

Journal of the Senate

FIFTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, April 3, 2014, 5:00 p.m.

The Senate was called to order by President Susan Wagle.
The roll was called with forty senators present.
Invocation by Father Don Davidson:

Dear Lord, we know that most of our wisdom comes after we have made decisions and recognize what happens, help us in all ways to make the decisions of life with wisdom. Help us to consider not only what will happen today, but tomorrow and the effect of our decisions many years from now. Help us to pray mightily for your guidance and listen carefully to the thoughts of others. In all things good Lord: give us wisdom. In your holy name. Amen.

The Pledge of Allegiance was led by President Susan Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 454, AN ACT concerning state officers and employees; relating to an annual payment for classified state employees and certain officers; abolishing longevity bonus payments; amending K.S.A. 2013 Supp. 75-5551 and repealing the existing section; also repealing K.S.A. 2013 Supp. 75-5541, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Ways and Means: **SB 453**.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Pilcher-Cook as a member of the Conference Committee on **HB 2515** to replace Senator Olson.

The President announced the appointment of Senator Bowers as a member of the Conference Committee on **HB 2515** to replace Senator Longbine.

COMMITTEE OF THE WHOLE

On motion of Senator Bruce, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Apple in the chair.

On motion of Senator Apple the following report was adopted:

The committee report on **HB 2506** recommending a **S Sub HB 2506** be adopted, be amended by motion of Senator Masterson: on page 2, in line 6, by striking "Tthe" and inserting "That the"; on page 35, in line 2, after "(2)" by inserting "for school year 2015-2016, and each school year thereafter,"

S Sub HB 2506 be further amended by motion of Senator Pilcher-Cook: on page 2, in line 6, by striking "Tthe" and inserting "That the";

On page 44, in line 10, by striking "(1)"; by striking all in lines 20 through 25

S Sub HB 2506 be amended by motion of Senator Knox: on page 31, following line 4, by inserting:

"New Sec. 44. (a) No state agency named in chapter 136 of the 2013 Session Laws of Kansas, this act or any other appropriation act of the 2014 regular session of the legislature or any school district shall expend moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal years ending June 30, 2015, June 30, 2016, or June 30, 2017, to implement the common core standards or any portion of such standards, including any assessments affiliated with common core standards unless the legislature expressly consents to the use of the common core standards.

(b) As used in this section, "common core standards" means the set of uniform educational curriculum standards for grades kindergarten through 12 established by the common core state standards initiative.";

And by renumbering sections accordingly

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 27; Nays 12; Present and Passing 1; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Shultz, Smith, Tyson, Wagle.

Nays: Francisco, Haley, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, McGinn, Pettey, V. Schmidt, Wolf.

Present and Passing: Faust-Goudeau.

S Sub HB 2506 was further amended by Senator Kelly: on page 2, in line 6, by striking "Tthe" and inserting "That the";

On page 30, in line 7, by striking "19" and inserting "21"; in line 9, by striking "Eight" and inserting "Ten"; in line 11, by striking "one" and inserting "two"; in line 12, after "senate," by inserting "one of which shall be a member of the senate committee on ways and means,"; in line 14, by striking "one" and inserting "two"; in line 15, after "representatives," by inserting "one of which shall be a member of the house of representatives committee on appropriations,"; in line 35, by striking "10" and inserting "11"

S Sub HB 2506 be further amended by motion of Senator Fitzgerald: on page 44, in line 19, after the period by inserting "The provisions of this subsection shall not apply to unified school district no. 207, and the board of such district may adopt a local option budget in excess of 31% of the state financial aid of the district in the current school year in accordance with subsection (d)."

S Sub HB 2506 be further amended by motion of Senator Wagle: on page 31, following line 4, by inserting the following:

"New Sec. 44. The provisions of sections 44 through 50, and amendments thereto, shall be known and may be cited as the corporate education tax credit scholarship program act.

New Sec. 45. As used in the corporate education tax credit scholarship program act:

(a) "Contributions" means monetary gifts or donations and in-kind contributions, gifts or donations that have an established market value;

(b) "department" means the Kansas department of revenue;

(c) "educational scholarship" means an amount not to exceed \$8,000 provided to eligible students to cover all or a portion of the costs of tuition, fees and expenses of a qualified school and, if applicable, the costs of transportation to a qualified school if provided by such qualified school;

(d) "eligible student" means a child who:

(1) (A) Is a member of a household whose total annual income during the year prior to receiving an educational scholarship under this program does not exceed 185% of the most recent federal poverty income guidelines published in the calendar year by the United States department of health and human services, (B) has an individualized education program and is considered a child with a disability, as defined by K.S.A. 72-962(z), and amendments thereto, or (C) has received an educational scholarship under this program and has not graduated from high school or reached 21 years of age;

(2) resides in Kansas while receiving an educational scholarship; and

(3) (A) was enrolled in any public school in the previous school year in which an educational scholarship was first sought for the child, or (B) is eligible to be enrolled in any public school in the school year in which an educational scholarship is first sought for the child and the child is under the age of six years;

(e) "individualized education program" shall have the meaning ascribed thereto in K.S.A. 72-962, and amendments thereto;

(f) "parent" includes a guardian, custodian or other person with authority to act on behalf of the child;

(g) "program" means the corporate education tax credit scholarship program established in sections 44 through 50, and amendments thereto;

(h) "public school" means a school operated by a school district;

(I) "qualified school" means any nonpublic school that provides education to elementary and secondary students, has notified the state board of its intention to participate in the program and complies with the requirements of the program;

(j) "scholarship granting organization" means an organization that complies with the requirements of this program and provides educational scholarships to students attending qualified schools of their parents' choice;

(k) "school district" or "district" means any unified school district organized and operating under the laws of this state;

(l) "school year" shall have the meaning ascribed thereto in K.S.A. 72-6408, and amendments thereto;

(m) "secretary" means the secretary of revenue; and

(n) "state board" means the state board of education.

New Sec. 46. (a) There is hereby established the corporate education tax credit scholarship program. The program shall provide eligible students with an opportunity to attend schools of their parents' choice.

(b) Each scholarship granting organization shall issue a receipt, in a form prescribed

by the secretary, to each contributing taxpayer indicating the value of the contribution received. Each taxpayer shall provide a copy of such receipt when claiming the tax credit established in section 50, and amendments thereto.

(c) Prior to awarding an educational scholarship to an eligible student, unless such student is under the age of six years, the scholarship granting organization shall receive written verification from the state board that such student is an eligible student under this program, provided the state board and the board of education of the school district in which the eligible student was enrolled the previous school year have received written consent from such eligible student's parent authorizing the release of such information.

