

Journal of the House

FIFTY-SECOND DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, March 22, 2001, 9:00 a.m.

The House met pursuant to adjournment with Speaker Glasscock in the chair.

The roll was called with 123 members present.

Rep. Kline was excused on verified illness.

Rep. Howell was excused on legislative business.

Prayer by guest chaplain, the Rev. Wayne Mason, pastor, First Baptist Church, Parsons, and guest of Rep. O'Brien and son of Rep. Mason:

O God, our master,

May You be honored by our actions, our words, and by our attitudes as we approach the work of this day. As we look across an aisle at people who are in another political party, we want to see the person You see, not an adversary. As we look at issues, we want to see how it benefits or detracts from the value of the people we serve.

Today, give us the courage to look at what is right and honorable, and then pursue it. Help us to see that economic gain is not always worth the price when it leads to addictions which enslave individuals and destroy families. As Jesus gathered the little children before him, allow us to see the faces of this generation and the next generation whom we will affect with our action today.

We are called leaders. With that leadership comes responsibility. We don't easily accept responsibility for our actions. Make us just as ready to say, "I'm sorry," as, "Follow me." May Your influence be seen in our lives. May people give thanks to You for placing us here. May the legacy we leave be of honor to You.

It is in the name of Jesus Christ that I pray this. Amen.

The Pledge of Allegiance was led by Rep. Grant.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to committees as indicated:

Appropriations: **SB 350**.

Ethics and Elections: **SB 314**.

Health and Human Services: **SCR 1609**.

Judiciary: **SB 235, SB 236, SB 329**.

New Economy: **HB 2573**.

Taxation: **HB 2574**.

MESSAGES FROM THE GOVERNOR

HB 2149, HB 2210 approved on March 21, 2001.

MESSAGE FROM THE SENATE

The Senate accedes to the request of the House for a conference on **HB 2068** and has appointed Senators Allen, O'Connor and Gilstrap as conferees on the part of the Senate.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Edmonds, **HR 6015**, A resolution in memory of Oscar Micheaux, was adopted.

CONSENT CALENDAR

No objection was made to **SB 253** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2552; SB 29** appearing on the Consent Calendar for the third day. The bills were advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2552. An act concerning certain state institutions; relating to certain funds; amending K.S.A. 75-3728e, 75-3728f and 76-12a25 and K.S.A. 2000 Supp. 76-172 and repealing the existing sections; also repealing K.S.A. 75-3728h and 75-3728i, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed.

SB 29. An act relating to Kansas insurance coverage for children; concerning the six month waiting period; amending K.S.A. 38-2001 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed.

HB 2014. An act concerning higher education; relating to professional service scholarships for prospective osteopaths, optometrists, nurses, teachers and national guard officers; amending K.S.A. 74-3267a, 74-3268, 74-3268a, 74-3271, 74-3272, 74-3273, 74-3291, 74-3293, 74-3294, 74-3297, 74-3299, 74-32,100, 74-32,101, 74-32,102, 74-32,103, 74-32,105 and 74-32,106 and K.S.A. 2000 Supp. 74-3256, 74-3257, 74-3258, 74-3259, 74-3260, 74-3265, 74-3266, 74-3267, 74-3292, 74-3295, 74-3296, 74-3298, 74-32,104, 74-32,107, 74-32,112, 74-32,113, 74-32,114, 74-32,115, 74-32,116, 74-32,117, 74-32,118, 74-32,131, 74-32,132, 74-32,133, 74-32,134, 74-32,135, 74-32,136, 74-32,137 and 74-32,138 and repealing the existing sections; also repealing K.S.A. 74-3223, 74-3224, 74-3225, 74-3226, 74-3227, 74-3228, 74-3246, 74-3247, 74-3248 and 74-3269, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed.

HB 2145. An act relating to motor vehicles; concerning safety belts; amending K.S.A. 8-2507 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

HB 2283. An act concerning the board of adult care home administrators; amending K.S.A. 65-3506 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita,

Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

HB 2515, An act concerning cities and counties; relating to convention and tourism committees; amending K.S.A. 12-1695 and 12-16,101 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 114; Nays 9; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Aday, Alldritt, Edmonds, Freeborn, Johnson, Neufeld, Phelps, Spangler, Vickrey.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed.

HR 6011, A resolution requesting the Division of Architectural Services of the Department of Administration to provide for consideration of life-cycle costs in the design of state buildings and major building repairs and improvements, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The resolution was adopted.

SB 32. An act concerning certain state agencies; relating to the Kansas governmental operations accountability law; amending K.S.A. 32-801, 74-2613, 74-5002f, 75-3702a, 75-4503, 75-5001, 75-5101, 75-5203, 75-5301, 75-5601, 75-5701 and 75-5903 and K.S.A. 2000 Supp. 2-1904 and 74-560 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 5; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Edmonds, Gatewood, Mayans, Toplikar, Vickrey.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

SB 41. An act amending the Kansas estate tax act; concerning the expiration of inheritance tax liability; amending K.S.A. 2000 Supp. 79-15,119 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed.

Speaker Glasscock announced that Final Action on **SB 45** would be passed over today.

SB 50. An act concerning the dental practices act; relating to dental hygienists; student loans for certain dental hygiene students; administration of such loans; performance of prophylaxis; amending K.S.A. 2000 Supp. 65-1423 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 82; Nays 41; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Beggs, Bethell, Boston, Campbell, Compton, Cook, Dahl, DeCastro, DiVita, Dreher, Edmonds, Feuerborn, Flora, Freeborn, Garner, Gatewood, Glasscock, Gor-

don, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Huebert, Humerickhouse, Huy, Johnson, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Light, Lightner, Lloyd, Loganbill, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, Merrick, Miller, Minor, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Schwartz, Sharp, Showalter, Shriver, Shultz, Stone, Tafanelli, Tanner, Thimesch, Toplikar, Weber, Wilk, D. Williams, Wilson.

Nays: Alldritt, Ballard, Ballou, Barnes, Benlon, Burroughs, Cox, Crow, Dillmore, Faber, Findley, Flaharty, Gilbert, Henderson, Huff, Hutchins, Klein, Lane, Larkin, Levinson, M. Long, McLeland, Jim Morrison, E. Peterson, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Sloan, Spangler, Storm, Swenson, Toelkes, Tomlinson, Vickrey, Wells, Welshimer, J. Williams, Winn.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

SB 55. An act relating to drivers' licenses; concerning medical and vision requirements; amending K.S.A. 8-255b and K.S.A. 2000 Supp. 8-247 and 8-295 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 114; Nays 9; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Freeborn, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Ruff, Schwartz, Sharp, Showalter, Shriver, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Alldritt, Flora, Garner, Kirk, Nichols, Rehorn, Shultz, Spangler, Toelkes.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

Speaker Glasscock announced that Final Action on **SB 56** would be passed over today.

SB 58. An act relating to consumer protection; prohibiting certain acts; charitable organizations; penalties; amending K.S.A. 17-1764, 17-1773 and 50-636 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 1; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: Nichols.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

SB 64. An act relating to public health; concerning the reporting of AIDS and HIV; amending K.S.A. 2000 Supp. 65-6002 and 65-6011 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed.

SB 75. An act concerning the joint committee on state-tribal relations; amending K.S.A. 46-2303 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 2; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Garner, Klein.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed.

