by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's current annual rate shall be adjusted upon death by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's current annual rate shall be adjusted upon death by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers published by the bureau of labor statistics of the United States

department of labor minus 1%; or (ii) four percent *per annum*, measured from the member's last day on the payroll to the month that is two months prior to the month of death, for each year of disability after July 1, 1998.

(3) (A) To carry out the legislative intent to provide, within the funds made available therefor, the broadest possible coverage for members who are in active employment or involuntarily absent from such active employment, the plan of death and long-term disability benefits shall be subject to adjustment from time to time by the board within the limitations of this section. The plan may include terms and provisions which are consistent with the terms and provisions of group life and long-term disability policies usually issued to those employers who employ a large number of employees. The board shall have the authority to establish and adjust from time to time the procedures for financing and administering the plan of death and long-term disability benefits authorized by this section. Either the insured death benefit or the insured disability benefit or both such benefits may be financed directly by the system or by one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in this state.

(B) The board may contract with one or more insurance companies, which are authorized and licensed to transact group life and group accident and health insurance in Kansas, to underwrite or to administer or to both underwrite and administer either the insured death benefit or the long-term disability benefit or both such benefits. Each such contract with an insurance company under this subsection shall be entered into on the basis of competitive bids solicited and administered by the board. Such competitive bids shall be based on specifications prepared by the board.

(i) In the event the board purchases one or more policies of group insurance from such company or companies to provide either the insured death benefit or the long-term disability benefit or both such benefits, the board shall have the authority to subsequently cancel one or more of such policies and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund.

(ii) In addition, the board shall have the authority to cancel any policy or policies of group life and long-term disability insurance in existence on the effective date of this act and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund. Notwithstanding any other provision of law, no premium tax shall be due or payable by any such company or companies on any such policy or policies purchased by the board nor shall any brokerage fees or commissions be paid thereon.

(4) (A) There is hereby created in the state treasury the group insurance reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. The cost of the plan of death and long-term disability benefits shall be paid from the group insurance reserve fund, which shall be administered by the board. Except as otherwise provided by this subsection, for the period commencing July 1, 2005, and ending June 30, 2006, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and

employer retirement contributions an amount equal to .8% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. For the period commencing July 1, 2006, and all periods thereafter, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to 1.0% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. Notwithstanding the provisions of this subsection, no participating employer shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on ~~April 1, 2010, and ending on June 30, 2010, and the period commencing on April 1, 2011, and ending on June 30, 2011~~ April 1, 2012, and ending on June 30, 2012.

(B) The director of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services a sum to pay the state's contribution to the group insurance reserve fund as provided by this section and shall present the same to the legislature for allowances and appropriation.

(C) The provisions of subsection (4) of K.S.A. 74-4920, and amendments thereto, shall apply for the purpose of providing the funds to make the contributions to be deposited to the group insurance reserve fund.

(D) Any dividend or retrospective rate credit allowed by an insurance company or companies shall be credited to the group insurance reserve fund and the board may take such amounts into consideration in determining the amounts of the benefits under the plan authorized by this section.

(5) The death benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as insured death benefit. The long-term disability benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as long-term disability benefit.

(6) The board is hereby authorized to establish an optional death benefit plan for employees and spouses and dependents of employees. Except as provided in subsection (7), such optional death benefit plan shall be made available to all employees who are covered or may hereafter become covered by the plan of death and long-term disability benefits authorized by this section. The cost of the optional death benefit plan shall be paid by the applicant either by means of a system of payroll deductions or direct payment to the board. The board shall have the authority and discretion to establish such terms, conditions, specifications and coverages as it may deem to be in the best interest of the state of Kansas and its employees which should include term death benefits for the person's period of active state employment regardless of age, but in no case, shall the maximum allowable coverage be less than \$200,000. The cost of the optional death benefit plan shall not be established on such a basis as to unreasonably discriminate against any particular age group. The board shall have full administrative responsibility, discretion and authority to establish and continue such optional death benefit plan and the director of accounts and reports of the department of administration shall when requested by the board and from funds appropriated or available for such purpose establish a system to make periodic deductions from state payrolls to cover the cost of the optional death benefit plan coverage under the provisions of this subsection

(6) and shall remit all deductions together with appropriate accounting reports to the system. There is hereby created in the state treasury the optional death benefit plan reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. All funds received by the board, whether in the form of direct payments, payroll deductions or otherwise, shall be accounted for separately from all other funds of the retirement system and shall be paid into the optional death benefit plan reserve fund, from which the board is authorized to make the appropriate payments and to pay the ongoing costs of administration of such optional death benefit plan as may be incurred in carrying out the provisions of this subsection (6).

(7) Any employer other than the state of Kansas which is currently a participating employer of the Kansas public employees retirement system or is in the process of affiliating with the Kansas public employees retirement system may also elect to affiliate for the purposes of subsection (6). All such employers shall make application for affiliation with such system, to be effective on January 1 or July 1 next following application.

(8) For purposes of the death benefit provided under the plan of death and long-term disability benefits authorized by this section and the optional death benefit plan authorized by subsection (6), commencing on the effective date of this act, in the case of medical or financial hardship of the member as determined by the executive director, or otherwise commencing January 1, 2005, the member may name a beneficiary or beneficiaries other than the beneficiary or beneficiaries named by the member to receive other benefits as provided by the provisions of K.S.A. 74-4901 *et seq.*, and amendments thereto.;

And by renumbering sections accordingly;

Also on page 24, in line 5, after "74-4920," by inserting "74-4927,";

On page 1, in the title, in line 9, after the semicolon by inserting "plan of death and long-term disability benefits;"; in line 10, after "74-4920," by inserting "74-4927,";

Also, on motion of Rep. M. Holmes, **H Sub for SB 259** be amended on page 24, following line 3, by inserting:

"Sec. 29. K.S.A. 2011 Supp. 74-4995 is hereby amended to read as follows: 74-4995. (a) Employer and employee contributions shall be governed by the provisions of K.S.A. 74-4919 and 74-4920, and amendments thereto. For purposes of contributions to and benefits under the Kansas public employees retirement system, compensation of a member of the legislature under this act shall be a monthly amount equal to: (1) The compensation to which the member was entitled for services as a member of the legislature during the ~~period January 15 to February 14, inclusive, of first 30 calendar days~~ of the most recent session in which the member has served; and (2) any amount to which the member makes an election pursuant to this subsection. In addition to the provisions of subsection (a)(1) and any election made pursuant to this subsection, the compensation of a member shall include an additional five days of compensation to which such member was entitled for services as a member of the legislature of the most recent session in which the member has served beyond the days provided for in subsection (a)(1). In addition to the provisions of subsection (a)(1), a member of the legislature may elect to participate with a rate of compensation that includes: (A) For service as a member after July 18, 1982, a monthly amount equal to $\frac{1}{12}$ of the annualized amount received for monthly allowance under subsection (c) of K.S.A. 46-137a, and amendments thereto; (B) a monthly amount equal to $\frac{1}{12}$ of the annualized

amount received for expenses allowance under subsection (b) of K.S.A. 46-137a, and amendments thereto; or (C) an amount equal to the combined amounts provided for in subsections (2)(A) and (2)(B). A member of the legislature who has filed an election to become a member of the system pursuant to the provisions of K.S.A. 74-4992, and amendments thereto, prior to July 1, 2006, shall file an election with the system to include any amounts specified in subsection (2)(A), (2)(B) or (2)(C) prior to August 1, 2006, except that nothing contained in this act shall be construed to permit a member of the legislature who has made an election pursuant to this section prior to the effective date of this act to revoke any such election previously made by such member. In the event that any such member fails to file such election prior to August 1, 2006, it shall be presumed that such member has elected to not include any amounts specified in subsection (2)(A), (2)(B) or (2)(C), and participate at a rate of compensation that includes only the amount provided in subsection (a)(1). A member of the legislature who files an election to become a member of the system pursuant to the provisions of K.S.A. 74-4992, and amendments thereto, on and after July 1, 2006, shall file an election with the system to include any amounts specified in subsection (2)(A), (2)(B) or (2)(C) at the same time that such member files the election to become a member of the system. In the event that any such member fails to file such election, it shall be presumed that such member has elected to not include any amounts specified in subsection (2)(A), (2)(B) or (2)(C), and participate at a rate of compensation that includes only the amount provided in subsection (a)(1).

(b) The employee rate of contribution shall be applied to any amounts to which a member has elected pursuant to the provisions of subsection (a)(2). The employee and employer contributions shall be remitted to the system quarterly with a report of such contributions as may be required by the board. Any changes in a member's rate of compensation and contributions as a result of any election mandated by this section for a member of the legislature who had filed an election to become a member of the system prior to July 1, 2006, shall be effective on October 1, 2006. All such elections pursuant to this section shall be in the form and manner prescribed by the board of trustees.

(c) Any member of the legislature making the election pursuant to subsection (a)(2) may not revoke such election while they remain a participating employee for service as a member of the legislature.;

And by renumbering sections accordingly;

On page 24, in line 5, after "74-4937," by inserting "74-4995,";

On page 1, in the title, in line 9, after the semicolon by inserting "members of legislature, rate of compensation;"; in line 10, after "74-4937," by inserting "74-4995,"

Also, on motion of Rep. Davis, **H Sub for SB 259** be amended on page 24, following line 3, by inserting:

"Sec. 29. K.S.A. 2011 Supp. 74-8768 is hereby amended to read as follows: 74-8768. (a) There is hereby created the expanded lottery act revenues fund in the state treasury. All expenditures and transfers from such fund shall be made in accordance with appropriation acts. All moneys credited to such fund shall be expended or transferred only for the purposes of reduction of state debt, state infrastructure improvements, the university engineering initiative act, ~~and~~ reduction of local *ad valorem* tax in the same manner as provided for allocation of amounts in the local *ad valorem* tax reduction fund and reduction of the unfunded actuarial liability of the

Kansas public employees retirement system attributable to the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, by the system.