(d) Upon receipt of information in accordance with subsection (a)(2) of section 47, and amendments thereto, the state board shall inform the scholarship granting organization if such student has already been designated to receive an educational scholarship by another scholarship granting organization.

(e) In each school year, each eligible student under this program shall not receive more than one educational scholarship under this program.

(f) An eligible student's participation in this program by receiving an educational scholarship constitutes a waiver to special education services provided by any school district, unless such school district agrees to provide such services to the qualified school.

New Sec. 47. (a) To be eligible to participate in the program, a scholarship granting organization shall comply with the following:

(1) The scholarship granting organization shall notify the secretary and the state board of the scholarship granting organization's intent to provide educational scholarships to students attending qualified schools;

(2) upon granting an educational scholarship to an eligible student, the scholarship granting organization shall report such information to the state board;

(3) the scholarship granting organization shall provide verification to the secretary that the scholarship granting organization is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(4) upon receipt of contributions in an aggregate amount or value in excess of \$50,000 during a school year, a scholarship granting organization shall file with the state board either:

(A) A surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(B) financial information demonstrating the scholarship granting organization's ability to pay an aggregate amount equal to the amount of the contributions expected to be received during the school year, which must be reviewed and approved of in writing by the state board;

(5) scholarship granting organizations that provide other nonprofit services in addition to providing educational scholarships shall not commingle contributions made under the program with other contributions made to such organization. A scholarship granting organization under this subsection shall also file with the state board, prior to the commencement of each school year, either:

(A) A surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(B) financial information demonstrating the nonprofit organization's ability to pay an

aggregate amount equal to the amount of the contributions expected to be received during the school year, which must be reviewed and approved of in writing by the state board;

(6) the scholarship granting organization shall ensure that each qualified school receiving educational scholarships from the scholarship granting organization is in compliance with the requirements of the program;

(7) at the end of the calendar year, the scholarship granting organization shall have its accounts examined and audited by a certified public accountant. Such audit shall include, but not be limited to, information verifying that the educational scholarships awarded by the scholarship granting organization were distributed to the eligible students determined by the state board under subsection (c) of section 46, and amendments thereto, and information specified in section 47, and amendments thereto. Prior to filing a copy of the audit with the state board, such audit shall be duly verified and certified by a certified public accountant; and

(8) if a scholarship granting organization decides to limit the number or type of qualified schools who will receive educational scholarships, the scholarship granting organization shall provide, in writing, the name or names of those qualified schools to any contributor and the state board.

(b) No scholarship granting organization shall provide an educational scholarship for any eligible student to attend any qualified school with paid staff or paid board members, or relatives thereof, in common with the scholarship granting organization.

(c) The scholarship granting organization shall disburse not less than 90% of contributions received pursuant to the program to eligible students in the form of educational scholarships within 36 months of receipt of such contributions. If such contributions have not been disbursed within the applicable 36-month time period, then the scholarship granting organization shall not accept new contributions until 90% of the received contributions have been disbursed in the form of educational scholarships. Any income earned from contributions must be disbursed in the form of educational scholarships.

(d) A scholarship granting organization may continue to provide an educational scholarship to an eligible student who received an educational scholarship under this program in the year immediately preceding the current school year.

(e) A scholarship granting organization shall direct payments of an educational scholarship to the qualified school on behalf of the eligible student. Payment shall be made by check made payable to both the parent and the qualified school. If an eligible student transfers to a new qualified school during a school year, the scholarship granting organization shall direct payment in a prorated amount to the original qualified school and the new qualified school based on the eligible student's attendance. If the eligible student transfers to a public school and enrolls in such public school after September 20 of the current school year, the scholarship granting organization shall direct payment in a prorated amount to the original qualified school and the public school based on the eligible student's attendance. The prorated amount to the public school shall be considered a donation and shall be paid to the school district of such public school in accordance with K.S.A. 72-8210, and amendments thereto, to provide for the education of such eligible student.

(f) By June 1 of each year, a scholarship granting organization shall submit a report to the state board for the educational scholarships provided in the immediately

preceding 12 months. Such report shall be in a form and manner as prescribed by the state board, approved and signed by a certified public accountant, and shall contain the following information:

- (1) The name and address of the scholarship granting organization;
- (2) the name and address of each eligible student receiving an educational scholarship by the scholarship granting organization;
- (3) the total number and total dollar amount of contributions received during the 12-month reporting period; and
- (4) the total number and total dollar amount of educational scholarships awarded during the 12-month reporting period, the total number and total dollar amount of educational scholarships awarded during the 12-month reporting period to eligible students who qualified under subsection (d)(1)(A) of section 45, and amendments thereto, and total number and total dollar amount of educational scholarships awarded during the 12-month reporting period to eligible students who qualified under subsection (d)(1)(B) of section 45, and amendments thereto.

(g) No scholarship granting organization shall:

- (1) Provide an eligible student with an educational scholarship established by funding from any contributions made by any relative of such eligible student; or
- (2) accept a contribution from any source with the express or implied condition that such contribution be directed toward an educational scholarship for a particular eligible student.

New Sec. 48. On or before the first day of the legislative session in 2015, and each year thereafter, the state board shall prepare and submit a report to the legislature on the program. Annual reports shall include information reported to the state board under subsection (f) of section 47, and amendments thereto, and a summary of such information.

New Sec. 49. (a) (1) To qualify for the tax credit allowed by this act, the scholarship granting organization shall apply each tax year to the state board for a certification that the scholarship granting organization is in substantial compliance with the program based on information received in the annual audit and yearly report filed by the scholarship granting organization with the state board.

(2) The state board shall prescribe the form of the application, which shall include, but not be limited to, the information set forth in subsection (a)(1).

(b) If the state board determines that the requirements under this section were met by the scholarship granting organization, the state board shall issue a certificate of compliance to the director of taxation.

(c) The state board shall adopt rules and regulations to implement the provisions of this section.

New Sec. 50. (a) There shall be allowed a credit against the corporate income tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, the privilege tax liability imposed upon a taxpayer pursuant to the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and the premium tax liability imposed upon a taxpayer pursuant to the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, for tax years commencing after December 31, 2013, an amount equal to 70% of the amount contributed to a scholarship granting

organization authorized pursuant to section 44 et seq., and amendments thereto.

(b) The credit shall be claimed and deducted from the taxpayer's tax liability during the tax year which immediately follows the tax year in which the contribution was made to any such scholarship granting organization.