SB 83. An act relating to motor vehicles; concerning the registration thereof; amending K.S.A. 8-129 and 40-3118 and K.S.A. 2000 Supp. 8-173 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein,

Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

Sub. SB 123. An act concerning insurance; relating to the licensure of insurance agents; repealing K.S.A. 40-240, 40-240f, 40-241a, 40-241b, 40-241c, 40-241d, 40-241e, 40-241f, 40-241g, 40-241i, 40-242, 40-245, 40-246, 40-3701, 40-3702, 40-3703, 40-3704, 40-3705, 40-3706, 40-3707, 40-3708, 40-3709, 40-3710, 40-3711, 40-3712, 40-3713 and 40-3714, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 1; Present but not voting: 1; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Ballou.

Present but not voting: Landwehr.

Absent or not voting: Howell, Kline.

The substitute bill passed, as amended.

SB 139. An act concerning civil procedure; relating to liability for domestic animal activities; amending K.S.A. 60-4001 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 3; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Levinson, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Larkin, Light, Lightner.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

SB 147. An act concerning wildlife and parks; relating to certain fees; amending K.S.A. 32-988, 32-1001 and 32-1172 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 50; Nays 73; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Beggs, Benlon, Bethell, Boston, Campbell, Crow, Dahl, Dreher, Feuerborn, Freeborn, Glasscock, Hayzlett, Henry, Holmes, Horst, Huff, Humerickhouse, Johnson, Kirk, Klein, Krehbiel, Landwehr, Larkin, Light, Loganbill, Loyd, Mason, McClure, McKinney, McLeland, Neufeld, O'Neal, Patterson, Pauls, E. Peterson, J. Peterson, Pottorff, L. Powell, Ray, Schwartz, Sloan, Stone, Tafanelli, Tanner, Thimesch, Wilk.

Nays: Ballou, Barnes, Burroughs, Compton, Cook, Cox, DeCastro, Dillmore, DiVita, Edmonds, Faber, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Gordon, Grant, Henderson, Hermes, Huebert, Hutchins, Huy, Kauffman, Kuether, Lane, Levinson, Lightner, Lloyd, M. Long, P. Long, Mayans, Mays, McCreary, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, O'Brien, Osborne, Ostmeyer, Palmer, Phelps, T. Powell, Powers, Pyle, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Shultz, Spangler, Storm, Swenson, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, D. Williams, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill did not pass.

EXPLANATION OF VOTE

MR. SPEAKER: I respectfully vote no on **SB 147**. Though the bill does not authorize the fee increase for hunting, fishing, and other licenses, it does allow the Secretary to look into the need for fee increases. We all know that state bureaucrats have never met a fee increase they didn't like. This bill is a step toward pricing the working class and the elderly out of enjoying a Kansas resource.

We are blessed in Kansas to have a plentiful wildlife population available for harvest. Unfortunately, this bill takes us down a road which could potentially deprive many of our citizens of the privilege of using and enjoying this natural resource.—R.J. WILSON, BOB GRANT

SB 183. An act concerning the Kansas storage tank act; relating to funds; providing for refund of certain surplus of premiums paid; amending K.S.A. 65-34,126 and K.S.A. 2000 Supp. 65-34,123 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 2; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: Feuerborn, Shriver.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

SB 186, An act concerning the behavioral sciences regulatory board; relating to professions regulated by the board; investigations and procedures conducted by the board; access to evidence; issuance of subpoenas; confidentiality of information; amending K.S.A.38-1522, 39-1402, 39-1431 and 74-7508 and K.S.A. 2000 supp. 59-2946, 65-5804a, 65-5807, 65-6404, 65-6405 and 74-5363and repealing the existing sections; also repealing K.S.A. 2000 Supp. 65-5804 and 65-5811, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

SB 214, An act concerning the Kansas state board of mortuary arts; regulating crematories; amending K.S.A. 65-1723 and 65-1732 and K.S.A. 2000 Supp. 65-1727 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 90; Nays 33; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Dahl, DeCastro, DiVita, Dreher, Feuerborn, Freeborn, Glasscock, Gordon, Hayzlett, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Huy, Johnson, Kauffman, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Lightner, Lloyd, Loganbill, P. Long, Loyd, Mason, Mayans, McClure, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Brien, O'Neal, Osborne, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Pottorff, L. Powell, T. Powell, Powers, Ray, Rehorn, Ruff, Schwartz, Showalter, Shriver, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Weber, Wells, Wilk, D. Williams, J. Williams, Winn.

Nays: Alldritt, Barnes, Crow, Dillmore, Edmonds, Faber, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Grant, Henderson, Hutchins, Kirk, Klein, Levinson, M. Long, Mays, McCreary, McKinney, Nichols, Ostmeyer, Phelps, Pyle, Reardon, Sharp, Shultz, Spangler, Vickrey, Welshimer, Wilson.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

SB 280, An act relating to highways, was considered on final action.

On roll call, the vote was: Yeas 108; Nays 15; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alldritt, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Hutchins, Huy, Johnson, Kauffman, Klein, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney,

McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Thimesch, Toplikar, Vickrey, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Aday, Aurand, Ballou, Burroughs, Freeborn, Humerickhouse, Kirk, Landwehr, Neufeld, Ray, Schwartz, Tanner, Toelkes, Tomlinson, Weber.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

SB 321. An act concerning wells; relating to the abandoned oil and gas well fund; concerning certain transfers to such fund; providing for establishment of standards for plugging salt brine wells and water wells drilled into salt-bearing formations and providing for plugging of certain such wells; amending K.S.A. 2000 Supp. 55-193 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The bill passed, as amended.

SCR 1605. A concurrent resolution urging the Bush administration to withdraw certain environmental protection agency regulations, 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: Aday, Aurand, Ballou, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Dahl, DeCastro, DiVita, Dreher, Edmonds, Faber, Feuerborn, Freeborn, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Krehbiel, Landwehr, Lane, Larkin, Light, Lightner, Lloyd, P. Long, Loyd, Mason, Mayans, Mays, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, J. Peterson, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Schwartz, Showalter, Shultz, Sloan, Stone, Swenson, Tafanelli, Tanner, Tomlinson, Toplikar, Vickrey, Weber, Wilk, D. Williams, J. Williams.

Nays: Alldritt, Ballard, Barnes, Burroughs, Crow, Dillmore, Findley, Flaharty, Flora, Garner, Gilbert, Henderson, Kirk, Klein, Kuether, Levinson, Loganbill, M. Long, McClure, Nichols, Pauls, E. Peterson, Phelps, Reardon, Rehorn, Ruff, Sharp, Shriver, Spangler, Storm, Thimesch, Toelkes, Wells, Welshimer, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Howell, Kline.

The resolution was adopted.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Garner, **HCR 5028**, by Reps. Glasscock and Garner, as follows, was introduced and adopted.

HOUSE CONCURRENT RESOLUTION No. 5028—

A CONCURRENT RESOLUTION relating to the adjournment of the senate and house of representatives for periods during the 2001 regular session of the legislature.

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature shall adjourn at the close of business of the daily session convened on March 30, 2001, and shall reconvene on April 4, 2001, pursuant to adjournment of the daily session convened on March 30, 2001; and

Be it further resolved: That the legislature shall adjourn at the close of business of the daily session convened on April 6, 2001, or at the close of business of the daily session convened on April 7, 2001, and shall reconvene at 10:00 a.m. on April 25, 2001; and

Be it further resolved: That the chief clerk of the house of representatives and the secretary of the senate and employees specified by the director of legislative administrative services for such purpose shall attend their duties each day during periods of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

Be it further resolved: That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in subsections (a) and (b) of K.S.A. 46-137a for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

Be it further resolved: That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law, or by the president of the senate or the speaker of the house of representatives and members of a conference committee attending a meeting of the conference committee authorized by the president of the senate and the speaker of the house of representatives during any period of adjournment for which members are not authorized compensation and allowances pursuant to K.S.A. 46-137a shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212 except that the mileage allowance shall be limited during any such period of adjournment to one full trip by the usual route in going to and returning from an authorized meeting.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Mason, the House nonconcurred in Senate amendments to **Sub. HB 2005** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Mason, Aday and Kuether as conferees on the part of the House.