(b) On July 1, 2012, July 1, 2013, July 1, 2014, July 1, 2015, July 1, 2016, July 1, 2017, July 1, 2018, July 1, 2019, July 1, 2020, and July 1, 2021, or as soon thereafter such date as moneys are available, the first \$10,500,000 credited to the expanded lottery act revenues fund shall be transferred by the director of accounts and reports from the expanded lottery act revenues fund in one or more substantially equal amounts, to each of the following: the Kan-grow engineering fund – KU, Kan-grow engineering fund – KSU and Kan-grow engineering fund – WSU. Each such special revenue fund shall receive \$3,500,000 annually in each of such years. Commencing in fiscal year 2014, after such transfer has been made, 75% of the remaining moneys credited to the fund shall be transferred on a quarterly basis by the director of accounts and reports from the fund to the Kansas public employees system fund to be applied to reduce the unfunded actuarial liability of the system attributable to the state of Kansas and participating employers under K.S.A. 74-4931 et seq., and amendments thereto, until the system as a whole attains an 80% funding ratio as certified by the board of trustees of the Kansas public employees retirement system.;

And by renumbering sections accordingly;

Also on page 24, in line 5, before "and" by inserting ", 74-8768";

On page 1, in the title, in line 9, before "amending" by inserting "authorized transfers from expanded lottery act revenues fund;"; in line 10, after "74-49,205" by inserting ", 74-8768";

Also, on motion of Rep. Worley, **H Sub for SB 259** be amended on page 9, in line 30, by striking "6%" and inserting "5%"; in line 40, by striking "6%" and inserting "5%";

Also, on further motion of Rep. Worley to amend **H Sub for SB 259**, the motion did not prevail.

Also, on motion of Rep. Grange, **H Sub SB 259** be amended on page 1, in line 19, before "shall" by inserting "and who makes an election as prescribed by section 29, and amendments thereto, or the default election in subsection (b)(2) of section 29, and amendments thereto, ";

On page 24, following line 3, by inserting:

"New Sec. 29. An employee first employed by a participating employer on or after January 1, 2014, shall elect to become a member of the plan established pursuant to section 1, *et seq.*, and amendments thereto, or the plan established pursuant to section 30 *et seq.*, and amendments thereto, by making an election within six months from such employee's first day of employment with a participating employer.

(b) (1) Elections made pursuant to this section shall be made on a form and in a manner prescribed by the board.

(2) An employee failing to make an election prescribed by this section shall be a member of the plan established pursuant to section 1 *et seq.*, and amendments thereto.

(3) An election made by a member prescribed by this section, including the default election pursuant to subsection (b)(2), is a one-time irrevocable election.

(c) A member in either plan who becomes inactive after an election prescribed by this section, and who returns to active membership remains in the plan previously elected.

(d) A member may not simultaneously be a member of the plan established in

section 1, *et seq.*, and amendments thereto, and the plan established in section 30 *et seq.*, and amendments thereto, and shall be a member of one plan or the other. A period of service shall be credited in only one plan or the other.

(e) During the six-month period commencing after the employee's first day of employment in which the employee has to make the election required pursuant to this section, the following provisions are applicable:

(1) Such employee shall participate in the Kansas public employees deferred compensation plan as provided pursuant to K.S.A. 2011 Supp. 74-49b07 *et seq.*, and amendments thereto, except that such employees shall have 6% of such employee's compensation deferred and deducted each payroll period in accordance with the Kansas public employees deferred compensation plan;

(2) the participating employer of any such employee shall contribute 1% of such member's compensation to a qualified government plan pursuant to section 401(a) and 414(d) of the federal internal revenue code and its implementing regulations; and

(3) upon the commencement of the employee's plan after the six-month election period prescribed by this section, all amounts in the employee's deferred compensation plan and the qualified plan prescribed in subsection (e)(2) shall be transferred to the plan that the employee elects pursuant to this act or the default election as prescribed by the board.

(f) Unless the context requires otherwise, terms used in this section shall have the meanings set forth in K.S.A. 74-4902, and amendments thereto.

New Sec. 30. (a) The provisions of sections 30 through 45, and amendments thereto, shall be known and may be cited as the Kansas public employees retirement system defined contribution act, and shall be effective on and after January 1, 2014.

(b) This act applies to any individual who is first employed by a participating employer on or after January 1, 2014, and who makes an election as prescribed by section 29, and amendments thereto.

(c) This act does not apply to members of the Kansas police and firemen's retirement system, K.S.A. 74-4951 *et seq.*, and amendments thereto, and the retirement system for judges, K.S.A. 20-2601 *et seq.*, and amendments thereto, and security officers as provided in K.S.A. 74-4914a, and amendments thereto.

New Sec. 31. Unless the context requires otherwise, terms that are used in this act have the meanings set forth for them in K.S.A. 74-4902, and amendments thereto, and the following definitions apply:

(a) "Act" means the provisions of section 30 *et seq.*, and amendments thereto;

(b) "active DC plan member" means a DC plan member who is actively employed by a participating employer;

(c) "defined benefit plan" means the defined benefit plan for the Kansas public employees retirement system for KPERS;

(d) "DC plan member" means an individual who is required by section 30, and amendments thereto, to be a member of the defined contribution plan. The term also includes any survivor or beneficiary of a DC plan member, who has a retirement account in the defined contribution plan;

(e) "optional retirement program" means the retirement plan established by the state board of regents under K.S.A. 74-4925, and amendments thereto; and

(f) "plan" or "defined contribution plan" means the defined contribution retirement plan established by section 32, and amendments thereto.

New Sec. 32. (a) The board shall establish within the Kansas public employees retirement system a separate defined contribution plan in accordance with the provisions of this act. The plan must be established as a pension plan for the exclusive benefit of members and their beneficiaries and as a “qualified governmental plan” pursuant to sections 401(a) and 414(d) of the federal internal revenue code and its implementing regulations. Retirement accounts must be established for each DC plan member. Assets of the plan must be held in trust. The plan is established in addition to any retirement, pension, deferred compensation or other benefit plan administered by the state or a political subdivision.

(b) The board shall contract for plan administration and use a competitive proposal process when contracting for consulting, educational, investment, recordkeeping or other services for the plan.

New Sec. 33. (a) The board has the powers and shall perform the duties regarding the defined contribution plan as provided in K.S.A. 74-4909, and amendments thereto, as applicable. The board may also exercise the powers and shall perform the duties provided in this act.

(b) The board shall adopt a plan document and reasonable and necessary policies and procedures, without the need for corresponding rules and regulations.

(c) The board shall negotiate a contract with a third party administrator for administration of the defined contribution plan. Such contract shall be awarded through a competitive proposal process including the issuance of a request for proposal. Such third party administrator shall be selected by the board based on specific criteria identified by the board, and shall include, experience, variety of investments, liquidity, fee structure, education, customer service and other factors identified by the board.

New Sec. 34. (a) The board may establish an account within the defined contribution plan for paying the plan’s administrative expenses.

(b) The board may:

(1) Assess fees on DC plan member accounts to pay the reasonable administrative costs of the plan; and

(2) negotiate with a vendor or vendors for vendor reimbursement of board administrative expenses for the plan.

(c) All fees assessed must be fully disclosed to members and treated as public information.

(d) Costs for the board to secure investment advice, recordkeeping, contract oversight, educational materials for members, performance evaluations and other appropriate information and services, are included as part of the administrative expenses of the plan.

New Sec. 35. The statutory provisions governing the defined contribution plan are subject to amendment by the legislature. The board has the power to amend the plan document, policies and procedures, consistent with the statutory provisions governing the defined contribution plan at the time of the amendment.

New Sec. 36. The board shall accept the rollover of contributions and the income on those contributions from another eligible retirement plan to the member’s rollover account only to the extent allowed under applicable federal law.

New Sec. 37 (a) A DC plan member’s mandatory contribution account includes the DC plan member’s contributions and the income on those contributions and is vested from the date that the employee becomes a member of the plan.

(b) A DC plan member's employer contribution account includes the employer's contributions and the income on those contributions and is vested only when the member has a total of seven years of participating service in the defined contribution plan.

(c) A DC plan member's rollover account includes the member's rollovers of contributions made pursuant to section 36, and amendments thereto, and income on those contributions and are vested from the date that the contribution is credited to the account.

(d) If the DC plan member's employer contribution account is not vested upon termination of plan membership, as provided in this section, the employer contributions and income are forfeited as provided in section 38, and amendments thereto.

New Sec. 38. (a) An active DC plan member shall contribute 6% of compensation to the defined contribution plan. These contributions shall be picked up by the employer via a salary reduction as provided in section 414(h)(2) of the federal internal revenue code.

(b) A DC plan member may not make voluntary contributions to the defined contribution plan.