(c) For each tax year, in no event shall the total amount of credits allowed under this section exceed \$10,000,000 for any one tax year. Except as otherwise provided, the allocation of such tax credits for each scholarship granting organization shall be determined by the scholarship granting organization in consultation with the secretary, and such determination shall be completed prior to the issuance of any tax credits pursuant to this section.

(d) If the amount of any such tax credit claimed by a taxpayer exceeds the taxpayer's income, privilege or premium tax liability, such excess amount may be carried over for deduction from the taxpayer's income, privilege or premium tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability.

(e) The secretary shall adopt rules and regulations regarding filing of documents that support the amount of credit claimed pursuant to this section.";

On page 37, in line 29, after "(A)" by inserting "The sum of: (i)"; in line 30, after the first "year" by inserting ", excluding pupils described in clause (A)(ii),"; in line 31, by striking "such pupils were enrolled"; in line 33, by striking "such pupils are enrolled" and inserting "; and (ii) adjusted enrollment in the preceding school year of any pupils participating in the corporate education tax credit scholarship program pursuant to section 44 et seq., and amendments thereto, in the current school year, if any, plus adjusted enrollment in the preceding school year of preschool-aged at-risk pupils participating in the corporate education tax credit scholarship program pursuant to section 44 et seq., and amendments thereto, in the current school year, if any";

On page 50, following line 43, by inserting:

"Sec. 67. On and after July 1, 2014, K.S.A. 2013 Supp. 79-32,138 is hereby amended to read as follows: 79-32,138. (a) Kansas taxable income of a corporation taxable under this act shall be the corporation's federal taxable income for the taxable year with the modifications specified in this section.

(b) here shall be added to federal taxable income: (i) The same modifications as are set forth in subsection (b) of K.S.A. 79-32,117, and amendments thereto, with respect to resident individuals, except subsections (b)(xix), (b)(xx), (b)(xxi), (b)(xxii) and (b)(xxiii).

(ii) The amount of all depreciation deductions claimed for any property upon which the deduction allowed by K.S.A. 2013 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto, is claimed.

(iii) The amount of any charitable contribution deduction claimed for any contribution or gift to or for the use of any racially segregated educational institution.

(iv) For taxable years commencing December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 2013 Supp. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's

employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2013 Supp. 40-2,190, and amendments thereto.

(v) The amount of any charitable contribution deduction claimed for any contribution or gift made to a scholarship granting organization to the extent the same is claimed as the basis for the credit allowed pursuant to section 50, and amendments thereto.

(c) There shall be subtracted from federal taxable income: (i) The same modifications as are set forth in subsection (c) of K.S.A. 79-32,117, and amendments thereto, with respect to resident individuals, except subsection (c)(xx).

(ii) The federal income tax liability for any taxable year commencing prior to December 31, 1971, for which a Kansas return was filed after reduction for all credits thereon, except credits for payments on estimates of federal income tax, credits for gasoline and lubricating oil tax, and for foreign tax credits if, on the Kansas income tax return for such prior year, the federal income tax deduction was computed on the basis of the federal income tax paid in such prior year, rather than as accrued. Notwithstanding the foregoing, the deduction for federal income tax liability for any year shall not exceed that portion of the total federal income tax liability for such year which bears the same ratio to the total federal income tax liability for such year as the Kansas taxable income, as computed before any deductions for federal income taxes and after application of subsections (d) and (e) of this section as existing for such year, bears to the federal taxable income for the same year.

(iii) An amount for the amortization deduction allowed pursuant to K.S.A. 2013 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto.

(iv) For all taxable years commencing after December 31, 1987, the amount included in federal taxable income pursuant to the provisions of section 78 of the internal revenue code.

(v) For all taxable years commencing after December 31, 1987, 80% of dividends from corporations incorporated outside of the United States or the District of Columbia which are included in federal taxable income.

(d) If any corporation derives all of its income from sources within Kansas in any taxable year commencing after December 31, 1979, its Kansas taxable income shall be the sum resulting after application of subsections (a) through (c) hereof. Otherwise, such corporation's Kansas taxable income in any such taxable year, after excluding any refunds of federal income tax and before the deduction of federal income taxes provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any refund of federal income tax as determined under paragraph (iv) of subsection (b) of K.S.A. 79-32,117, and amendments thereto, and minus the deduction for federal income taxes as provided by subsection (c)(ii) shall be such corporation's Kansas taxable income.

(e) A corporation may make an election with respect to its first taxable year commencing after December 31, 1982, whereby no addition modifications as provided for in subsection (b)(ii) of K.S.A. 79-32,138, and amendments thereto, and subtraction modifications as provided for in subsection (c)(iii) of K.S.A. 79-32,138, and amendments thereto, as those subsections existed prior to their amendment by this act, shall be required to be made for such taxable year.;

On page 51, in line 5, by striking "and" and inserting a comma; also in line 5, after "72-6460" by inserting "and 79-32,138";

And by renumbering sections accordingly;

On page 1, in the title, in line 7, after the semicolon by inserting "enacting the corporate education tax credit scholarship program act;"; in line 11, by striking "and" and inserting a comma; also in line 11, after "72-6460" by inserting "and 79-32,138"

S Sub HB 2506 be amended by motion of Senator Arpke: on page 50, following line 43, by inserting the following:

"Sec. 60. On and after July 1, 2014, K.S.A. 72-1412 is hereby amended to read as follows: 72-1412. As used in K.S.A. 72-1412 through 72-1415, and amendments thereto:

(a) "Mentor teacher program" means a program established and maintained by the board of education of a school district for the purpose of providing probationary teachers with professional support and the continuous assistance of an on-site mentor teacher.

(b) "Mentor teacher" means a certificated teacher who has completed at least three consecutive school years of employment in the school district, has been selected by the board of education of the school district on the basis of having demonstrated exemplary teaching ability as indicated by criteria established by the state board of education, and has participated in and successfully completed a training program for mentor teachers provided for by the board of education of the school district in accordance with guidelines prescribed by the state board of education. The primary function of a mentor teacher shall be to provide probationary teachers with professional support and assistance. A mentor teacher may provide assistance and guidance to not more than two probationary teachers.