On motion of Rep. Tomlinson, the House nonconcurred in Senate amendments to **S. Sub. for HB 2023** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Tomlinson, Dreher and Kirk as conferees on the part of the House.

On motion of Rep. Edmonds, the House nonconcurred in Senate amendments to **HB 2063** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Edmonds, Huff and Larkin as conferees on the part of the House.

On motion of Rep. Johnson, the House nonconcurred in Senate amendments to **HB 2101** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Johnson, Dahl and Thimesch as conferees on the part of the House.

On motion of Rep. Mays, the House nonconcurred in Senate amendments to **HB 2105** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Mays, Hutchins and Rehorn as conferees on the part of the House.

On motion of Rep. Tomlinson, the House nonconcurrred in Senate amendments to **HB 2114** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Tomlinson, Dreher and Kirk as conferees on the part of the House.

On motion of Rep. Lane, the House nonconcurrred in Senate amendments to **HB 2300** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Lane, P. Long and Ruff as conferees on the part of the House.

On motion of Rep. Weber, the House went into Committee of the Whole, with Rep. Ballou in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that **SB 133**; **Sub. SB 36** be passed.

Committee report recommending a substitute bill to **Sub. HB 2546** be adopted; also, on motion of Rep. Huebert to amend, the motion did not prevail, and the substitute bill be passed.

Committee report to **HB 2550** be adopted; and the bill be passed as amended.

Committee report to **HB 2508** be adopted; also, on motion of Rep. O'Neal be amended on page 12, in line 24, before the period, by inserting: ", unless the court finds the agreement is not in the best interest of the child or children";

Also, on motion of Rep. Cook to amend **HB 2508**, the motion did not prevail.

Also, on motion of Rep. DeVita **HB 2508** be amended on page 26, in line 1, by striking "if" and inserting "which shows"; also in line 1 by striking "in an"; by striking all in line 2; in line 3 by striking "for one month" and inserting "by 14 or more days elapsing since the due date specified in the order for support"; in line 6, by striking all before the comma and inserting "14 days from the due date specified in the order for support"; in line 16, by striking all before the comma and inserting "14 days from the due date specified in the order for support";

Also, on motion of Rep. Garner **HB 2508** be amended on page 27, in line 11, before "Sec." by inserting the following:

"New Sec. 13. (a) The secretary of the department of social and rehabilitation services, or the secretary's designee, is hereby responsible to pay, any claims presented for reimbursement for losses or damages such as late fees, bank fees and such other fees. The claimant must prove the losses or damages were assessed or incurred because of missed or late child support or maintenance payments due to the fault of the central unit for the collection and disbursement of support payments established in K.S.A. 23-4,118, and amendments thereto. The secretary shall receive such claim and forward it to the office of administrative hearings, pursuant to K.S.A. 75-37,121, and amendments thereto, within three days of receipt.

(b) Any person making a claim under this section shall provide to the secretary the following information:

(1) The name and address of the claimant and the name and address of the claimant's attorney, if the claimant is so represented;

(2) a concise statement of the basis of the claim (including the date, time, place and circumstances of the act or event, if applicable);

(3) a statement itemizing the amount claimed; and

(4) any other pertinent information requested by the department.

(c) Upon the filing of a claim, the secretary shall inform the claimant in writing of any additional information required in order to take action upon the claim.

(d) Any claim filed under this section shall be considered and determined by the office of administrative hearings within 30 days of receipt of such claim by the secretary.

(e) The administrative law judge shall make a determination of all claims, pursuant to this section, submitted to it and a copy of its determination and recommendations shall be submitted to the claimant and the secretary of social and rehabilitation services. Whenever

the administrative law judge determines that the secretary should pay any amount to any claimant the administrative law judge shall certify to the secretary of social and rehabilitation services that an award be made in the amount so determined. Such award shall be paid out of the penalty fund created in K.S.A. 23-4,118, and amendments thereto. No award shall be recommended for payment to any claimant unless the claimant has submitted a written application therefor which has been verified by the claimant and acknowledged before a notary public or other officer authorized by law to administer oaths.

(f) When the secretary of social and rehabilitation services receives a certified claim from the administrative law judge, within three days, the secretary shall reimburse the claimant.

(g) The secretary shall have no right to appeal the determination made by the administrative law judge.

(h) The secretary of social and rehabilitation services shall provide notice of the provisions of this section to all persons who are receiving child support or maintenance payments and all obligers making payments through the central unit for the collection and disbursement of support payments pursuant to K.S.A. 23-4,118, and amendments thereto.”;

And by renumbering the remaining section accordingly;

Also, on motion of Rep. Cook **HB 2508** be amended on page 22, following line 14, by inserting the following:

“(d) If a fee is being charged or collected by the court trustee, such fee shall be in addition to the amount of support ordered to be paid by the obligor.”; and **HB 2508** be passed as amended.

Committee report to **HB 2551** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 192** be adopted; and the substitute bill be passed.

Committee report to **SB 160** be adopted; also, on motion of Rep. Kirk to amend, the motion did not prevail, and the bill be passed as amended.

Committee report to **SB 239** be adopted; and the bill be passed as amended.

Committee report to **SB 218** be adopted; and the bill be passed as amended.

Committee report to **SB 128** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **Sub. HB 2468** be adopted; and the substitute bill be passed.

Committee report to **SB 294** be adopted; and the bill be passed as amended.

SB 334 (see further action, Committee of the Whole, Afternoon Session); **HB 2363**; **SB 67** (see further action, Committee of the Whole, Afternoon Session) be passed over and retain a place on the calendar.

Committee report to **SB 195** be adopted; and the bill be passed as amended.

Committee report to **SB 119** be adopted; and the bill be passed as amended.

Committee report to **SB 209** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Environment** recommends **SB 237** be amended on page 1, after line 16, by inserting:

“New Section 1. Sections 1 through 13, and amendments thereto, may be cited as the Kansas water banking act.

New Sec. 2. As used in this act:

(a) “Bank boundary” means the geographic area where a water bank operates and conducts the functions of a water bank and may encompass more than one hydrologic unit.

(b) “Bank charter” means a document that sets out the articles of incorporation and principal functions of a water bank.

(c) “Bankable water right” means a water right that has been determined pursuant to section 4, and amendments thereto, to be bankable.

(d) “Chief engineer” means the chief engineer of the division.

(e) “Conservation element” means the portion of a deposit that is taken out of use for the duration of the deposit and is not allowed to be withdrawn and used by subsequent users.

(f) "Deposit," other than as used in "safe deposit account," refers to the deposit of a water right, or portion of a water right, in a water bank for the purpose of having the bank lease water from such water right, or portion of a water right, to another person or entity.

(g) "Division" means the division of water resources of the Kansas department of agriculture.

(h) "Hydrologic unit" means a defined area from which water rights authorizing diversion of water from a source of supply may be deposited and from which water from the same source of supply may be leased, in accordance with the provisions of this act, without causing impairment of existing water rights or a significantly different hydrological effect to other users of water from the same source or hydraulically connected sources of supply.

(i) "Linked water rights" means two or more water rights that authorize common points of diversion or a common place of use, or both.

(j) "Safe deposit account" means a personal account held in a water bank where unused water from a bankable water right is placed for use in future years.

(k) "Term permit" means a permit to appropriate water for a specified period of time.