(c) Subject to adjustment by the board as provided in section 39, and amendments thereto, an active DC plan member's employer shall contribute the following:

(1) To the active DC plan member's employer contribution account, an amount equal to:

(A) One percent of compensation for each member who has six months but less than one year of service;

(B) two percent of compensation for each member who has one but less than two years of service;

(C) three percent of compensation for each member who has two but less than three years of service; and

(D) four percent of compensation for each member who has three or more years of service;

(2) a percentage of compensation, determined by the board under section 39, and amendments thereto, to the defined benefit plan as the plan funding rate as described in section 39, and amendments thereto;

(3) a percentage of compensation, determined by the board, must be allocated to the administrative account established by section 34, and amendments thereto; and

(4) a percentage of compensation, determined by the board, must be allocated to the death and long-term disability plan under K.S.A. 74-4927, and amendments thereto.

(d) Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a DC plan member's retirement account. The board shall allocate the forfeitures under section 37, and amendments thereto, to meet the plan's administrative expenses, including startup expenses.

New Sec. 39. (a) The board shall periodically review the sufficiency of the plan funding rate and shall adjust the amount of contributions under section 38, and amendments thereto, as specified in this section. The board shall collect and maintain the data necessary to comply with this section. The plan funding rate set in section 38, and amendments thereto, must be adjusted as provided in this section and the plan document to actuarially fund the defined benefit plan's unfunded liabilities and the change in the normal cost contribution rate that is the result of the DC plan member's

participation in the defined contribution plan.

(b) If the board determines that the plan funding rate should be increased or decreased, the plan funding rate under section 38, and amendments thereto, must be increased or decreased accordingly.

New Sec. 40. (a) The investment alternatives under the defined contribution plan may be the same as the investment alternatives under the Kansas public employees deferred compensation plan.

(b) The board shall from time to time review the suitability and management of investment alternatives and may change the alternatives to be offered. The board shall notify affected DC plan members of potential changes before any changes become effective.

(c) The board shall establish a default investment option for any DC plan member who does not have an effective investment direction. The board may utilize a balanced fund as the default investment fund.

(d) Assets within each member's accounts must be invested as directed by the member. However, the non-vested portion of the DC plan member's employer contribution account shall be invested in the board's default investment fund.

New Sec. 41. Except as provided in section 45, and amendments thereto, any time after termination of service, a DC plan member or the DC plan member's beneficiary may terminate plan membership by filing a written application with the board and removing the DC plan member's vested account balance from the plan through any combination of the following payout options, each of which is subject to the provisions of the plan document and the federal internal revenue code and the applicable regulations of the internal revenue service:

(a) A direct rollover to an eligible retirement plan;

(b) a regular rollover to an eligible retirement plan;

(c) a lump-sum distribution of the DC plan member's vested account balance; or

(d) an optional form of distribution offered by the board under section 42, and amendments thereto.

New Sec. 42. (a) Subject to the provisions of the plan document, a DC plan member, after termination of service, may leave the DC plan member's vested account balance in the plan, and the DC plan member is eligible for a distribution as provided in this section.

(b) After termination of service and upon filing a written application with the board, a DC plan member may select any distribution option provided by the plan document.

(c) A DC plan member who is less than 70 ½ years of age who returns to service may not continue to receive a distribution under this section while actively employed in a covered position.

(d) The plan document shall provide that distributions must comply with the minimum distribution requirements established in the federal internal revenue code and applicable under K.S.A. 74-49,123, and amendments thereto.

(e) The plan document may specify minimum account balances for purposes of allowing benefit payment options and rollovers in accordance with federal law.

New Sec. 43. A DC plan member's beneficiary must be determined as provided in the defined benefit plan regulations. Upon filing a written application with the board after the death of a DC plan member, the DC plan member's beneficiary is entitled to

the DC plan member's vested account balance.

New Sec. 44. Before termination of service, a DC plan member may not receive a refund of any portion of the DC plan member's vested account balance.

New Sec. 45. (a) For the purposes of providing the "insured death benefit" and "insured disability benefit" as prescribed in K.S.A. 74-4927, and amendments thereto, the term "member" as used in K.S.A. 74-4927, and amendments thereto, shall include those members of the Kansas public employees retirement system's defined contribution plan as defined in section 31, and amendments thereto.

(b) Each participating employer shall pay to the Kansas public employees retirement system in such manner as the board of trustees shall prescribe each payroll period an amount sufficient to pay the employer's contribution to the group insurance reserve as provided in subsection (c)(4) of section 38, and amendments thereto.

(c) Except as otherwise provided, in the event that a DC plan member as defined in section 31, and amendments thereto, becomes eligible for and begins to receive the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto, the member's participating employer shall continue to make the contributions on behalf of such individual to the retirement plan as required under subsection (c)(1) of section 38, and amendments thereto, and shall also contribute to the retirement plan an amount equal to the individual's contribution required under subsection (a) of section 38, and amendments thereto, if the DC plan member is permanently and totally disabled as defined in section 72(m) of the federal internal revenue code. Commencing on and after July 1, 2013, such contributions shall cease at the earlier of: (1) The date that the individual is no longer entitled to an insured disability benefit under K.S.A. 74-4927, and amendments thereto; or (2) the date that is five years after the date the individual becomes eligible for and begins to receive the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto. For purposes of applying this subsection, compensation under section 38, and amendments thereto, means the individual's compensation at the time the individual became disabled as defined under the insured disability program prescribed in K.S.A. 74-4927, and amendments thereto.";

And by renumbering sections accordingly;

On page 1, in the title, in line 9, after the semicolon by inserting "enacting the Kansas public employees retirement system defined contribution act, terms, conditions, requirements, benefits and contributions; new member election;";

Also, rose and reported progress.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce and Economic Development** recommends **HB 2561** be passed.

Committee on **Commerce and Economic Development** recommends **SB 438** be amended on page 1, in line 9, after "within 20" by inserting "business"; in line 10, after "within 20" by inserting "business"; and the bill be passed as amended.

Committee on **Commerce and Economic Development** recommends **SB 413** be amended on page 1, by striking all in lines 5 through 36;

By striking all in pages 2 through 12;

On page 13, by striking all in lines 1 through 20; following line 20, by inserting the following:

"New Section 1. (a) There is hereby established the workers compensation and

employment security boards nominating committee which shall be composed of seven members who are appointed by the governor. Each of the following shall select one member to serve on the nominating committee by giving written notice of the selection to the governor who shall appoint such representatives to the committee:

- (1) The Kansas secretary of labor;
- (2) the Kansas chamber of commerce;
- (3) the national federation of independent business;
- (4) the Kansas AFL-CIO;
- (5) the Kansas state council of the society for human resource management (KS SHRM);

- (6) the Kansas self-insurers association; and
- (7) the secretary of labor whose selection shall be selected from either an employee organization as defined in K.S.A. 75-4322, and amendments thereto, or a professional employees' organization as defined in K.S.A. 72-5413, and amendments thereto.

In the event the governor refuses to appoint a member selected by one of the organizations in this subsection, the organization may replace that selection with another, subject to the same appointment requirements.

(b) Members of the nominating committee shall serve a term of four years. Members may not serve more than two consecutive terms.

(c) In the event of a vacancy on the nominating committee occurring for any reason, the respective member whose position becomes vacant shall be replaced by the selecting organization by submitting written notice of the replacement selection to the governor within 30 days of such vacancy. The governor shall either appoint or reject the replacement selection as provided in this section.

(d) The committee shall meet as needed to provide the workers compensation and employment security board of review appointing authorities with nominees for appointments to the position of workers compensation administrative law judge or board member and employment security board of review. No action of the committee shall be effective unless approved by two-thirds of the committee.

(e) When notified of a vacancy on the employment security board of review, the committee shall convene and submit a list of three nominees to the governor for each vacancy on the board of review. The governor shall either accept and appoint a person nominated by the nominating committee to the board of review or reject the nomination and request the nominating committee to nominate another person for that position.

(f) When notified of a vacancy in the position of workers compensation administrative law judge or on the workers compensation review board or of the need to appoint a member pro tem to the workers compensation review board, the committee shall review all qualified applicants as submitted by the director of workers compensation to nominate a qualified person to fill the vacancy and submit that nomination to the secretary of labor. The secretary shall either accept and appoint the person nominated by the nominating committee to the position for which the nomination was made or reject the nomination and request the nominating committee to nominate another person for that position. Upon receipt of any such request for the nomination of another person, the nominating committee shall nominate another person for that position in the same manner.

Sec. 2. K.S.A. 2011 Supp. 44-551 is hereby amended to read as follows: 44-551.
(a) The duties of the assistant directors of workers compensation may include, but not

be limited to, acting in the capacity of an administrative law judge.

(b) Each administrative law judge shall be an attorney regularly admitted to practice law in Kansas. Such attorney shall have at least five years of experience as an attorney, ~~with at least one year of experience~~ practicing law in the area of workers compensation.

(c) Except as provided in subsection (g), the annual salary of each administrative law judge shall be an amount equal to 75% of the annual salary paid by the state to a district judge, other than a district judge designated as a chief judge. Administrative law judges shall devote full time to the duties of such office and shall not engage in the private practice of law during their term of office. No administrative law judge may receive additional compensation for official services performed by the administrative law judge. Each administrative law judge shall be reimbursed for expenses incurred in the performance of such official duties under the same circumstances and to the same extent as district judges are reimbursed for such expenses.