(c) "Probationary teacher" means a certificated teacher ~~to whom the provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, do not apply who has completed less than three consecutive school years of employment in the school district.~~

Sec. 61. On and after July 1, 2014, K.S.A. 2013 Supp. 72-5436 is hereby amended to read as follows: 72-5436. As used in this act: (a) "Teacher" means ~~any professional employee who is required to hold a certificate to teach in any school district, and any teacher or instructor in any area vocational-technical school, technical college, the institute of technology or community college. The term "teacher" does not include within its meaning any supervisors, principals or superintendents or any persons employed under the authority of K.S.A. 72-8202b, and amendments thereto, or any persons employed in an administrative capacity by any area vocational-technical school, technical college, the institute of technology or community college, or commencing in the 2006-2007 school year, any person who is a retiree from school employment of the Kansas public employees retirement system.~~

(b) "Board" means ~~the board of education of any school district, the board of control of any area vocational-technical school, technical college or the institute of technology,~~ and the board of trustees of any community college.

Sec. 62. On and after July 1, 2014, K.S.A. 2013 Supp. 72-5437 is hereby amended to read as follows: 72-5437. (a) All contracts of employment of teachers, ~~as defined in K.S.A. 72-5436, and amendments thereto,~~ except contracts entered into under the provisions of K.S.A. 72-5412a, and amendments thereto, shall be deemed to continue for the next succeeding school year unless written notice of termination or nonrenewal is served as provided in this subsection. Written notice to terminate a contract may be served by a board upon any teacher prior to the time the contract has been completed,

and written notice of intention to nonrenew a contract shall be served by a board upon any teacher on or before the third Friday in May. A teacher shall give written notice to a board that the teacher does not desire continuation of a contract on or before the 14th calendar day following the third Friday in May or, if applicable, not later than 15 days after the issuance of a unilateral contract as authorized by K.S.A. 72-5428a, and amendments thereto, whichever is the later date.

(b) Terms of a contract may be changed at any time by mutual consent of both a teacher and a board.

(c) As used in this section:

(1) "Board of education" or "board" means the board of education of any school district, the board of control of any technical college or the institute of technology, and the board of trustees of any community college.

(2) "Professional employee" means any person employed by a board of education in a position which requires a certificate issued by the state board of education or employed by a board of education in a professional, educational or instructional capacity.

(3) (A) "Teacher" means (1) a teacher as defined by K.S.A. 72-5436, and amendments thereto, and (2) any professional employee who is required to hold a certificate to teach in any school district, and any teacher or instructor in any technical college, the institute of technology or any community college, including any professional employee who is a retirant from school employment of the Kansas public employees retirement system.

(B) The term "teacher" does not include any supervisors, principals or superintendents or any persons employed under the authority of K.S.A. 72-8202b, and amendments thereto, or any persons employed in any administrative capacity by any technical college, the institute of technology or any community college.

Sec. 63. On and after July 1, 2014, K.S.A. 2013 Supp. 72-5438 is hereby amended to read as follows: 72-5438. (a) Whenever a teacher is given written notice of intention by a board to not renew or to terminate the contract of the teacher as provided in K.S.A. 72-5437, and amendments thereto, the written notice of the proposed nonrenewal or termination shall include: (1) A statement of the reasons for the proposed nonrenewal or termination; and (2) a statement that the teacher may have the matter heard by a hearing officer upon written request filed with ~~the clerk of the board of education~~ or the board of control or the secretary of the board of trustees within 15 calendar days from the date of such notice of nonrenewal or termination.

(b) Within 10 calendar days after the filing of any written request of a teacher to be heard as provided in subsection (a), the board shall notify the commissioner of education that a list of qualified hearing officers is required. Such notice shall contain the mailing address of the teacher. Within 10 days after receipt of notification from the board, the commissioner shall provide to the board and to the teacher, a list of five randomly selected, qualified hearing officers.

(c) Within five days after receiving the list from the commissioner, each party shall eliminate two names from the list, and the remaining individual on the list shall serve as hearing officer. In the process of elimination, each party shall eliminate no more than one name at a time, the parties alternating after each name has been eliminated. The first name to be eliminated shall be chosen by the teacher within five days after the teacher receives the list. The process of elimination shall be completed within five days

thereafter.

(d) Either party may request that one new list be provided within five days after receiving the list. If such a request is made, the party making the request shall notify the commissioner and the other party, and the commissioner shall generate a new list and distribute it to the parties in the same manner as the original list.

(e) In lieu of using the process provided in subsections (b) and (c), if the parties agree, they may make a request to the American Arbitration Association for an arbitrator to serve as the hearing officer. Any party desiring to use this alternative procedure shall so notify the other party in the notice required under subsection (a). If the parties agree to use this procedure, the parties shall make a joint request to the American Arbitration Association for a hearing officer within 10 days after the teacher files a request for a hearing. If the parties choose to use this procedure, the parties shall each pay one-half of the cost of the arbitrator and of the arbitrator's expenses.

(f) The commissioner of education shall compile and maintain a list of hearing officers comprised of residents of this state who are attorneys at law. Such list shall include a statement of the qualifications of each hearing officer.

(g) Attorneys interested in serving as hearing officers under the provisions of this act shall submit an application to the commissioner of education. The commissioner shall determine if the applicant is eligible to serve as a hearing officer pursuant to the provisions of subsection (h).

(h) An attorney shall be eligible for appointment to the list if the attorney has: (1) Completed a minimum of 10 hours of continuing legal education credit in the area of education law, due process, administrative law or employment law within the past five years; or (2) previously served as the chairperson of a due process hearing committee prior to the effective date of this act. An attorney shall not be eligible for appointment to the list if the attorney has been employed to represent a board or a teacher in a due process hearing within the past five years.

Sec. 64. On and after July 1, 2014, K.S.A. 72-5439 is hereby amended to read as follows: 72-5439. The hearing provided for under K.S.A. 72-5438, and amendments thereto, shall commence within 45 calendar days after the hearing officer is selected unless the hearing officer grants an extension of time. The hearing shall afford procedural due process, including the following:

(a) The right of each party to have counsel of such party's own choice present and to receive the advice of such counsel or other person whom such party may select;

(b) the right of each party or such party's counsel to cross-examine any person who provides information for the consideration of the hearing officer, except those persons whose testimony is presented by affidavit;

(c) the right of each party to present such party's own witnesses in person, or their testimony by affidavit or deposition, except that testimony of a witness by affidavit may be presented only if such witness lives more than 100 miles from the location of the ~~unified school district office, area vocational-technical school, technical college, institute of technology~~ or community college, or is absent from the state, or is unable to appear because of age, illness, infirmity or imprisonment. When testimony is presented by affidavit the same shall be served upon ~~the clerk of the board of education or the board of control, or the secretary of the board of trustees;~~ or the agent of the board and upon the teacher in person or by first-class mail to the address of the teacher which is on file with the board not less than 10 calendar days prior to presentation to the hearing

officer;

(d) the right of the teacher to testify in the teacher's own behalf and give reasons for the teacher's conduct, and the right of the board to present its testimony through such persons as the board may call to testify in its behalf and to give reasons for its actions, rulings or policies;

(e) the right of the parties to have an orderly hearing; and

(f) the right of the teacher to a fair and impartial decision based on substantial evidence.