(l) "Water bank" means a private not-for-profit corporation that: (1) Leases water from water rights that have been deposited in the bank; and (2) is authorized to provide safe deposit accounts. A water bank may be a groundwater bank or a surface water bank, or both.

New Sec. 3. (a) A water bank shall be authorized to enter into contracts with holders of water rights for deposit in the bank of all or a portion of any water right from a hydrologic unit within the bank boundary, subject to the following:

(1) The bank shall accept for deposit only a water right, or portion of a water right, that has been determined to be a bankable water right under section 4, and amendments thereto;

(2) a deposit of a groundwater water right shall be for a period of not more than five years;

(3) a deposit shall be subject to such terms and conditions as provided by the contract between the bank and the depositor, including penalty provisions for breach of any contract conditions; and

(4) a deposit shall be subject to such terms and conditions, and such approval by the chief engineer, as provided by rules and regulations of the chief engineer.

(b) A water bank shall be authorized to lease water from any water right, or portion of a water right, that has been deposited in the bank, subject to the following:

(1) Any water leased must be used within the bank boundary and in the same hydrologic unit from which the water right authorizing diversion of the water is deposited;

(2) use of leased water shall be subject to all provisions of the Kansas water appropriation act, including but not limited to all requirements relating to term permits;

(3) a lease shall be subject to such terms and conditions as provided by the contract between the bank and the lessor, including penalty provisions for breach of any contract conditions;

(4) a lease shall be subject to such terms and conditions, and such approval by the chief engineer, as provided by rules and regulations of the chief engineer; and

(5) a water bank's decision of whether or not to lease water shall not be based on the proposed use of the water.

(c) A water bank may provide safe deposit accounts where a holder of a water right may place unused water from the water right for future withdrawal, subject to the following:

(1) A water right holder shall place in a safe deposit account only water from a water right that has been determined to be a bankable water right under section 4 and amendments thereto;

(2) only water that was unused in the immediate past calendar year may be placed in a safe deposit account and the amount that shall be placed in such account shall be less than the total amount of unused water from the bankable water right in that year;

(3) only water from one water right shall be placed in a safe deposit account and water from a water right shall not be placed in more than one safe deposit account, except that water from linked water rights may be placed in a single safe deposit account;

(4) each calendar year that water remains in a safe deposit account, the amount of water held in the account shall decrease by a percentage established by the charter of the bank but in no case less than 10% annually of all amounts placed in the account;

(5) the total amount of water accumulated in a safe deposit account shall not exceed the maximum annual quantity authorized to be diverted under the water right or the aggregate maximum quantity authorized to be diverted under all linked water rights from which water is deposited in the account;

(6) use of water withdrawn from a safe deposit account shall be subject to all provisions of the Kansas water appropriation act, including but not limited to all requirements relating to term permits;

(7) a safe deposit account shall be subject to such terms and conditions as provided by the contract between the bank and the account holder, including penalty provisions for breach of any contract conditions; and

(8) a safe deposit account shall be subject to such terms and conditions, and such approval by the chief engineer, as provided by rules and regulations of the chief engineer.

(d) A water bank may provide services to facilitate the sale or lease of water rights.

(e) A water bank shall not own, buy or sell water rights.

New Sec. 4. Before a water right or portion of a water right shall be accepted for deposit in a water bank or water from a water right shall be placed in a safe deposit account, the bank, with the assistance of the division, shall determine whether the water right is bankable, as follows: (a) The right is vested or has been issued a certificate of appropriation; and (b) the right has not been abandoned and is in good standing, based on past water usage and compliance with the terms of the holder's permit and all applicable provisions of law and orders of the chief engineer.

New Sec. 5. (a) Before a water bank is authorized to operate in the state, the bank's charter must be approved by the chief engineer. Prior to approval, the body wishing to charter the bank shall submit to the chief engineer the proposed bank charter and any other information required by rules and regulations of the chief engineer to determine whether the bank shall be chartered to operate in the state.

(b) The chief engineer shall approve the charter of a water bank only if the chief engineer determines that:

(1) The charter ensures that the operations and policies of the bank will be consistent with the provisions of this act, the state water plan and all applicable statutes, rules and regulations, findings and orders of the chief engineer, groundwater management district policies and water assurance district operations plans;

(2) there is sufficient participation by water right holders and water users to make the operations of the bank practical and feasible;

(3) the governing body of the bank has at least five members and is reasonably representative of public and private interests in water within the bank boundary;

(4) the bank would not lease or accept for placement in a safe deposit account water from the same hydrologic unit as another chartered bank or accept for deposit a water right that authorizes diversion of water from the same hydrologic unit as another chartered water bank;

(5) the charter ensures that, for each calendar year, the aggregate amount of all bank deposits (determined by multiplying the amount of each water right deposited by the length of time of the deposit and then adding together the resulting amounts for all deposits) will equal or exceed the sum of the aggregate amount of water leased by the bank (determined by multiplying the amount of each lease by the length of time of the lease and then adding together the resulting amounts for all leases) plus the aggregate conservation element of all leases (determined by multiplying the conservation element of each lease by the length of the lease and then adding together the resulting amounts for all leases);

(6) the charter ensures that the operations of the bank will not result in impairment of existing water rights or an increase in depletion of severely depleted groundwater aquifers or stream courses;

(7) the charter ensures that the operations of the bank will result in a savings of 10% or more in the total amount of groundwater consumed for a representative past period pursuant to water rights deposited in the bank, excluding groundwater located in an intensive

groundwater use control area where corrective control provisions have reduced the allocation of groundwater to less than the quantity previously authorized by water rights in the area;

(8) the charter provides a procedure for resolution of complaints by bank participants and others impacted by the bank policies, practices and operations;

(9) the charter ensures that the determination of the portion of a water right that is bankable shall be subject to the following:

(A) The determination shall be primarily based on a representative period of average water consumption for the hydrologic unit from which water is authorized to be diverted under the water right;

(B) the method of determination shall not penalize past implementation of water conservation practices;

(C) deposit of a portion of a water right for irrigation pursuant to subsection (a) of section 3, and amendments thereto, shall not be allowed unless: (i) A proportional amount of the authorized place of use of water diverted under the water right will not receive water during the period that the water right is deposited in the bank; or (ii) the conservation element is applied to the portion of the water right that is not deposited; and

(D) the method of determining the portion of a water right that is bankable for purposes of placing of water in a safe deposit account pursuant to subsection (c) of section 3, and amendments thereto, shall include: (i) Consideration of the reasons why such water was unused, including, but not limited to, adequate rainfall and the supply of water's being unavailable for use; and (ii) criteria that assure the bank's safe deposit account operations do not result in a net increase in consumptive use in the affected hydrologic unit; and

(10) the charter ensures that the total amount of groundwater leased each year from each hydrologic unit does not exceed 90% of the historic average annual amount collectively diverted pursuant to all deposited water rights or portions of water rights from such unit for a representative past period.

(c) Prior to July 1, 2002, not more than one water bank shall be chartered to operate in the state. Such water bank shall be a groundwater bank. On or after July 1, 2002, one additional water bank shall be chartered to operate in the state. Such water bank shall be a surface water bank or a surface water and groundwater bank.

(d) A water bank shall be chartered for a period of not more than seven years, at which time the bank shall be subject to review in accordance with section 7, and amendments thereto, to determine whether the bank's charter shall be extended.

(e) Any amendment to the charter of a water bank must be approved by the chief engineer prior to adoption of the amendment.