(d) Applications for administrative law judge positions shall be submitted to the director of workers compensation. The director shall determine if an applicant meets the qualifications for an administrative law judge as prescribed in subsection (b). Qualified applicants for a position of administrative law judge shall be submitted by the director to the workers compensation ~~administrative law judge nominating and review and employment security boards nominating~~ committee for consideration.

~~(e) There is hereby established the workers compensation administrative law judge nominating and review committee which shall be composed of two members appointed as follows: The Kansas AFL-CIO and the Kansas chamber of commerce and industry shall each select one representative to serve on the workers compensation administrative law judge nominating and review committee and shall each give written notice of such selection to the secretary who shall appoint such selected persons to the committee. In the event of a vacancy occurring for any reason on the workers compensation administrative law judge nominating and review committee, the vacating member shall be replaced by the organization which originally selected such member with written notice provided to the secretary within 30 days of such vacancy.~~

~~(f) (1) Upon being notified of any vacancy in the position of administrative law judge, the administrative law judge nominating and review committee shall consider all qualified applicants submitted by the director for the vacant position of administrative law judge and nominate a person qualified therefor. The administrative law judge nominating and review committee shall be required to reach unanimous agreement on any nomination to the position of administrative law judge. With respect to each person nominated, the secretary either shall accept and appoint the person nominated by the administrative law judge nominating and review committee to the position of administrative law judge for which the nomination was made or shall reject the nomination and request the administrative law judge nominating and review committee to nominate another person for that position. Upon receipt of any such request for the nomination of another person, the administrative law judge nominating and review committee shall nominate another person for that position in the same manner.~~

~~(2)~~(1) Each administrative law judge shall hold office for a term of four years and may be reappointed. Each administrative law judge shall continue to serve for the term of the appointment or until a successor is appointed. Successors to such administrative law judge positions shall be appointed for terms of four years.

~~(2)~~(2) If a vacancy should occur in the position of an administrative law judge during the term of an administrative law judge, the ~~administrative law judge nominating and review~~ workers compensation and employment security boards nominating committee shall nominate an individual from the qualified applicants submitted by the director to complete the remainder of the unexpired portion of the term.

~~(f)~~(f) Except as otherwise provided in this subsection, administrative law judges appointed on and after July 1, 2006, shall serve a term of office of four years. Administrative law judges hired before July 1, 2006, may continue as administrative law judges under the classified service under the Kansas civil service act at the salary provided under the civil service act or may elect to be appointed to a term and receive the annual salary equal to 75% of the salary prescribed for a district judge if the currently employed administrative law judge within 60 days of the effective date of this section notifies the director in writing that the administrative law judge elects to serve an appointed term of office rather than continuing in the classified service. The term of office for an administrative law judge who elects a term of office shall begin on the date the written election is received by the director and the first term of office for such person shall be for two, three or four years as specified by the secretary so that administrative law judges appointed under this subsection serve staggered terms. Thereafter, any such person if reappointed as an administrative law judge shall be appointed for a term of four years.

~~(g)~~(g) ~~Following the completion of a term, an administrative law judge who wishes to be considered for reappointment to such judge's position shall be deemed to have met the qualification requirements for appointment as administrative law judge and shall be considered for renomination by the workers compensation administrative law judge nominating and review committee~~ Following the completion of a term, an administrative law judge who wishes to be considered for reappointment to such judge's position shall be deemed to have met the qualification requirements for appointment as administrative law judge. If such administrative law judge wishes to be considered for renomination by the workers compensation and employment security boards nominating committee, such administrative law judge shall submit an application as provided in subsection (d).

~~(h)~~(h) (1) Administrative law judges shall have power to administer oaths, certify official acts, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, documents and records to the same extent as is conferred on the district courts of this state, and may conduct an investigation, inquiry or hearing on all matters before the administrative law judges. All final orders, awards, modifications of awards, or preliminary awards under K.S.A. 44-534a, and amendments thereto, made by an administrative law judge shall be subject to review by the board upon written request of any interested party within 10 days. Intermediate Saturdays, Sundays and legal holidays shall be excluded in the time computation. Review by the board shall be a prerequisite to judicial review as provided for in K.S.A. 44-556, and amendments thereto. On any such review, the board shall have authority to grant or refuse compensation, or to increase or diminish any award of compensation or to remand any matter to the administrative law judge for further proceedings. The orders of the board under this subsection shall be issued within 30 days from the date arguments were presented by the parties.

(2) (A) If an administrative law judge has entered a preliminary award under

K.S.A. 44-534_a, and amendments thereto, a review by the board shall not be conducted under this section unless it is alleged that the administrative law judge exceeded the administrative law judge's jurisdiction in granting or denying the relief requested at the preliminary hearing. Such an appeal from a preliminary award may be heard and decided by a single member of the board. Members of the board shall hear such preliminary appeals on a rotating basis and the individual board member who decides the appeal shall sign each such decision. The orders of the board under this subsection shall be issued within 30 days from the date arguments were presented by the parties.

(B) If an order on review is not issued by the board within the applicable time period prescribed by subsection ~~(i)~~ ~~(+)~~ ~~(h)~~ ~~(l)~~, medical compensation and any disability compensation as provided in the award of the administrative law judge shall be paid commencing with the first day after such time period and shall continue to be paid until the order of the board is issued, except that no payments shall be made under this provision for any period before the first day after such time period. Nothing in this section shall be construed to limit or restrict any other remedies available to any party to a claim under any other statute.

(C) In any case in which the final award of an administrative law judge is appealed to the board for review under this section and in which the compensability is not an issue to be decided on review by the board, medical compensation shall be payable in accordance with the award of the administrative law judge and shall not be stayed pending such review. The employee may proceed under K.S.A. 44-510_k, and amendments thereto, and may have a hearing in accordance with that statute to enforce the provisions of this subsection.

~~(+)~~(i) Each assistant director and each administrative law judge or special administrative law judge shall be allowed all reasonable and necessary expenses actually incurred while in the actual discharge of official duties in administering the workers compensation act, but such expenses shall be sworn to by the person incurring the same and be approved by the secretary.

~~(+)~~(j) In case of emergency the director may appoint special local administrative law judges and assign to them the examination and hearing of any designated case or cases. Such special local administrative law judges shall be attorneys and admitted to practice law in the state of Kansas and shall, as to all cases assigned to them, exercise the same powers as provided by this section for the regular administrative law judges. Special local administrative law judges shall receive a fee commensurate with the services rendered as fixed by rules and regulations adopted by the director. The fees prescribed by this section prior to the effective date of this act shall be effective until different fees are fixed by such rules and regulations.

~~(+)~~(k) All special local administrative law judge's fees and expenses, with the exception of settlement hearings, shall be paid from the workers compensation administration fee fund, as provided in K.S.A. 74-712_a, and amendments thereto. Where there are no available funds or where the special local administrative law judge conducted a settlement hearing, the fees shall be taxed as costs in each case heard by such special local administrative law judge and when collected shall be paid directly to such special local administrative law judge by the party charged with the payment of the same.

~~(+)~~(l) Except as provided for judicial review under K.S.A. 44-556_a, and amendments thereto, the decisions and awards of the board shall be final.

Sec. 3. K.S.A. 2011 Supp. 44-555c is hereby amended to read as follows: 44-555c.

(a) There is hereby established the workers compensation board. The board shall have exclusive jurisdiction to review all decisions, findings, orders and awards of compensation of administrative law judges under the workers compensation act. The review by the board shall be upon questions of law and fact as presented and shown by a transcript of the evidence and the proceedings as presented, had and introduced before the administrative law judge. The board shall be within the division of workers compensation of the department of labor and all budgeting, personnel, purchasing and related management functions of the board shall be administered under the supervision and direction of the secretary of labor. The board shall consist of five members who shall be appointed by the secretary in accordance with this section and who shall each serve for a term of four years, except as provided for the first members appointed to the board under subsection (f).

(b) Each board member shall be an attorney regularly admitted to practice law in Kansas for a period of at least seven years with at least five years experience practicing law in the area of workers compensation and shall have engaged in the active practice of law during such period as a lawyer, judge of a court of record or any court in Kansas or a full-time teacher of law in an accredited law school, or any combination of such types of practice.

(c) Each board member shall receive an annual salary in an amount equal to the salary prescribed by law for a district judge, except that the member who is the chairperson of the workers compensation board shall receive an annual salary in an amount equal to the salary prescribed for a district judge designated as chief judge of a district court of Kansas. The board members shall devote full time to the duties of such office and shall not engage in the private practice of law during their term of office. No board member may receive additional compensation for official services performed by the board member. Each board member shall be reimbursed for expenses incurred in the performance of such official duties under the same circumstances and to the same extent as judges of the district court are reimbursed for such expenses.

(d) Applications for membership on the board shall be submitted to the director of workers compensation. The director shall determine if an applicant meets the qualifications for membership on the board prescribed in subsection (b). Qualified applicants for the board will be submitted by the director to the workers compensation board and employment security boards nominating committee for consideration.

~~(e) There is hereby established the workers compensation board nominating committee which shall be composed of two members appointed as follows: The Kansas AFL-CIO and the Kansas chamber of commerce and industry shall each select one representative to serve on the workers compensation board nominating committee and shall give written notice of the selection to the secretary who shall appoint such representatives to the committee. In the event of a vacancy occurring for any reason on the nominating committee, the respective member shall be replaced by the appointing organization with written notice of the appointment to the secretary of labor within 30 days of such vacancy.~~

~~(f) (1) Upon being notified of any vacancy on the board or of the need to appoint a member pro tem under subsection (i), the nominating committee shall consider all qualified applicants submitted by the director for the vacant position on the board or the member pro tem position and nominate a person qualified therefor. The nominating~~

committee shall be required to reach unanimous agreement on any nomination to the board. With respect to each person nominated, the secretary either shall accept and appoint the person nominated by the nominating committee to the position on the board for which the nomination was made or shall reject the nomination and request the nominating committee to nominate another person for that position. Upon receipt of any such request for the nomination of another person, the nominating committee shall nominate another person for that position in the same manner.