Sec. 65. On and after July 1, 2014, K.S.A. 2013 Supp. 72-5445 is hereby amended to read as follows: 72-5445. ~~(a) (1) Subject to the provisions of subsections (b) and (c),~~ The provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, apply only to: ~~(A) (1) Teachers who have completed not less than three consecutive years of employment, and been offered a fourth contract, in the school district, area vocational-technical school, technical college, institute of technology or community college by which any such teacher is currently employed; and (B) (2) teachers who have completed not less than two consecutive years of employment, and been offered a third contract, in the school district, area vocational-technical school, technical college, institute of technology or community college by which any such teacher is currently employed if at any time prior to the current employment the teacher has completed the years of employment requirement of subpart (A) paragraph (1) in any school district, area vocational-technical school, technical college, the institute of technology or community college in this state.~~

~~(2) (b) Any board may waive, at any time, the years of employment requirements of provision (1) for any teacher employed by it.~~

~~(3) (c) The provisions of this subsection are subject to the provisions of K.S.A. 72-5446, and amendments thereto.~~

~~(b) The provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, do not apply to any teacher whose license has been nonrenewed or revoked by the state board of education for the reason that the teacher: (1) Has been convicted of a felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; (2) has been convicted of a felony described in any section of article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto, or an act described in K.S.A. 21-3412, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5413, or K.S.A. 21-3412a, prior to its repeal, or K.S.A. 2013 Supp. 21-5414, and amendments thereto, if the victim is a minor or student; (3) has been convicted of a felony described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6419 through 21-6421, and amendments thereto, or has been convicted of an act described in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5505, and amendments thereto, if the victim is a minor or student; (4) has been convicted of any act described in any section of article 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto; (5) has been convicted of a felony described in~~

article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the Kansas Statutes Annotated or subsection (a)(6) of K.S.A. 2013 Supp. 21-6412, and amendments thereto; (6) has been convicted of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2013 Supp. 21-5301, and amendments thereto, to commit any act specified in this subsection; (7) has been convicted of any act which is described in K.S.A. 21-4301, 21-4301a or 21-4301e, prior to their repeal, or K.S.A. 2013 Supp. 21-6401 or 21-6402, and amendments thereto; (8) has been convicted in another state or by the federal government of an act similar to any act described in this subsection; or (9) has entered into a criminal diversion agreement after having been charged with any offense described in this subsection.

(e) (1) The provisions of this subsection shall apply to a teacher described in subsection (a)(1)(A) of this section. After a teacher has completed not less than three consecutive years of employment and if the requirements of paragraph (2) have been satisfied, the board of education of the school district and the teacher may enter into an agreement under which the school district may offer the teacher a contract of employment for a fourth year or a fourth and fifth year and the teacher agrees that the provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, shall not apply to such teacher unless a sixth contract is offered to the teacher.

(2) A school district offering a contract pursuant to this subsection shall prepare a written plan of assistance for the teacher being offered such contract and shall submit such plan of assistance to the teacher at the time such contract is offered. Prior to signing or rejecting a contract, the teacher shall have not less than 48 hours from the time the contract is offered to review and consider the contract and the plan of assistance. The plan of assistance shall be written to address those areas of teacher performance where the school district believes the teacher's performance is less than satisfactory.

(3) If an agreement under this subsection is reached by the teacher and the school district, then the school district shall file annually a report with the state board of education which shall contain the following information in subparagraphs (A) through (D):

(A) The number of teachers that were offered by the school district a contract under subsection (a)(1)(A) of this section;

(B) the number of teachers that were offered by the school district an agreement under this subsection;

(C) the number of teachers that accepted the agreement under this subsection;

(D) the number of teachers that were not offered by the school district either a contract under subsection (a)(1)(A) of this section or an agreement under this subsection.

(4) In addition to the reports required under paragraph (3), each school district shall report annually to the state board of education, the committee on education of the senate and the committee on education of the house of representatives the number of contracts issued under subsection (a) which result in the application of K.S.A. 72-5438 through 72-5443, and amendments thereto, to the teachers who receive such contracts and the year of employment for which the contract is issued.

(5) The provisions of this subsection shall expire on July 1, 2016.

Sec. 66. On and after July 1, 2014, K.S.A. 72-5446 is hereby amended to read as follows: 72-5446. In the event any teacher, as defined in K.S.A. 72-5436, and

~~amendments thereto~~, alleges that the teacher's contract has been nonrenewed by reason of the teacher having exercised a constitutional right, the following procedure shall be implemented:

(a) The teacher alleging an abridgment by the board of a constitutionally protected right shall notify the board of the allegation within 15 days after receiving the notice of intent to not renew or terminate the teacher's contract. Such notice shall specify the nature of the activity protected, and the times, dates, and places of such activity;

(b) the hearing officer provided for by K.S.A. 72-5438, and amendments thereto, shall thereupon be selected and shall decide if there is substantial evidence to support the teacher's claim that the teacher's exercise of a constitutionally protected right was the reason for the nonrenewal;

(3) if the hearing officer determines that there is no substantial evidence to substantiate the teacher's claim of a violation of a constitutionally protected right, the board's decision to not renew the contract shall stand;

(d) if the hearing officer determines that there is substantial evidence to support the teacher's claim, the board shall be required to submit to the hearing officer any reasons which may have been involved in the nonrenewal;

(e) if the board presents any substantial evidence to support its reasons, the board's decision not to renew the contract shall be upheld.";

On page 51, in line 3, after "K.S.A." by inserting "72-1412, 72-5439, 72-5446,"; in line 5, after the first comma by inserting "72-5436, 72-5437, 72-5438, 72-5445,";

On page 1, in the title, in line 5, after "licensure" by inserting "and administrative due process"; in line 9, after the second comma by inserting "72-1412, 72-5439, 72-5446,"; in line 10, after the last comma by inserting "72-5436, 72-5437, 72-5438, 72-5445," and **S Sub HB 2506** be passed as amended.