New Sec. 6. (a) On or before February 10 of each year, each water bank shall submit to the chief engineer a report containing the following:

(1) With regard to water rights or portions of water rights on deposit in the bank during the last year: (A) The total quantity of water authorized to be diverted annually pursuant to each such water right or portion of a water right; (B) the total quantity of water used, by purpose of use, and acres irrigated for the portion authorized to be used for irrigation, during the last year as a result of leases of such water rights or portions of water rights; and (C) the total quantity of water used, by purpose of use, and acres irrigated for the portion authorized for irrigation pursuant to such water rights or portions of water rights during the two years preceding the last year; and

(2) with regard to water in each safe deposit account in the bank: (A) An accounting of the total quantity of water placed in such accounts during the past year and a balance at year end; (B) the total quantity of water used during the past year, and acres irrigated if an irrigation water right, from the account; (C) the total quantity of water authorized to be diverted annually, the quantity actually used and the acres irrigated, if an irrigation water right, during the past year pursuant to the water rights or linked water rights related to such account; and (D) the total quantity of water used and acres irrigated pursuant to such water rights during the two years preceding the last year.

(b) The chief engineer may require owners of water rights deposited in a water bank, owners of water rights that have placed water in safety deposit accounts in a water bank and

persons leasing water from a water bank to file annual water use reports at a date earlier than that provided by K.S.A. 82a-732, and amendments thereto.

(c) The report required by this section shall be in the form prescribed by the chief engineer.

New Sec. 7. (a) Not later than five years after the establishment of a water bank, the director of the Kansas geological survey shall convene a team to evaluate the operation of the bank. The team shall consist of:

(1) The director of the Kansas geological survey, or the director's designee, who shall serve as chairperson of the team;

(2) two members who represent water right holders and water users who have used the bank's services, which members shall be selected by the governing body of the bank; and

(3) members selected by the chief engineer as follows: (A) Two members engaged in teaching or research at institutions of postsecondary education in subjects involving water resources, including but not limited to water resources engineering and hydrology; (B) a member who is an economist with knowledge and experience in water resources; (C) one member having knowledge and experience in water law; (D) two members having knowledge and experience in water policy issues and residing outside the bank boundary, who shall represent the public interest; (E) one representative of each groundwater management district located in whole or in part within the bank boundary; and (F) one representative of each water assurance district located in whole or in part within the bank boundary.

(b) The staff of the Kansas geological survey shall provide staff assistance to the evaluation team.

(c) Not more than one year after a team is convened pursuant to this section, the team shall submit a report of its evaluation and recommendations to the governor, the Kansas water office, the Kansas water authority, the secretary of agriculture, the chief engineer and the senate standing committee on energy and natural resources and the house standing committee on environment, or the successors to such committees regarding:

(1) The operations and policies of the bank and whether they are consistent with the provisions of this act, the state water plan and all applicable statutes, rules and regulations, findings and orders of the chief engineer, groundwater management district policies and water assurance district operations plans;

(2) whether the operations of the bank are achieving the goals and objectives of water banking as set out in the state water plan and whether changes could be made to further those goals and objectives;

(3) whether the charter of the bank should be extended;

(4) the terms under which the bank's charter should be allowed to lapse, if the team recommends that the charter not be extended; and

(5) any other matters that the team determines relevant to the future of water banking in the state.

(d) Unless otherwise provided by law, the chief engineer, in accordance with the recommendations of the team, may extend the charter of the bank for an additional period not to exceed seven years or may allow the bank charter to lapse under the terms recommended by the team.

New Sec. 8. Depositing a water right in a water bank or placement of water in a safe deposit account in a water bank shall constitute due and sufficient cause pursuant to K.S.A. 82a-718, and amendments thereto, for failure to use water for a lawful, beneficial use for the term of the deposit or the placement.

New Sec. 9. The chief engineer may adopt rules and regulations to administer and enforce the provisions of this act.

New Sec. 10. (a) In addition to any other provision of this act or the Kansas water appropriation act, and subject to the provisions of subsection (b), the chief engineer may suspend the use of water under a term permit, an approved application for a permit to appropriate water for beneficial use, an appropriation right or a vested right, acquired pursuant to the provisions of the Kansas water appropriation act, for the failure to comply with the provisions of this act. The suspension may be for a defined period in a subsequent calendar year or years but does not include or prevent the enforcement of the terms, conditions and limitations of a water right or permit during the current year of use.

(b) The chief engineer shall suspend the use of water under a permit or water right pursuant to subsection (a) only upon notice and hearing in accordance with the provisions of the Kansas administrative procedure act.

(c) Orders of the chief engineer issued pursuant to this section are subject to review in accordance with the provisions of K.S.A. 2000 Supp. 82a-1901, and amendments thereto.

New Sec. 11. Each water bank shall pay all costs incurred by the division and by the Kansas geological survey for assistance and services provided pursuant to this act, including, but not limited to, costs for personnel necessary to provide such assistance and services.

New Sec. 12. (a) There is hereby created in the state treasury the water resources cost fund. The chief engineer shall remit to the state treasurer all moneys received by the division to reimburse costs as required by section 11, and amendments thereto. Upon receipt, the state treasurer shall deposit the entire amount in the state treasury and credit it to the water resources cost fund.

(b) Moneys in the water resources cost fund shall be expended only for the division's costs of providing assistance and services as provided by this act.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the water resources cost fund interest earnings based on:

(1) The average daily balance of moneys in the water resources cost fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(d) All expenditures from the water resources cost fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief engineer for the purposes set forth in this section.

New Sec. 13. (a) There is hereby created in the state treasury the geological survey cost fund. The director of the Kansas geological survey shall remit to the state treasurer all moneys received by the geological survey to reimburse costs as required by section 11, and amendments thereto. Upon receipt, the state treasurer shall deposit the entire amount in the state treasury and credit it to the geological survey cost fund.

(b) Moneys in the geological survey cost fund shall be expended only for the Kansas geological survey's costs of providing assistance and services as provided by this act.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the geological survey cost fund interest earnings based on:

(1) The average daily balance of moneys in the geological survey cost fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(d) All expenditures from the geological survey cost fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas geological survey for the purposes set forth in this section.

New Sec. 14. (a) As used in this section:

(1) "Chief engineer" means the chief engineer of the division of water resources of the department of agriculture.

(2) "Secretary" means the secretary of agriculture.

(b) Any person who commits any of the following may incur a civil penalty as provided by this section:

(1) Any violation of the Kansas water appropriation act (K.S.A. 82a-701 *et seq.*, and amendments thereto) or any rule and regulation adopted thereunder;

(2) any violation of an order issued pursuant to K.S.A. 82a-1038, and amendments thereto, relating to an intensive groundwater use control area; or

(3) any violation of a term, condition or limitation imposed by the chief engineer as authorized by law, including, but not limited to: (A) Diversion of water from an unauthorized point of diversion; (B) failure to limit the use of water to the authorized place of use; (C) failure to submit or comply with the terms of conservation plans as required pursuant to

K.S.A. 82a-733, and amendments thereto; (D) failure to comply with the maximum annual quantity or rate of diversion authorized; (E) failure to properly install, maintain or assure the accuracy of acceptable water measurement devices; (F) failure to comply with orders related to minimum desirable stream flow, unlawful diversion, impairment of senior water rights or waste of water; or (G) failure to limit the use of water to an authorized type of use.

(c) The amount of the civil penalty provided for by this section shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law.

(d) The chief engineer or the chief engineer's duly authorized agent, upon a finding that a person has committed a violation specified in subsection (b), may order the modification or suspension of the person's water right or use of water, in addition to any other penalty provided by law.

(e) No civil penalty or suspension or modification of a water right or use of water shall be imposed pursuant to this section except on the written order of the chief engineer or duly authorized agent of the chief engineer. Such order shall state the nature of the violation, the factual basis for the finding, the penalty to be imposed and the appropriate procedure for appeal of the order to the chief engineer or the secretary, as established by K.S.A. 2000 Supp. 82a-1901, and amendments thereto. Upon review, the order shall be affirmed, reversed or modified and the reasons therefor shall be specified.