(2) The first members of the board established by this section are hereby appointed as follows: Each person who was a member of the workers compensation board which was in existence on January 12, 1995, is hereby appointed, effective January 13, 1995, as a member of the board established by this section. The term of office of each person so appointed as a member of the board established by this section is for the period equal to the remainder of the term of office such person had as of January 12, 1995, as a member of the workers compensation board which was in existence on January 12, 1995.

(3) Each member of the board shall hold office for the term of the appointment and until the successor shall have been appointed. Successors to such members shall be appointed for terms of four years.

(4) If a vacancy should occur on the board during the term of a member, the nominating committee shall nominate an individual from the qualified applicants submitted by the director to complete the remainder of the unexpired portion of the term. With respect to each person so nominated, the secretary either shall accept and appoint the person nominated to the board or shall reject the nomination and request the nominating committee to nominate another person for the position. Upon receipt of any such request for the nomination of another person, the nominating committee shall nominate another person for the position in the same manner.

(~~e~~)(f) Following the completion of a term, board members who wish to be considered for reappointment to the board shall be deemed to have met the qualification requirements for selection to the board and shall be considered for renomination by the workers compensation board and employment security boards nominating committee.

(~~h~~)(g) The members of the board shall annually elect one member to serve as chairperson.

(~~i~~)(h) If illness or other temporary disability of a member of the board will not permit the member to serve during a case or in any case in which a member of the board must be excused from serving because of a conflict or is otherwise disqualified with regard to such case, the director shall notify the workers compensation and employment security boards nominating committee of the need to appoint a member pro tem. Upon receipt of such notice, the committee shall act as soon as possible and nominate a qualified person to serve as member pro tem in such case in accordance with subsection (~~f~~). Each member pro tem shall receive compensation at the same rate as a member of the board receives, prorated for the hours of actual service as a member pro tem and shall receive expenses under the same circumstances and to the same extent as a member of the board receives. Each member pro tem shall have all the powers, duties and functions of a member of the board with regard to the case.

(~~j~~)(i) The board shall maintain principal offices in Topeka, Kansas, and the board may conduct hearings at a courthouse of any county in Kansas or at another location specified by the board. The secretary of labor shall provide a courtroom and other

suitable quarters in Topeka, Kansas, for the use of the board and its staff. When the board conducts hearings at any location other than in Topeka, Kansas, the director shall make suitable arrangements for such hearings. Subject to the provisions of appropriation acts, the director shall provide such supplies and equipment and shall appoint such support personnel as may be necessary for the board to fulfill the duties imposed by this act, subject to approval by the secretary.

~~(k)~~(j) For purposes of hearing cases, the board may sit together or in panels of ~~two~~ three members or more, designated by the chairperson of the board, except that an appeal from a preliminary award entered under K.S.A. 44-534a, and amendments thereto, may be heard by a panel of one member designated by the chairperson. ~~All members of the board shall determine each matter before the board.~~ All decisions, reviews and determinations by the board shall be approved in writing by ~~at least three board members~~ a majority comprised of not less than three of the members hearing the case. Whenever the board enters a final order in any proceeding, the board shall make written findings of fact and conclusions of law forming the basis of the board's determination and final order. The findings of fact and conclusions of law of the board shall be made a part of the final order. The board shall mail a copy of the final order of the board to all parties to the proceeding within three days following the issuance of the final order.

Sec. 4. K.S.A. 2011 Supp. 44-709 is hereby amended to read as follows: 44-709.

(a) *Filing.* Claims for benefits shall be made in accordance with rules and regulations adopted by the secretary. The secretary shall furnish a copy of such rules and regulations to any individual requesting them. Each employer shall post and maintain printed statements furnished by the secretary without cost to the employer in places readily accessible to individuals in the service of the employer.

(b) *Determination.* (1) Except as otherwise provided in this subsection (b)(1), a representative designated by the secretary, and hereinafter referred to as an examiner, shall promptly examine the claim and, on the basis of the facts found by the examiner, shall determine whether or not the claim is valid. If the examiner determines that the claim is valid, the examiner shall determine the first day of the benefit year, the weekly benefit amount and the total amount of benefits payable with respect to the benefit year. If the claim is determined to be valid, the examiner shall send a notice to the last employing unit who shall respond within 10 days by providing the examiner all requested information including all information required for a decision under K.S.A. 44-706, and amendments thereto. The information may be submitted by the employing unit in person at an employment office of the secretary or by mail, by telefacsimile machine or by electronic mail. If the required information is not submitted or postmarked within a response time limit of 10 days after the examiner's notice was sent, the employing unit shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the board of review or any court, except that the employing unit's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. In any case in which the payment or denial of benefits will be determined by the provisions of subsection (d) of K.S.A. 44-706, and amendments thereto, the examiner shall promptly transmit the claim to a special examiner designated by the secretary to make a determination on the claim after the investigation as the special examiner deems

necessary. The parties shall be promptly notified of the special examiner's decision and any party aggrieved by the decision may appeal to the referee as provided in subsection (c). The claimant and the claimant's most recent employing unit shall be promptly notified of the examiner's or special examiner's decision.

(2) The examiner may for good cause reconsider the examiner's decision and shall promptly notify the claimant and the most recent employing unit of the claimant, that the decision of the examiner is to be reconsidered, except that no reconsideration shall be made after the termination of the benefit year.

(3) Notwithstanding the provisions of any other statute, a decision of an examiner or special examiner shall be final unless the claimant or the most recent employing unit of the claimant files an appeal from the decision as provided in subsection (c). The appeal must be filed within 16 calendar days after the mailing of notice to the last known addresses of the claimant and employing unit or, if notice is not by mail, within 16 calendar days after the delivery of the notice to the parties.

(c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the examiner or special examiner. The parties shall be duly notified of the referee's decision, together with the reasons for the decision. The decision shall be final, notwithstanding the provisions of any other statute, unless a further appeal to the board of review is filed within 16 calendar days after the mailing of the decision to the parties' last known addresses or, if notice is not by mail, within 16 calendar days after the delivery of the decision.

(d) *Referees.* The secretary shall appoint, in accordance with subsection (c) of K.S.A. 44-714, and amendments thereto, one or more referees to hear and decide disputed claims.

(e) *Time, computation and extension.* In computing the period of time for an employing unit response or for appeals under this section from the examiner's or the special examiner's determination or from the referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

(f) *Board of review.* (1) There is hereby created a board of review, hereinafter referred to as the board, consisting of three members. Except as provided by paragraph (2) of this subsection, each member of the board shall be appointed for a term of four years as provided in this subsection. ~~Two members shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, whose appointment is subject to confirmation by the senate, shall exercise any power, duty or function as a member until confirmed by the senate. One member shall be representative of employees, one member shall be representative of employers, and one member shall be representative of the public in general. The appointment of the employee representative member of the board shall be made by the governor from a list of three nominations submitted by the Kansas A.F.L.-C.I.O. The appointment of the employer representative member of the board shall be made by the governor from a list of three nominations submitted by the Kansas chamber of commerce and industry. The appointment of the public representative member of the~~

~~board, who, because of vocation, occupation or affiliation may be deemed not to be representative of either management or labor, shall be made by the members appointed by the governor as employee representative and employer representative. If the two members do not agree and fail to make the appointment of the public member within 30 days after the expiration of the public member's term of office, the governor shall appoint the representative of the public. Each member shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, whose appointment is subject to confirmation by the senate, shall exercise any power, duty or function as a member until confirmed by the senate. The appointment of each member of the board shall be made by the governor from a list of three nominations submitted by the workers compensation and employment security boards nominations committee. Not more than two members of the board shall belong to the same political party. No board member shall serve more than two consecutive terms.~~

(2) The terms of members who are serving on the board on the effective date of this act shall expire on March 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.

(3) Each member of the board shall serve until a successor has been appointed and confirmed. Any vacancy in the membership of the board occurring prior to expiration of a term shall be filled by appointment for the unexpired term in the same manner as provided for original appointment of the member. ~~Each member shall be appointed as representative of the same special interest group represented by the predecessor of the member.~~

(4) Each member of the board shall be entitled to receive as compensation for the member's services at the rate of \$15,000 per year, together with the member's travel and other necessary expenses actually incurred in the performance of the member's official duties in accordance with rules and regulations adopted by the secretary. Members' compensation and expenses shall be paid from the employment security administration fund.

(5) The board shall organize annually by the election of a chairperson from among its members. The chairperson shall serve in that capacity for a term of one year and until a successor is elected. The board shall meet on the first Monday of each month or on the call of the chairperson or any two members of the board at the place designated. The secretary of labor shall appoint an executive secretary of the board and the executive secretary shall attend the meetings of the board.