A motion by Senator Hensley to amend **S Sub HB 2506** failed and the following amendment was rejected: on page 1, by striking all in lines 16 through 36;

By striking all on pages 2 through 50;

On page 51, by striking all in lines 1 through 8, and inserting the following:
"Section 1.

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Supplemental general state aid.....\$103,865,000

(b) On July 1, 2014, the expenditure limitation established for the fiscal year ending June 30, 2015, by section 144(b) of chapter 136 of the 2013 Session Laws of Kansas on the school district capital outlay state aid fund of the department of education is hereby increased from \$0 to no limit.

Sec. 2. K.S.A. 2013 Supp. 72-8814 is hereby amended to read as follows: 72-8814.

(a) There is hereby established in the state treasury the school district capital outlay state aid fund. Such fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

(b) In each school year, each school district which levies a tax pursuant to K.S.A. 72-8801 et seq., and amendments thereto, shall be entitled to receive payment from the school district capital outlay state aid fund in an amount determined by the state board of education as provided in this subsection. The state board of education shall:

(1) Determine the amount of the assessed valuation per pupil (AVPP) of each school

district in the state and round such amount to the nearest \$1,000. The rounded amount is the AVPP of a school district for the purposes of this section;

- (2) determine the median AVPP of all school districts;
 - (3) prepare a schedule of dollar amounts using the amount of the median AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts and shall range downward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the lowest AVPP of all school districts;
 - (4) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the median AVPP shown on the schedule, decreasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval above the amount of the median AVPP, and increasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval below the amount of the median AVPP. Except as provided by K.S.A. 2013 Supp. 72-8814b, and amendments thereto, the state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district, except that the state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 25%;
 - (5) determine the amount levied by each school district pursuant to K.S.A. 72-8801 et seq., and amendments thereto;
 - (6) multiply the amount computed under (5), but not to exceed 8 mills, by the applicable state aid percentage factor. The product is the amount of payment the school district is entitled to receive from the school district capital outlay state aid fund in the school year.
- (c) The state board shall certify to the director of accounts and reports the entitlements of school districts determined under the provisions of subsection (b), and an amount equal thereto shall be transferred by the director from the state general fund to the school district capital outlay state aid fund for distribution to school districts, ~~except that no transfers shall be made from the state general fund to the school district capital outlay state aid fund during the fiscal years ending June 30, 2013, June 30, 2014, June 30, 2015, or June 30, 2016.~~ All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund.
- (d) Payments from the school district capital outlay state aid fund shall be distributed to school districts at times determined by the state board of education. The state board of education shall certify to the director of accounts and reports the amount due each school district entitled to payment from the fund, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district. Upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the capital outlay fund of the school district to be used for the purposes of such fund.
- (e) Amounts transferred to the capital outlay fund of a school district as authorized by K.S.A. 72-6433, and amendments thereto, shall not be included in the computation when determining the amount of state aid to which a district is entitled to receive under this section.

Sec. 3. K.S.A. 2013 Supp. 72-8814 is hereby repealed.

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

On page 1, in the title, in line 1, by striking all after "to"; by striking all in lines 2 through 12; in line 13, by striking all before the period and inserting "capital outlay; making and concerning appropriations for the fiscal year ending June 30, 2015, for the department of education; amending K.S.A. 2013 Supp. 72-8814 and repealing the existing section"

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 11; Nays 29; Present and Passing 0; Absent or Not Voting 0.

Yeas: Bowers, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, McGinn, Pettey, V. Schmidt.

Nays: Abrams, Apple, Arpke, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Shultz, Smith, Tyson, Wagle, Wolf.

A motion by Senator Abrams to amend **S Sub HB 2506** failed and the following amendment was rejected: on page 31, following line 4, by inserting:

"New Sec. 44. (a) The legislature hereby finds and declares the following:

(1) The unencumbered moneys held by school districts in the school district funds are a part of the legislature's provision for school finance;

(2) after the decisions by the Kansas supreme court in *Montoy v. State* in 2005, school districts began accumulating unencumbered moneys in the school district funds; and

(3) the amount of unencumbered moneys held by school districts in the school district funds has continued to increase since school year 2005-2006 which demonstrates that such moneys are not necessary for the operational cash flow needs of the school districts.

(b) On or before August 25, 2014, each school district shall determine the following:

(1) The aggregate amount of unencumbered moneys held by such school district in the school district funds on July 1, 2005;

(2) the aggregate amount of unencumbered moneys held by such school district in the school district funds on July 1, 2013; and

(3) subtract the amount determined under paragraph (1) from the amount determined under paragraph (2).

(b) Notwithstanding any other provision of law, for school year 2014-2015, any school district may expend the amount determined under subsection (a)(3) to pay for general operating expenses of the school district out of the general fund as approved by the board of education of such district.

(c) On or before August 25, 2014, the superintendent appointed by the board of education of each school district, or such superintendent's designee, shall certify to the state board of education the amount determined under subsection (a)(3). Upon receipt of such certification, the state board of education shall adjust the amount of general state aid such school district is entitled to receive for school year 2014-2015 by deducting the amount determined under subsection (a)(3) from the amount of general state aid

determined for such school district pursuant to K.S.A. 72-6416, and amendments thereto. In the event, a school district's local effort exceeds such district's state financial aid as determined by the state board of education for school year 2014-2015, such school district shall remit the amount determined under subsection (a)(3) at such time and in such manner as remittances are made under subsection (d) of K.S.A. 72-6431, and amendments thereto.

(d) As used in this section, the term "school district funds" means the at-risk education fund, as provided in K.S.A. 76-6414a, and amendments thereto, bilingual education fund, as provided in K.S.A. 72-9509, and amendments thereto, contingency reserve fund, as provided in K.S.A. 72-6426, and amendments thereto, driver training fund, as provided in K.S.A. 72-6423, and amendments thereto, parent education program fund, as provided in K.S.A. 72-3607, and amendments thereto, preschool-aged at-risk education fund, as provided in K.S.A. 72-6414b, and amendments thereto, professional development fund, as provided in K.S.A. 72-9609, and amendments thereto, summer program fund, as provided in K.S.A. 72-8237, and amendments thereto, textbook and student materials revolving fund, as provided in K.S.A. 72-8250, and amendments thereto, special education fund, as provided in K.S.A. 72-965 and 72-6420, and amendments thereto, virtual school fund, as provided in K.S.A. 72-3715, and amendments thereto, and vocational education fund, as provided in K.S.A. 72-6421, and amendments thereto.