(f) Any person aggrieved by an order of the chief engineer, or the chief engineer's duly authorized agent, pursuant to this section may request review by the secretary as provided by K.S.A. 2000 Supp. 82a-1901, and amendments thereto, and, upon exhaustion of administrative remedies, may appeal to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions.

(g) The provisions of this section shall be part of and supplemental to the Kansas water appropriation act.

Sec. 15. K.S.A. 2000 Supp. 65-171d is hereby amended to read as follows: 65-171d. (a) For the purpose of preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, and to protect beneficial uses of the waters of the state and to require the treatment of sewage predicated upon technologically based effluent limitations, the secretary of health and environment shall make such rules and regulations, including registration of potential sources of pollution, as may in the secretary's judgment be necessary to: (1) Protect the soil and waters of the state from pollution resulting from underground storage reservoirs of hydrocarbons and liquid petroleum gas; (2) control the disposal, discharge or escape of sewage as defined in K.S.A. 65-164 and amendments thereto, by or from municipalities, corporations, companies, institutions, state agencies, federal agencies or individuals and any plants, works or facilities owned or operated, or both, by them; and (3) establish water quality standards for the waters of the state to protect their ~~beneficial~~ *designated* uses. *In no event shall the secretary's authority be interpreted to include authority over the beneficial use of water, water quantity allocations, protection against water use impairment of a beneficial use, or any other function or authority under the jurisdiction of the Kansas water appropriation act, K.S.A. 82a-701, and amendments thereto.*

(b) The secretary of health and environment may adopt by reference any regulation relating to water quality and effluent standards promulgated by the federal government pursuant to the provisions of the federal clean water act and amendments thereto, as in effect on January 1, 1989, which the secretary is otherwise authorized by law to adopt.

(c) For the purposes of this act, including K.S.A. 65-161 through 65-171h and K.S.A. 2000 Supp. 65-1,178 through 65-1,198, and amendments thereto, and rules and regulations adopted pursuant thereto:

(1) "Pollution" means: (A) Such contamination or other alteration of the physical, chemical or biological properties of any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to the plant, animal or aquatic life of the state or to other designated ~~beneficial~~ uses; or (B) such discharge as will or is likely to exceed state effluent standards predicated upon technologically based effluent limitations.

(2) "Confined feeding facility" means any lot, pen, pool or pond: (A) Which is used for the confined feeding of animals or fowl for food, fur or pleasure purposes; (B) which is not normally used for raising crops; and (C) in which no vegetation intended for animal food is growing.

(3) "Animal unit" means a unit of measurement calculated by adding the following numbers: The number of beef cattle weighing more than 700 pounds multiplied by 1.0; plus the number of cattle weighing less than 700 pounds multiplied by 0.5; plus the number of mature dairy cattle multiplied by 1.4; plus the number of swine weighing more than 55 pounds multiplied by 0.4; plus the number of swine weighing 55 pounds or less multiplied by 0.1; plus the number of sheep or lambs multiplied by 0.1; plus the number of horses multiplied by 2.0; plus the number of turkeys multiplied by 0.018; plus the number of laying hens or broilers, if the facility has continuous overflow watering, multiplied by 0.01; plus the number of laying hens or broilers, if the facility has a liquid manure system, multiplied by 0.033; plus the number of ducks multiplied by 0.2. However, each head of cattle will be counted as one full animal unit for the purpose of determining the need for a federal permit. "Animal unit" also includes the number of swine weighing 55 pounds or less multiplied by 0.1 for the purpose of determining applicable requirements for new construction of a confined feeding facility for which a permit or registration has not been issued before January 1, 1998, and for which an application for a permit or registration and plans have not been filed with the secretary of health and environment before January 1, 1998, or for the purpose of determining applicable requirements for expansion of such facility. However, each head of swine weighing 55 pounds or less shall be counted as 0.0 animal unit for the purpose of determining the need for a federal permit.

(4) "Animal unit capacity" means the maximum number of animal units which a confined feeding facility is designed to accommodate at any one time.

(5) "Habitable structure" means any of the following structures which is occupied or maintained in a condition which may be occupied and which, in the case of a confined feeding facility for swine, is owned by a person other than the operator of such facility: A dwelling, church, school, adult care home, medical care facility, child care facility, library, community center, public building, office building or licensed food service or lodging establishment.

(6) "Wildlife refuge" means Cheyenne Bottoms wildlife management area, Cheyenne Bottoms preserve and Flint Hills, Quivera, Marais des Cygnes and Kirwin national wildlife refuges.

(d) In adopting rules and regulations, the secretary of health and environment, taking into account the varying conditions that are probable for each source of sewage and its possible place of disposal, discharge or escape, may provide for varying the control measures required in each case to those the secretary finds to be necessary to prevent pollution. If a freshwater reservoir or farm pond is privately owned and where complete ownership of land bordering the reservoir or pond is under common private ownership, such freshwater reservoir or farm pond shall be exempt from water quality standards except as it relates to water discharge or seepage from the reservoir or pond to waters of the state, either surface or groundwater, or as it relates to the public health of persons using the reservoir or pond or waters therefrom.

(e) (1) Whenever the secretary of health and environment or the secretary's duly authorized agents find that the soil or waters of the state are not being protected from pollution resulting from underground storage reservoirs of hydrocarbons and liquid petroleum gas or that storage or disposal of salt water not regulated by the state corporation commission or refuse in any surface pond is causing or is likely to cause pollution of soil or waters of the state, the secretary or the secretary's duly authorized agents shall issue an order prohibiting such underground storage reservoir or surface pond. Any person aggrieved by such order may within 15 days of service of the order request in writing a hearing on the order.

(2) Upon receipt of a timely request, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(3) Any action of the secretary pursuant to this subsection is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(f) The secretary may adopt rules and regulations establishing fees for the following services:

(1) Plan approval, monitoring and inspecting underground or buried petroleum products storage tanks, for which the annual fee shall not exceed \$5 for each tank in place;

(2) permitting, monitoring and inspecting salt solution mining operators, for which the annual fee shall not exceed \$1,950 per company; and

(3) permitting, monitoring and inspecting hydrocarbon storage wells and well systems, for which the annual fee shall not exceed \$1,875 per company.

(g) Prior to any new construction of a confined feeding facility with an animal unit capacity of 300 to 999, such facility shall register with the secretary of health and environment. Facilities with a capacity of less than 300 animal units may register with the secretary. Any such registration shall be accompanied by a \$25 fee. Within 30 days of receipt of such registration, the department of health and environment shall identify any significant water pollution potential or separation distance violations pursuant to subsection (h). If there is identified a significant water pollution potential, such facility shall be required to obtain a permit from the secretary. If there is no water pollution potential posed by a facility with an animal unit capacity of less than 300, the secretary may certify that no permit is required. If there is no water pollution potential nor any violation of separation distances posed by a facility with an animal unit capacity of 300 to 999, the secretary shall certify that no permit is required and that there are no certification conditions pertaining to separation distances. If a separation distance violation is identified, the secretary may reduce the separation distance in accordance with subsection (i) and shall certify any such reduction of separation distances.

(h) (1) Any new construction or new expansion of a confined feeding facility, other than a confined feeding facility for swine, shall meet or exceed the following requirements in separation distances from any habitable structure in existence when the application for a permit is submitted:

(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999; and

(B) 4,000 feet for facilities with an animal unit capacity of 1,000 or more.