(6) The board, on its own motion, may affirm, modify or set aside any decision of a referee on the basis of the evidence previously submitted in the case; may direct the taking of additional evidence; or may permit any of the parties to initiate further appeal before it. The board shall permit such further appeal by any of the parties interested in a decision of a referee which overrules or modifies the decision of an examiner. The board may remove to itself the proceedings on any claim pending before a referee. Any proceedings so removed to the board shall be heard in accordance with the requirements of subsection (c). The board shall promptly notify the interested parties of its findings and decision.

(7) Two members of the board shall constitute a quorum and no action of the board shall be valid unless it has the concurrence of at least two members. A vacancy on the board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(g) *Procedure.* The manner in which disputed claims are presented, the reports on claims required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with rules of procedure prescribed by the board for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings and decisions in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed. In the performance of its official duties, the board shall have access to all of the records which pertain to the disputed claim and are in the custody of the secretary of labor and shall receive the assistance of the secretary upon request.

(h) *Witness fees.* Witnesses subpoenaed pursuant to this section shall be allowed fees and necessary travel expenses at rates fixed by the board. Such fees and expenses shall be deemed a part of the expense of administering this act.

(i) *Court review.* Any action of the board is subject to review in accordance with the Kansas judicial review act. No bond shall be required for commencing an action for such review. In the absence of an action for such review, the action of the board shall become final 16 calendar days after the date of the mailing of the decision. In addition to those persons having standing pursuant to K.S.A. 77-611, and amendments thereto, the examiner shall have standing to obtain judicial review of an action of the board. The review proceeding, and the questions of law certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the workers compensation act.

(j) Any finding of fact or law, judgment, determination, conclusion or final order made by the board of review or any examiner, special examiner, referee or other person with authority to make findings of fact or law pursuant to the employment security law is not admissible or binding in any separate or subsequent action or proceeding, between a person and a present or previous employer brought before an arbitrator, court or judge of the state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

(k) In any proceeding or hearing conducted under this section, a party to the proceeding or hearing may appear before a referee or the board either personally or by means of a designated representative to present evidence and to state the position of the party. Hearings may be conducted in person, by telephone or other means of electronic communication. The hearing shall be conducted by telephone or other means of electronic communication if none of the parties requests an in-person hearing. If only one party requests an in-person hearing, the referee shall have the discretion of requiring all parties to appear in person or allow the party not requesting an in-person hearing to appear by telephone or other means of electronic communication. The notice of hearing shall include notice to the parties of their right to request an in-person hearing and instructions on how to make the request.

Sec. 5. K.S.A. 2011 Supp. 44-551, 44-555c and 44-709 are hereby repealed."
And by renumbering sections accordingly;

Also on page 13, in line 22, by striking "January 1, 2014, and";

On page 1, in the title, in line 1 by striking all after "ACT"; in line 2, by striking all before the period and inserting " creating the workers compensation and employment security boards nominating committee; amending K.S.A. 2011 Supp. 44-551, 44-555c and 44-709 and repealing the existing sections"; and the bill be passed as amended.

Committee on **Commerce and Economic Development** recommends **SB 416** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL NO. 416," as follows:

"HOUSE Substitute for SENATE BILL NO. 416

By Committee on Commerce and Economic Development

"AN ACT concerning powers and duties of the secretary of labor; pertaining to the state workplace health and safety program; pertaining to implementation and administration of the program; pertaining to transfer of the program from the department of health and environment to the department of labor; pertaining to the employment security law; pertaining to workplace inspections; amending K.S.A. 2011 Supp. 44-324, 44-575, 44-5,104, 44-634, 44-636, 44-704, 44-710a, 44-710b and 44-714 and replacing the existing sections. Also repealing K.S.A. 44-603, 44-617, 44-625 and 44-628, and K.S.A. 2011 Supp. 44-601b, 44-607, 44-608, 44-609, 44-610, 44-611, 44-612, 44-614, 44-615, 44-616, 44-618, 44-619, 44-620, 44-621, 44-623, 44-624, 44-626 and 44-631."; and the substitute bill be passed.

(H Sub for SB 416 was thereupon introduced and read by title.)

Committee on **Commerce and Economic Development** recommends **SB 301** be amended on page 2, in line 1, after "of" by inserting "not more than"; and the bill be passed as amended.

Committee on **Education** recommends **SB 260** be amended on page 2, in line 25, before "except" by inserting "subject to the provisions of subsection (f) and";

On page 4, following line 25, by inserting:

"(f) (1) In school year 2012-2013 and in each school year thereafter, the state board of education shall determine the minimum and maximum amount of state aid that a school district may receive under paragraph (4) of subsection (b) for the current school year as follows:

(A) Determine the total amount of moneys appropriated as state aid for the provision of special education and related services to all school districts for the current school year;

(B) subtract the amount of moneys paid to all school districts under paragraphs (1), (2) and (3) of subsection (b) of this section, K.S.A. 72-983 and K.S.A. 2011 Supp. 72-998, and amendments thereto, for the current school year;

(C) divide the remainder obtained under (B) by the total full-time equivalent enrollment of all school districts in the current school year;

(2) (A) multiply the quotient obtained under (1)(C) by the sum of: (i) The full-time equivalent enrollment of exceptional children receiving special education and related services provided by all school districts in the current school year; and (ii) the number of exceptional children under the age of four years receiving special education and related services provided by local education agencies in Kansas in the current school year multiplied by .5;

(B) multiply the product obtained under (2)(A) by .75. The product is the minimum amount of state aid the district may receive under paragraph (4) of subsection (b) for the

current school year;

(C) multiply the quotient obtained under (2)(A) by 1.50. The product is the maximum amount of state aid the district may receive under paragraph (4) of subsection (b) for the current school year.

(3) If the amount determined under paragraph (4) of subsection (b) is less than the product obtained under (2)(B), the district shall receive state aid in an amount equal to the product obtained under (2)(B), plus any amount determined under paragraph (5) of this subsection.

(4) If the amount determined under paragraph (4) of subsection (b), plus any amount determined under paragraph (5) of this subsection, is greater than the product obtained under (2)(C), the district shall receive state aid in an amount equal to the product obtained under (2)(C). The balance of state aid remaining after determining the amount of state aid payable to districts under this paragraph shall be reallocated to districts as provided by paragraph (5) of this subsection.

(5) The balance of state aid remaining after determining the amount of state aid payable to districts under paragraph (4) of this subsection shall be reallocated to districts which have not received state aid in an amount equal to the product obtained under (2)(B). Such state aid shall be reallocated to such districts in the same manner as the original allocation. If the balance is insufficient to pay each such district the minimum amount specified in this subsection, the state board shall prorate the balance among such districts.

(6) The provisions of this subsection (f) shall expire on June 30, 2014."; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 79** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL NO. 79," as follows:

"HOUSE Substitute for SENATE BILL NO. 79

By Committee on Judiciary

"AN ACT concerning the protection of rights and privileges granted under the United States or Kansas constitutions."; and the substitute bill be passed.

(**H Sub for SB 79** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **Sub SB 283** be amended on page 2, in line 6, by striking "\$15" and inserting "\$10; in line 8, after "(b)" by inserting "Subject to subsection (e)."; in line 20, after "made" by inserting "or timely return is not made"; in line 22, by striking "alias"; in line 23, by striking "processes as required to effect service and the return of"; in line 24 by striking "service" and inserting "processes that may be required to effect service and the timely return of the failed service. However, if service is attempted and return is made showing no service because the person to be served cannot be served at that address or there is no such address, the fee in subsection (a) shall be charged for an alias summons at the same address"; in line 37, by striking "alias"; in line 38, by striking "summons,"; also in line 38, by striking ", notice or any other paper" and inserting "or notice"; in line 39, after "clerk" by inserting "or court"; and the bill be passed as amended.

CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **HB 2442** from the Calendar under the heading General Orders and rereferral to Committee on Appropriations.

Also, the withdrawal of **HB 2686** from Committee on Health and Human Services

and referral to Committee on Federal and State Affairs.

Also, the withdrawal of **SB 102** from Committee on Appropriations and rereferral to Committee on Elections.

On motion of Rep. Siegfroid, the House recessed until 2:15 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker O'Neal in the Chair.

CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **SB 145** from Committee on Appropriations and rereferral to Committee on Elections.

On motion of Rep. Siegfroid, the House resolved into the Committee of the Whole, with Rep. Kinzer in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Kinzer, Committee of the Whole report, as follows, was adopted:

Recommended that discussion resume on **H Sub for SB 259** (see pages 2150-2162, Morning Session).

On motion of Rep. Grant to amend H Sub for SB 259, Rep. Grange requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane. Rep. Grant challenged the ruling, the question being "Shall the Rules Chair be sustained?"

The Rules Chair was sustained and the amendment by Rep. Grant was ruled not germane.

Also, on motion of Rep. Worley to amend **H Sub for SB 259**, the motion did not prevail. Also, on further motion of Rep. Worley to amend, the motion was withdrawn. Also, on motion of Rep. Tyson to amend, the motion did not prevail; and **H Sub for SB 259** be passed as amended.

Committee report to **HB 2718** be adopted; also, on motion of Rep. Aurand be amended on page 1, in line 24, by striking "3%" and inserting "2%";

Also, on motion of Rep. Otto to amend **HB 2718**, the motion did not prevail. Also, on motion of Rep. O'Hara to amend, the motion did not prevail.

Also,, roll call was demanded on the motion to recommend **HB 2718** for passage.

On roll call, the vote was: Yeas 53; Nays 66; Present but not voting: 0; Absent or not voting: 6.