(e) The provisions of this section shall be part of and supplemental to the school district finance and quality performance act.":

On page 32, by striking all in lines 23 through 43;

By striking all on pages 33 through 45;

On page 46, by striking all in lines 1 through 5; also on page 46, by striking all in lines 28 through 43;

By striking all on pages 47 through 49;

On page 50, by striking all in lines 1 through 30;

On page 51, in lines 1, by striking "72-6433"; in line 2, by striking "and"; in line 3, by striking ", 72-6411, 72-"; in line 4, by striking "6415"; also in line 4, by striking all after "72-8809"; in line 5, by striking all before "are";

And by renumbering remaining sections accordingly;

On page 1, in the title, in line 9, by striking ", 72-6411, 72-6415"; in line 10, by striking all after "Supp."; in line 11, by striking all before "72-6433d"; also in line 2, by striking all after "72-6433d"; in line 12, by striking the last "and"; in line 13, by striking all before the period

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 17; Nays 22; Present and Passing 1; Absent or Not Voting 0.

Yeas: Abrams, Arpke, Bowers, Fitzgerald, Holmes, Knox, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Smith, Tyson.

Nays: Apple, Bruce, Denning, Donovan, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kerschen, King, LaTurner, Longbine, Love, McGinn, Pettey, Powell, V. Schmidt, Shultz, Wagle, Wolf.

Present and Passing: Kelly.

The committee report on **HB 2231** recommending a **S Sub Sub HB 2231** be adopted and **S Sub Sub HB 2231** be passed.

A motion by Senator Pyle to amend **S Sub HB 2231** failed and the following amendment was rejected: on page 57, following line 23, by inserting:

"Sec. 92. (a) No state agency named in chapter 136 of the 2013 Session Laws of Kansas, this act or any other appropriation act of the 2014 regular session of the legislature or any public entity shall expend moneys appropriated from the state general fund or any special revenue fund or funds for fiscal years 2015, 2016 and 2017, for the following unless the legislature expressly consents to do so: (1) Employ or contract for the services of a lobbyist; (2) pay membership dues or provide any other type of financial support to an association that employs a lobbyist; (3) pay membership dues or provide any other type of financial support to an association that has an affiliated organization that employs a lobbyist; or (4) pay, as a direct or indirect gift or campaign contribution, any elected official, officer or employee of the state or any municipality.

(b) As used in this section:

(1) "Financial support" means any type of monetary or non-monetary payment, contribution, gift, or in-kind exchange, regardless of whether the public entity receives a benefit in return for such payment, contribution, or in-kind exchange.

(2) "Gift" means a voluntary transfer of anything of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official state agency business.

(3) "Lobbyist" shall have the meaning ascribed thereto in K.S.A. 46-222, and amendments thereto.

(4) "Public entity" shall have the meaning ascribed to "municipality" in K.S.A. 75-6102, and amendments thereto.";

And by renumbering sections accordingly

Upon the showing of five hands a roll call vote was requested:

On roll call, the vote was: Yeas 14; Nays 19; Present and Passing 6; Absent or Not Voting 1.

Yeas: Abrams, Fitzgerald, Knox, Lynn, Masterson, Melcher, O'Donnell, Olson, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson.

Nays: Bowers, Bruce, Denning, Donovan, Francisco, Hawk, Hensley, Holland, Kelly, Kerschen, King, LaTurner, Longbine, McGinn, Pettey, V. Schmidt, Shultz, Wagle, Wolf.

Present and Passing: Arpke, Faust-Goudeau, Haley, Holmes, Love, Ostmeyer.

Absent or Not Voting: Apple.

A motion by Senator Melcher to amend **S Sub Sub HB 2231** failed and the following amendment was rejected: on page 19, following line 26, by inserting:

"(b) On July 1, 2014, in addition to the other purposes for which expenditures may be made by the department of commerce from the state affordable airfare fund of the department of commerce pursuant to section 124(c) of chapter 136 of the 2013 Session Laws of Kansas, this act or other appropriation act of the 2014 regular session of the legislature for fiscal year 2015, expenditures shall be made by the above agency from the state affordable airfare fund for fiscal year 2015 for a grant given directly to Sedgwick county, Kansas in the amount of \$2,240,000 and to Garden City, Kansas in the amount of \$250,000: *Provided*, That the provisions of the proviso for the state affordable airfare fund of the department of commerce pursuant to section 124(c) of chapter 136 of the 2013 Session Laws of Kansas, authorizing the above agency to expend the moneys in the state affordable airfare fund during fiscal year 2015 as a grant

given directly to the city or county which received moneys from the state affordable airfare fund during fiscal year 2014 in the same amount as was received in fiscal year 2014, are hereby declared null and void and shall have no force and effect.

(c) On July 1, 2014, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 68-416, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$2,500,000 from the state highway fund to the state general fund.

(d) On July 1, 2014, of the \$5,000,000 to be transferred from the state highway fund to the state affordable airfare fund of the department of commerce for the fiscal year ending June 30, 2015, by section 124(f) of chapter 136 of the 2013 Session Laws of Kansas, such amount is hereby reduced to the amount of \$2,500,000."

Senator Pyle offered an amendment of **S Sub Sub HB 2231**; a ruling of the Chair was requested as to the germaneness of the amendment. The Chair ruled the amendment was not germane. The motion was withdrawn.

A motion by Senator Kelly to amend **S Sub Sub HB 2231** was withdrawn.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Bruce an emergency was declared by a 2/3 constitutional majority, and **S Sub Sub HB 2231** and **S Sub HB 2506** were advanced to Final Action and roll call.

S Sub HB 2506, AN ACT concerning education; relating to postsecondary education; enacting the SUCCESS act; creating the Johnson county community college go pro now program; relating to real property of certain state universities; relating to school districts; relating to the provision for school finance; relating to teacher licensure; enacting the education fairness property tax relief act; creating the K-12 school finance study commission; making and concerning appropriations for fiscal years ending June 30, 2014, June 30, 2015, and June 30, 2016, for certain state agencies; amending K.S.A. 71-204, 71-617, 72-6411, 72-6415 and 72-8809 and K.S.A. 2013 Supp. 72-3712, 72-3714, 72-3715, 72-3716, 72-6407, 72-6415b, 72-6433, 72-6433d, 72-6441, 72-6455 and 72-6460 and repealing the existing sections; also repealing K.S.A. 72-60b03 and K.S.A. 2013 Supp. 72-6454.

On roll call, the vote was: Yeas 23; Nays 17; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Denning, Donovan, Fitzgerald, Holmes, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Wagle, Wolf.

Nays: Arpke, Bowers, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, McGinn, Ostmeyer, Pettey, V. Schmidt, Shultz, Tyson.