(2) A confined feeding facility for swine shall meet or exceed the following requirements in separation distances from any habitable structure or city, county, state or federal park in existence when the application for a permit is submitted:

(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999;

(B) 4,000 feet for facilities with an animal unit capacity of 1,000 to 3,724;

(C) 4,000 feet for expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion is within the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility; and

(D) 5,000 feet for: (i) Construction of new facilities with an animal unit capacity of 3,725 or more; or (ii) expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion extends outside the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility.

(3) Any construction of new confined feeding facilities for swine shall meet or exceed the following requirements in separation distances from any wildlife refuge:

(A) 10,000 feet for facilities with an animal unit capacity of 1,000 to 3,724; and

(B) 16,000 feet for facilities with an animal unit capacity of 3,725 or more.

(i) (1) The separation distance requirements of subsections (h)(1) and (2) shall not apply if the applicant for a permit obtains a written agreement from all owners of habitable structures which are within the separation distance stating such owners are aware of the construction or expansion and have no objections to such construction or expansion. The written agreement shall be filed in the register of deeds office of the county in which the habitable structure is located.

(2) (A) The secretary may reduce the separation distance requirements of subsection (h)(1) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to public notice; or (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances.

(B) The secretary may reduce the separation distance requirements of subsection (h)(2)(A) or (B) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to notice given in accordance with subsection (l); (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances; or (iii) the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology.

(C) The secretary may reduce the separation distance requirements of subsection (h)(2)(C) or (D) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to notice given in accordance with subsection (l); or (ii) the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology.

(j) (1) The separation distances required pursuant to subsection (h)(1) shall not apply to:

(A) Confined feeding facilities which were permitted or certified by the secretary on July 1, 1994;

(B) confined feeding facilities which existed on July 1, 1994, and registered with the secretary before July 1, 1996; or

(C) expansion of a confined feeding facility, including any expansion for which an application was pending on July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of 1,000 or more prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion; or (ii) in the case of a facility with an animal unit capacity of less than 1,000 prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion and the animal unit capacity of the facility after expansion does not exceed 2,000.

(2) The separation distances required pursuant to subsections (h)(2)(A) and (B) shall not apply to:

(A) Confined feeding facilities for swine which were permitted or certified by the secretary on July 1, 1994;

(B) confined feeding facilities for swine which existed on July 1, 1994, and registered with the secretary before July 1, 1996; or

(C) expansion of a confined feeding facility which existed on July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of 1,000 or more prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion; or (ii) in the case of a facility with an animal unit capacity of less than 1,000 prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion and the animal unit capacity of the facility after expansion does not exceed 2,000.

(3) The separation distances required pursuant to subsections (h)(2)(C) and (D) and (h)(3) shall not apply to the following, as determined in accordance with subsections (a), (e) and (f) of K.S.A. 2000 Supp. 65-1,178 and amendments thereto:

(A) Expansion of an existing confined feeding facility for swine if an application for such expansion has been received by the department before March 1, 1998; and

(B) construction of a new confined feeding facility for swine if an application for such facility has been received by the department before March 1, 1998.

(k) The separation distances required by this section for confined feeding facilities for swine shall be determined from the exterior perimeter of any buildings utilized for housing swine, any lots containing swine, any swine waste retention lagoons or ponds or other manure or wastewater storage structures and any additional areas designated by the applicant for future expansion. Such separation distances shall not apply to offices, dwellings and feed production facilities of a confined feeding facility for swine.

(l) The applicant shall give the notice required by subsections (i)(2)(B) and (C) by certified mail, return receipt requested, to all owners of habitable structures within the separation distance. The applicant shall submit to the department evidence, satisfactory to the department, that such notice has been given.

(m) All plans and specifications submitted to the department for new construction or new expansion of confined feeding facilities may be, but are not required to be, prepared by a professional engineer or a consultant, as approved by the department. Before approval by the department, any consultant preparing such plans and specifications shall submit to the department evidence, satisfactory to the department, of adequate general commercial liability insurance coverage.”;

Also on page 1, in line 17, by striking “Section 1.” and inserting “Sec. 16.”; in line 20, by striking “1998, 1999 and” and inserting “1996 through”; in line 24, after “right” by inserting “not located within the boundaries of a chartered water bank”; after line 28, by inserting:

“(2) the withdrawal of water pursuant to the water right shall be properly and adequately metered.”;

Also on page 1, in line 29, by striking “(2)” and inserting “(3)”; in line 33, by striking “(3)” and inserting “(4)”; in line 35, by striking “provide” and inserting “implement a program providing”; in line 43, after “(d)” by inserting “Term permits provided for by this section shall be subject to the following:

(1) A separate term permit establishing the maximum combined water allocation shall be required for each point of diversion using the base average usage for such point of diversion. All other requirements of the Kansas water appropriation act shall apply to such term permit and the total water right, except for the annual appropriation amount which is replaced by the maximum combined allocation for the term of the permit.

(2) The authorized place of use for the term permit shall not be greater than that authorized by the existing groundwater right or rights that authorize the point of diversion.

(3) The total diversion of water from the point of diversion authorized pursuant to all water rights shall be limited to the quantity authorized by the term permit for the five-year period of the permit.

(4) The chief engineer may adopt rules and regulations to define criteria for such term permits when a water right authorizes multiple points of diversion or multiple water rights authorizing a point of diversion or overlapping places of use.

(5) The priority of the term permit shall be the date the application for the permit is received.

(6) Except as explicitly provided for by this section, such term permits shall be subject to all provisions of the Kansas water appropriation act, and rules and regulations adopted under such act, and nothing in this section shall authorize impairment of any vested right or prior appropriation right by the exercise of such term permit.

(e)”;

On page 2, after line 9, by inserting:

“(f) The chief engineer shall submit a written report on the implementation of this section to the house standing committee on environment and the senate standing committee on natural resources on or before February 1 of each year.”;

Also on page 2, in line 10, by striking “(e)” and inserting “(g)”;

By renumbering sections 2 through 4 as sections 17 through 19;

On page 3, in line 6, by striking “shall”; in line 7, by striking all before “shall”; in line 8, by striking all before the period and inserting “or subsection (c), whichever is larger, but not both fees”; in line 17, by striking “is” and inserting “and K.S.A. 2000 Supp. 65-171d are”;

In the title, in line 10, before “supplementing” by inserting “relating to water; concerning water rights; enacting the Kansas water banking act; relating to jurisdiction over certain matters.”; also in line 10, before “providing” by inserting “providing civil penalties for certain violations of laws and orders, terms, conditions and limitations relating thereto.”; in line 13, before “and” by inserting “and K.S.A. 2000 Supp. 65-171d”; in line 14, by striking “section” and inserting “sections”; and the bill be passed as amended.

The Committee on **Insurance** recommends **SB 151** be passed.

On motion of Rep. Weber, the House recessed until 2:00 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker pro tem Aurand in the chair.

On motion of Rep. Weber, the House went into Committee of the Whole, with Rep. Mays in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that **SB 44**, **SB 43**, **SB 42**, **SB 137** be passed.

On motion of Rep. Larkin to amend **SB 334**, Rep. Schwartz requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane. Rep. Larkin challenged the ruling, the question being "Shall the Rules Chair be sustained?" The Rules Chair was not sustained. The question then reverted back to the motion of Rep. Larkin to amend, which did not prevail, and **SB 334** be passed.

Committee report to **SB 1** be adopted; and the bill be passed as amended.