Yeas: Alford, Arpke, Aurand, Bethell, Bollier, Brown, Bruchman, Brunk, Burgess, Carlson, Colloton, DeGraaf, Denning, Garber, Goodman, Gordon, Grange, Gregory, Grosserode, Hayzlett, Hedke, Hildabrand, Hill, C. Holmes, Howell, Huebert, Kerschen, Kiegerl, Kinzer, Kleeb, Landwehr, Mast, McLeland, Meigs, Montgomery, Moxley, O'Hara, O'Neal, Powell, Prescott, Rhoades, Rubin, Schwab, Schwartz, Siegfroid, Slattery, Smith, Spalding, Suellentrop, Vickrey, B. Wolf, K. Wolf, Worley.

Nays: Ballard, Billinger, Boman, Bowers, Brookens, Burroughs, Calloway, Carlin,

Cassidy, Collins, Crum, Davis, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Goico, Gonzalez, Grant, Henderson, Henry, Hineman, Hoffman, M. Holmes, Johnson, Kelley, Kelly, Knox, Kuether, Lane, Loganbill, Mah, McCray-Miller, Meier, O'Brien, Osterman, Otto, Patton, Pauls, Peck, Phelps, Phillips, Pottorff, Proehl, Roth, Ruiz, Ryckman, Scapa, Schroeder, Sloan, Swanson, Tietze, Trimmer, Tyson, Victors, Ward, Weber, Wetta, Williams, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Hermanson, LeDoux, Mesa, Peterson, Seiwert, Shultz.

The motion to recommend **HB 2718** favorably for passage did not prevail.

Committee report recommending a substitute bill to **Sub HB 2709** be adopted; also, on motion of Rep. Hoffman be amended on page 2, by striking all in lines 24 through 43;

By striking all on page 3;

On page 4, by striking all in lines 1 through 9;

On page 5, in line 37, before "bright" by inserting "purple or"; in line 38, after the period by inserting "All persons posting and under this subsection shall use bright orange paint exclusively on and after July 1, 2015.";

On page 8, in line 27, by striking "21-5810,";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, by striking "21-5810,";

Also, on motion of Rep. Seiwert, **Sub HB 2709** be amended on page 4, following line 9 by inserting:

"(d) Nothing in this section shall preclude a landowner, tenant or employee thereof from shooting from a public road or right-of-way with the intent to protect such landowner or tenant's agricultural activity on such landowner or tenant's farmland from damage caused by wildlife grazing. As used in this section the terms "agricultural activity" and "farmland" have the same meaning as defined in K.S.A. 2-3203, and amendments thereto.";

Also, on motion of Rep. Peck, **Sub HB 2709** be amended on page 5, in line 17, by striking "the lifetime of the convicted"; in line 18, by striking "person, or any other period of time," and inserting "a period of up to 20 years";

Also, on motion of Rep. Moxley to amend **Sub HB 2709**, the motion did not prevail.

Also, on motion of Rep. Schwartz, **Sub HB 2709** be amended on page 1, following line 6, by inserting:

"New Section 1. Nothing in the provisions of K.S.A. 58-3201 *et seq.*, and amendments thereto, shall be construed as the granting of an easement over such land by the owner thereof, nor as the granting of an easement over such land by adverse possession.";

And by renumbering sections accordingly;

Also on page 1, in line 7, before "K.S.A." by inserting "On and after January 1, 2013,";

On page 2, in line 24, following "Sec. 2." by inserting "On and after January 1, 2013,";

On page 4, in line 10, following "Sec. 3." by inserting "On after January 1, 2013,";

On page 5, in line 28, following "Sec. 4." by inserting "On and after January 1, 2013,";

On page 6, in line 14, following "Sec. 5." by inserting "On and after January 1, 2013,";

On page 8, in line 27, following "Sec. 6." by inserting "On and after January 1, 2013,"; in line 30, by striking "January 1, 2013, and";

On page 1, in the title, in line 1, after "concerning" by inserting "recreational uses of land; relating to"; and **Sub. HB 2709** be passed as amended.

Committee report to **HB 2425** be adopted; also, on motion of Rep. Swanson be amended on page 6, following line 17, by inserting:

"Sec. 5. K.S.A. 25-904 is hereby amended to read as follows: 25-904. (a) Every candidate for election to any city of the second and third class, unified school district, community college or township office subject to this act who intends to expend or have expended on such person's behalf an aggregate amount or value of less than ~~\$500~~ \$1,000, exclusive of such candidate's filing fee, and who intends to receive or have received on such person's behalf contributions in an aggregate amount or value of less than ~~\$500~~ \$1,000 in each the primary and the general election shall file, not later than the ninth day preceding the primary election, an affidavit of such intent with the county election officer of the county of residence of the candidate. No report required by subsection (b) shall be required to be filed by or for such candidate.

(b) Except as provided in subsection (a), it shall be the duty of every candidate for nomination or for election to any city of the second and third class, unified school district, community college or township office subject to this act, within 30 days after each primary, general or special election, to file with the county election officer an itemized statement under oath stating the name and address of each person who has made any contribution in excess of \$50 during the election period together with the amount and date of such contributions and an itemized statement of all expenditures made by such candidate or obligations contracted or incurred by such candidate in connection with each primary, general or special election.

(c) No candidate which is subject to the provisions of the campaign finance act (K.S.A. 25-4142 *et seq.*, and amendments thereto) shall be required to file any report required by this section.

(d) Any candidate who has signed an affidavit pursuant to subsection (a) and who incurs expenses in excess of or receives contributions in excess of ~~\$500~~ \$1,000, exclusive of such candidate's filing fee for either the primary or the general election, shall file the report required by subsection (b).";

And by renumbering sections accordingly;

Also on page 6, in line 18, after "25-901" by inserting ", 25-904";

On page 1, in the title, in line 2, after "25-901" by inserting ", 25-904";

Also, on motion of Rep. Howell, **HB 2425** be amended on page 6, following line 17, by inserting:

"New Sec. 5. (a) A county election officer may request the preparation of a ballot language statement for the purposes of explaining the language of a ballot question of any municipality as defined by K.S.A. 75-6102, and amendments thereto.

(1) If the ballot question language was derived from a petition submitted to the office of the county attorney, district attorney or county counselor pursuant to K.S.A. 25-3601, and amendments thereto, such county election officer shall request the office of the county attorney, district attorney or county attorney, as applicable, to prepare the ballot language statement in compliance with the requirements of subsection (a)(3).

(2) If the ballot question language did not derive from a petition submitted to the office of the county attorney, district attorney or county counselor pursuant to K.S.A. 25-3601, and amendments thereto, such county election officer shall request the office of secretary of state to prepare the ballot language statement in compliance with the requirements of subsection (a)(3).

(3) A ballot language statement shall fairly and accurately explain what a vote for and what a vote against the measure represents. Such ballot language statements shall be true and impartial statements of the effect of a vote for and against the measure in language neither intentionally argumentative nor likely to create prejudice for or against the proposed measure. A ballot language statement shall be prepared and transmitted in good faith and without malice.

(b) (1) Within 15 days of a request by a county election officer to prepare a ballot language statement pursuant to subsection (a)(1), the office of the county attorney, district attorney or county counselor, as applicable, shall prepare and forward such ballot language statement to the office of secretary of state for approval by the secretary of state or the secretary of state's designee that such ballot language statement complies with the requirements of subsection (a)(3). Within five days following receipt of the ballot language statement, the office of secretary of state shall furnish the county election officer the ballot language statement as approved by the office of secretary of state as in compliance with the requirements of subsection (a)(3).

(b) (2) Within 15 days of a request by a county election officer to prepare a ballot language statement pursuant to subsection (a)(2), the secretary of state or the secretary's designee shall prepare and forward such ballot language statement to the office of the attorney general for approval by the attorney general, or any assistant attorney general, that such ballot language statement complies with the requirements of subsection (a)(3). Within five days following receipt of the ballot language statement, the office of the attorney general shall furnish the county election officer the ballot language statement as approved by the office of the attorney general as in compliance with the requirements of subsection (a)(3).

(c) A ballot language statement prepared under this section shall be:

(1) Posted in each polling place, but shall not be placed on the ballot;

(2) provided to registered voters voting by advance ballot. Such ballot language statement shall not be placed on the ballot when provided to a registered voter voting by advance ballot; and

(3) made available for public inspection in the office of the county election officer. A ballot language statement prepared under this section may be posted on the official website of the county.

(d) There shall be no cause of action at law or in equity challenging the validity of the form of a ballot language statement prepared under this section. There shall be no liability on the part of and no cause of action of any nature shall arise against the attorney general, any assistant attorney general, the secretary of state, the secretary of state's employees, the county election officer, the county attorney, the district attorney or the county counselor as a result of the preparation of a ballot language statement under this section. The preparation of a ballot language statement shall not form any basis for an election contest or result in the waiver of any immunity by the state or any of its subdivisions.";

And by renumbering sections accordingly;

Also on page 6, in line 21, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking "question submitted"; also in line 2, after "elections" by inserting "and campaign finance"; and **HB 2425** be passed as amended.

Sub SB 282 be passed.

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2442**, be amended as recommended by the House Committee on Appropriations as reported in the Journal of the House on February 14, 2012, and the bill, as printed with amendments by House Committee, be further amended on page 7, in line 16, after the semicolon by inserting "and"; in line 19, by striking "and"; by striking all in lines 20 through 22; and the bill be passed as amended.