EXPLANATION OF VOTE

Madam President: I vote "No" on **S Sub HB 2506**. Less than one month ago the Kansas Supreme Court affirmed that the legislature has created an unconstitutional

school finance system and then was the time to fix it. They told us to resolve inequities by fully funding capital outlay and local option budget equalization. Unfortunately, we have waited until the final two days of the legislative session to address this issue. When the equity issue should have been this legislature's first and foremost priority. It is absurd that we are discussing more cuts to important areas of education – at-risk, virtual schools, transportation – to fix this. More cuts are not the solution. This bill makes unnecessary and unvetted new education policy such as blocking the implementation of the Common Core standards, creating a corporate tax scholarship credit, eliminating due process for teachers, and establishing a property tax credit without a fiscal note for families using private schools. The school finance formula is not broken and should not be changed. The formula is underfunded. And, if we really want to put money into the classroom, we should be restoring the cuts and raising the base state aid per pupil.—ANTHONY HENSLEY

Senators Francisco, Hawk, Kelly and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **S Sub HB 2506**.

PROTEST

Senate Substitute for House Bill 2506 April 3, 2014

Madam President: I hereby exercise my right under Article 2, Section 10 of the Kansas Constitution to protest **Senate Substitute for House Bill 2506**. On March 7, 2014, the Kansas Supreme Court affirmed the district court's ruling in *Gannon v. State* holding that "the State established unconstitutional, wealth-based disparities by prorating and reducing supplemental state aid payments to which certain school districts were otherwise entitled for their local option budgets" and that "the State established unconstitutional, wealth-based disparities by withholding all capital outlay state aid payments to which certain school districts were otherwise entitled." This decision requires that the Kansas Legislature act by July 1, 2014, to expeditiously address these inequities by 1) fully funding the capital outlay and supplemental state aid equalization and therefore ending the litigation for the equity portion of the lawsuit; 2) less than fully funding the capital outlay and supplemental state aid equalization or amending the K-12 school finance formula and therefore requiring court review of the legislative action; or 3) taking no action which could create a constitutional crisis. **Senate Substitute for House Bill 2506** is the Senate's attempt to address the Kansas Supreme Court's ruling. The title of the bill is "An Act concerning education;" and continues on to list numerous substantial changes of policy including teacher licensure, a study commission on school finance, the Lexia Reading program and numerous amendments to the K-12 school finance formula. Intertwined with these education policy changes is a property tax provision relating to tax credits for home owning parents of children educated in private schools. Additionally, this bill includes provisions "making and concerning appropriations for fiscal years ending June 30, 2014 – 2016 for the Department of Education as well as Higher Education." Article 2, Section 16 of the Kansas Constitution provides that, "No bill shall contain more than one subject, except appropriations bills and bills for revision or codification of statutes." It has been established that **Senate Substitute for House Bill 2506** is not an appropriations bill. While the subject of the bill is "education," it is a bill:

- making and concerning appropriations for K-12 and Higher education;
- revising existing statutes pertaining to the K-12 school finance formula;

- establishing substantial new education policy regarding teacher licensure and a study commission acting independent of the Kansas State School Board; and
- establishing property tax credits for families with children attending private schools. The inclusion of the provisions establishing new education policy, amending the K-12 finance formula, establishing property tax credits, and making appropriations for K-12 and Higher Education co-mingles four different subjects into a single bill violative of Article 2, Section 16. For these reasons I voted “No” on **Senate Substitute for House Bill 2506** and urge the Senate to set aside politics and address the Court ruling in a simple and responsible manner. —ANTHONY HENSLEY

S Sub Sub HB 2231, AN ACT making and concerning appropriations for fiscal years ending June 30, 2014, June 30, 2015, June 30, 2016, June 30, 2017, and June 30, 2018, for state agencies; 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. 2013 Supp. 74-99b34, 79-34,156, 79-4227 and 79-4804 and repealing the existing sections.

On roll call, the vote was: Yeas 28; Nays 12; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Petersen, Pilcher-Cook, Powell, Pyle, Shultz, Smith, Wagle, Wolf.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, McGinn, Ostmeyer, Pettey, V. Schmidt, Tyson.

The substitute bill passed.

EXPLANATION OF VOTE

Madam President: I vote “No” on **S Sub Sub HB 2231**. I vote no for the students – the future – of Kansas. This budget fails to restore the cuts made over the past three years to K-12 education or provide funding for any substantial increase in base state aid per pupil. Furthermore, it fails to restore last year’s funding cuts, the largest in Kansas history, to Kansas Regents universities, despite the Governor’s statewide tour and promises to do so. I vote no for the state employees of Kansas. Once again, we’ve failed to keep our promise to fund the under market pay adjustment for our lowest paid state employees. And, we’ve failed to pass the Governor’s recommended 1.5% pay increase for our classified employees. Finally, I vote no for the arts in Kansas. This budget eliminates more than half a million dollars from the budget of the Kansas Creative Arts Industries Commission. For these reasons and many more that would take me beyond the limitation of 200 words, I vote NO on this bill. —ANTHONY HENSLEY

Senators Hawk, Kelly and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **S Sub Sub HB 2231**.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **HB 2057**.

The House adopts the Conference Committee report on **HB 2447**.

The House adopts the Conference Committee report on **SB 311**.

The House concurs in Senate amendments to **S Sub HB 2101**.

The House concurs in Senate amendments to **S Sub HB 2482**.

The House concurs in Senate amendments to **HB 2636**.

The House concurs in Senate amendments to **S Sub HB 2197**, and requests return of the bill.

The House concurs in Senate amendments to **Sub HB 2223**, and requests return of the bill.

The House concurs in Senate amendments to **S Sub HB 2298**, and requests return of the bill.

The House concurs in Senate amendments to **Sub HB 2436**, and requests return of the bill.

The House concurs in Senate amendments to **Sub HB 2451**, and requests return of the bill.

The House concurs in Senate amendments to **Sub HB 2452**, and requests return of the bill.

The House concurs in Senate amendments to **HB 2479**, and requests return of the bill.

The House nonconcurrs in Senate amendments to **HB 2490**, requests a conference and has appointed Representatives Kinzer, Bruchman and Pauls as conferees on the part of the House.

REPORT ON ENGROSSED BILLS

SB 410 reported correctly engrossed April 3, 2014.

On motion of Senator Bruce, the Senate adjourned until 10:00 a.m., Friday, April 4, 2014.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.
COREY CARNAHAN, *Secretary of the Senate*.

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