Committee on **Appropriations** recommends **SB 40** be amended by substituting a new bill to be designated as "House Substitute for SENATE BILL NO. 40," as follows:

"HOUSE Substitute for SENATE BILL NO. 40

By Committee on Appropriations

"AN ACT concerning the Kansas bioscience authority; amending K.S.A. 2011 Supp. 74-99b04, 74-99b08 and 74-99b17 and repealing the existing sections."; and the substitute bill be passed.

(**H Sub for SB 40** was thereupon introduced and read by title.)

Committee on **Education** recommends **Substitute for SB 393** be amended on page 1, in line 6, after "board" by inserting "of education"; in line 10, after "board" by inserting "of education"; in line 11, after "board" by inserting "of education"; in line 19, after "The" by inserting "state"; also in line 19, by striking "a" and inserting "the"; in line 20, following "program." by inserting:

"(b) (1)";

Also on page 1, in line 21, after the first "the" by inserting "career technical education incentive"; also in line 21, after the second "the" by inserting "state"; in line 24, after "occupation" by inserting "that has been"; in line 25, after "labor" by inserting ", in consultation with the state board of regents and the state board of education,,"; also in line 25, after "employees" by inserting "at the time the pupil entered the career technical education course or program in the school district"; in line 28, after "the" by inserting "state"; in line 29, by striking "may" and inserting "shall"; also in line 29, by striking all after "for" and inserting "the expenses incurred by the board of education of the school district under subsection (b)(2), and any moneys remaining after distribution in accordance with subsection (b)(2) may be expended as determined by the board of education of a school district towards"; in line 30, by striking "as determined by the"; in line 31, by striking "board of education of the school district"; following line 31, by inserting:

"(2) (A) Except as provided by subsection (b)(2)(B), upon application by a pupil who has not attained a high school diploma and is currently or was previously enrolled in a career technical education course or program in the school district, the board of education of each school district shall pay the costs of the industry-recognized credential assessment specified in such application in an amount not to exceed \$1,000. Such industry-recognized credential assessment shall be related to the career technical education course or program which such pupil is currently or was previously enrolled as

determined by the board of education.

(B) No board of education shall be required to pay for three or more industry-recognized credential assessments for the same or substantially the same industry-recognized credential for a pupil if such pupil fails to earn the industry-recognized credential within two attempts of taking the industry-recognized credential assessment.

(3) The state board of education shall certify to the state board of regents and the director of accounts and reports the amounts due to each school district pursuant to this subsection. Such certification, and the amount payable, shall be approved by the director of the budget. The director of accounts and reports shall draw warrants on the state treasurer payable to the district treasurer of each school district entitled to payment of such award amount, pursuant to vouchers approved by the state board of regents. Upon receipt of such warrant, each district treasurer shall deposit the amount of such award in the general fund of the school district.

(c) (1) Each school year, to the extent there are sufficient moneys appropriated to the career technical education incentive program, the state board of regents shall make an award to a community college, technical college or institute of technology who has at least one secondary student who is currently or was previously admitted to a career technical education course or program in accordance with subsection (c) of K.S.A. 72-4417, and amendments thereto, and such secondary student is regularly enrolled in and attending a private secondary school. The purpose of such award is to reimburse such community college, technical college or institute of technology for the costs of paying for an industry-recognized credential assessment in an occupation that has been identified by the secretary of labor, in consultation with the state board of regents and the state board of education, as an occupation in highest need of additional skilled employees at the time the secondary student was admitted into such career technical education course or program.

(2) (A) Except as provided by subsection (c)(2)(B), upon application by a secondary student who is currently or was previously enrolled in a career technical education course or program in accordance with subsection (c) of K.S.A. 72-4417, and amendments thereto, and is regularly enrolled in and attending a private secondary school, the governing body of the community college, technical college or the institute of technology which admitted such secondary student shall pay the costs of the industry-recognized credential assessment specified in such application in an amount not to exceed \$1,000. Such industry-recognized credential assessment shall be related to the career technical education course or program in which such secondary student is currently or was previously enrolled as determined by such governing body of a community college, technical college or institute of technology.

(B) No governing body of a community college, technical college or institute of technology shall be required to pay for three or more industry-recognized credential assessments for the same or substantially the same industry-recognized credential for a secondary student if such secondary student fails to earn the industry-recognized credential within two attempts of taking the industry-recognized credential assessment.

(3) Each governing body of a community college, technical college or institute of technology which has made payments of the costs specified in subsection (c)(2) may file an application with the state board of regents for state aid and shall certify to the state board of regents the amount of such payments. The application and certification shall be on a form prescribed and furnished by the state board of regents, shall contain

such information as the state board of regents shall require and shall be filed at the time specified by the state board of regents.

(4) In each school year, each governing body of a community college, technical college or institute of technology is entitled to receive from appropriations for the career technical education incentive program an amount which is equal to the amount certified to the state board of regents in accordance with the provisions of subsection (c)(3). The state board of regents shall certify to the director of accounts and reports the amount due each governing body of a community college, technical college or institute of technology. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each governing body of a community college, technical college or institute of technology entitled to payment under this subsection upon vouchers approved by the state board of regents.

(5) Moneys received by a state board of regents under this subsection shall be deposited in the postsecondary technical education fund of each community college and at Washburn university for the Washburn institute of technology or the general operating fund in the technical college in accordance with K.S.A. 2011 Supp. 71-1808, and amendments thereto, and shall be considered reimbursements to the community college, technical college or institute of technology.";

Also on page 1, in line 33, after "labor" by inserting ", the president of the state board of regents"; also in line 33, after "provide" by inserting "the state board of regents and"; in line 35, after "employees." by inserting "If the occupations identified in such list are not substantially the same as those occupations identified in the list from the prior year, reasonable notice of such changes shall be provided to school districts, community colleges, technical colleges and the institute of technology."; `by striking all in line 36;

On page 2, by striking all in lines 1 through 8;

And by redesignating subsections accordingly;

Also on page 2, in line 9, after the first "The" by inserting "state"; also in line 9, after "education" by inserting ", jointly,"; in line 16, after "the" by inserting "state"; in line 20, after the first "the" by inserting "state"; also in line 20, after the second "the" by inserting "state"; in line 28, after the first "the" by inserting "state"; in line 33, after "The" by inserting "state";

On page 7, in line 40, after "(A)" by inserting:

""Community college" means any community college established in accordance with chapter 71 of the Kansas Statutes Annotated, and amendments thereto.

(B)";

On page 8, following line 2, by inserting:

(C) "Institute of technology" means the institute of technology at Washburn university.

(D) "Secondary student" means a pupil who: (i) Has not attained a high school diploma or a general educational development (GED) credential; and (ii) is regularly enrolled in and attending a public or private secondary school.

(E) "Technical college" means a technical college designated pursuant to K.S.A. 72-4472, 72-4473, 72-4474, 72-4475, 72-4477 or 72-4477a, and amendments thereto.";

And by redesignating subparagraphs accordingly;

On page 9, following line 6, by inserting:

"Sec. 8. K.S.A. 2011 Supp. 72-6413 is hereby amended to read as follows: 72-6413. (a) (1) In school year 2012-2013, the program weighting of each district shall be

determined by the state board as follows:

~~(1)(A)~~ Compute full time equivalent enrollment in programs of bilingual education and multiply the computed enrollment by .395;

~~(2)(B)~~ compute full time equivalent enrollment in approved vocational education programs and multiply the computed enrollment by 0.5;

~~(3)(C)~~ add the products obtained under ~~(1) subparagraphs (A)~~ and ~~(2)(B)~~. The sum is the program weighting of the district.

(2) In school year 2013-2014 and each school year thereafter, the program weighting of each district shall be determined by the state board as follows: Compute the full time equivalent enrollment in programs of bilingual education and multiply the computed enrollment by .395. The result is the program weighting of the district.

(b) A school district may expend amounts received from the bilingual weighting to pay the cost of providing at-risk and preschool-aged at-risk education programs and services.";

And by renumbering sections accordingly;

Also on page 9, in line 7, after "72-4419" by inserting " and K.S.A. 2011 Supp. 72-6413";

On page 1, in the title, in line 3, after "71-201" by inserting "and 72-6413"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 74** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL NO. 74," as follows:

"HOUSE Substitute for SENATE BILL NO. 74

By Committee on Judiciary

"AN ACT concerning civil procedure; relating to social and rehabilitation services; amending K.S.A. 60-1501 and repealing the existing section."; and the substitute bill be passed.

(**H Sub for SB 74** was thereupon introduced and read by title.)

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Colloton, the House nonconcurred in Senate amendments to **Sub HB 2427** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Colloton, Kinzer and McCray-Miller as conferees on the part of the House.

MESSAGE FROM THE SENATE

The Senate nonconcurs in House amendments to **H Sub for SB 294**, requests a conference and has appointed Senators McGinn, Vratil and Kelly as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **SB 303**, requests a conference and has appointed Senators V. Schmidt, Brungardt and Kelly as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **SB 334**, requests a conference and has appointed Senators Umbarger, Marshall and Kultala as conferees on the part of the Senate.

REPORT ON ENROLLED BILLS

HB 2459 reported correctly enrolled, properly signed and presented to the Governor on March 19, 2012.

REPORT ON ENROLLED RESOLUTIONS

HR 6015 reported correctly enrolled and properly signed on March 19, 2012.

On motion of Rep. Siegfried, the House adjourned until 10:00 a.m., Tuesday, March 20, 2012.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