Committee report to **SB 67** be adopted; also, on motion of Rep. D. Williams be amended on page 18, by striking all in lines 15 through 43;

By striking all of pages 19 through 26;

On page 27, by striking all in lines 1 through 14;

By renumbering sections accordingly;

On page 32, in line 1, by striking all after "shall" and inserting a colon; following line 1, by inserting:

"(1) On the person's first occurrence, suspend the person's driving privileges for one year;

(2) on the person's second occurrence, suspend the person's driving privileges for two years;

(3) on the person's third occurrence, suspend the person's driving privileges for three years;

(4) on the person's fourth occurrence, suspend the person's driving privileges for 10 years; and

(5) on the person's fifth or subsequent occurrence, revoke the person's driving privileges permanently.";

Also on page 32, in line 8, by striking "and"; in line 9, by striking "or a subsequent" and inserting ", third or fourth"; in line 13, by striking the period and inserting "; and"; following line 13, by inserting:

"(3) on the person's fifth or subsequent occurrence, the person's driving privileges shall be permanently revoked.";

On page 33, in line 9, by striking "subsec-"; in line 10, by striking "tion (k) of K.S.A. 8-1002" and inserting "section 2";

On page 35, in line 21, following "13." by inserting "On or after July 1, 2001,";

On page 38, following line 20, by inserting:

"Sec. 14. K.S.A. 2000 Supp. 8-241 is hereby amended to read as follows: 8-241. (a) Except as provided in K.S.A. 8-2,125 through 8-2,142, and amendments thereto, any person licensed to operate a motor vehicle in this state shall submit to an examination whenever: (1) The division of vehicles has good cause to believe that such person is incompetent or otherwise not qualified to be licensed; or (2) the division of vehicles has suspended such person's license pursuant to K.S.A. 8-1014, and amendments thereto, as the result of a test refusal, test failure or conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567 and amendments thereto, except that no person shall have to submit to and successfully complete an examination more than once as the result of separate suspensions arising out of the same occurrence.

(b) When a person is required to submit to an examination pursuant to subsection (a)(1), the fee for such examination shall be in the amount provided by K.S.A. 8-240, and amendments thereto. When a person is required to submit to an examination pursuant to subsection (a)(2), the fee for such examination shall be \$5. In addition, any person required to

submit to an examination pursuant to subsection (a)(2) shall be required, at the time of examination, to pay a reinstatement fee of ~~50~~ \$200 after the first occurrence, \$400 after the second occurrence, \$600 after the third occurrence and \$800 after the fourth occurrence. No reinstatement shall be allowed after the fifth or subsequent occurrence. All examination fees collected pursuant to this section shall be disposed of as provided in K.S.A. 8-267, and amendments thereto. All reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit 50% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 20% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, 20% to the forensic laboratory and materials fee fund cited in K.S.A. 28-176, and amendments thereto, and 10% to the driving under the influence equipment fund created by K.S.A. 75-5660, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(c) When an examination is required pursuant to subsection (a), at least five days' written notice of the examination shall be given to the licensee. The examination administered hereunder shall be at least equivalent to the examination required by subsection (e) of K.S.A. 8-247, and amendments thereto, with such additional tests as the division deems necessary. Upon the conclusion of such examination, the division shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain such license, or may issue a license subject to restrictions as permitted under K.S.A. 8-245, and amendments thereto.

(d) Refusal or neglect of the licensee to submit to an examination as required by this section shall be grounds for suspension or revocation of the license.

Sec. 15. K.S.A. 8-2,145 is hereby amended to read as follows: 8-2,145. (a) Prior to requesting a test or tests pursuant to K.S.A. 8-2,137, and amendments thereto, in addition to any notices provided pursuant to ~~paragraph (1) of subsection (f) of~~ K.S.A. 8-1001, and amendments thereto, the following notice shall be provided orally and in writing: Whenever a law enforcement officer has reasonable grounds to believe a person has been driving a commercial motor vehicle while having alcohol or other drugs in such person's system and the person refuses to submit to and complete a test or tests requested by a law enforcement officer or submits to and completes a test requested by a law enforcement officer which determines that the person's alcohol concentration is .04 or greater, the person will be disqualified from driving a commercial motor vehicle for at least one year, pursuant to Kansas law.

(b) It shall not be a defense that the person did not understand the notices required by this section.

(c) Upon completion of the notices set out in ~~paragraph (1) of subsection (f) of~~ K.S.A. 8-1001, and amendments thereto, and the notices in subsection (a), the law enforcement officer shall proceed to request a test or tests. In addition to the completion of any certification required under K.S.A. 8-1002, and amendments thereto, a law enforcement officer's certification shall be prepared and signed by one or more officers to certify:

(1) There existed reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system;

(2) the person had been placed under arrest, was in custody or had been involved in a motor vehicle accident or collision;

(3) a law enforcement officer had presented the person with the notices required by this section; and

(4) the person refused to submit to and complete a test or the test result for alcohol content of blood or breath was .04 or greater.

(d) For purposes of this section, certification shall be complete upon signing, and no additional acts of oath, affirmation, acknowledgment or proof of execution shall be required. The signed certification or a copy or photostatic reproduction thereof shall be admissible in evidence in all proceedings brought pursuant to this act, and receipt of any such certification, copy or reproduction shall accord the division authority to proceed as set forth herein. Any

person who signs a certification submitted to the division knowing it contains a false statement is guilty of a class B misdemeanor.

(e) Upon completing a certification under subsection (c), the officer shall serve upon the person notice of disqualification of the privilege to drive a commercial motor vehicle pursuant to K.S.A. 8-2,142, and amendments thereto, together with a copy of the certification. In cases where a .04 or greater test result is established by a subsequent analysis of a breath or blood sample, the officer shall serve notice of such suspension in person or by another designated officer or by mailing the notice to the person at the address provided at the time of the test. If the determination of a test refusal or .04 or greater test result is made while the person is still in custody, service shall be made in person by the officer on behalf of the division of vehicles.

(f) The notice shall contain the following information:

(1) The person's name, driver's license number and current address pursuant to K.S.A. 8-248, and amendments thereto;

(2) the reason and statutory grounds for the disqualification;

(3) the date notice is being served and the effective date of the disqualification, which shall be the 20th day after the date of service;

(4) the right of the person to request an administrative hearing; and

(5) the procedure the person must follow to request an administrative hearing. The notice of disqualification shall also inform the person that all correspondence will be mailed to the person at the address contained in the notice of disqualification unless the person notifies the division in writing of a different address or change of address. The address provided will be considered a change of address for purposes of K.S.A. 8-248, and amendments thereto, if the address furnished is different from that on file with the division.

(g) If the person mails a written request which is postmarked within 10 *calendar* days after service of the notice, if by personal service, or 13 *calendar* days after service, if by mail, the division shall schedule a hearing in the county where the alleged violation occurred, or in a county adjacent thereto. The licensee may request that subpoenas be issued in accordance with the notice provided pursuant to subsection (d). Any request made by the licensee to subpoena witnesses must be made in writing at the time the hearing is requested and must include the name and current address of such witness and, except for the certifying law enforcement officer or officers, a statement of how the testimony of such witness is relevant. Upon receiving a timely request for a hearing, the division shall mail to the person notice of the time, date and place of hearing in accordance with subsection (i) and extend the person's temporary driving privileges until the date set for the hearing by the division, unless otherwise disqualified, suspended, revoked or canceled.

(h) The law enforcement officer shall forward the certification required under subsection (c) to the director within five days of the date of certification. Upon receipt of the certification, the division shall review the certification to determine that it meets the requirements of subsection (c). Upon so determining, the director shall proceed to disqualify the driver from driving a commercial motor vehicle in accordance with the notice of disqualification previously served.

(i) All notices of disqualification under this section and all notices of a hearing held under this section shall be sent by first-class mail and a United States post office certificate of mailing shall be obtained therefor. All notices so mailed shall be deemed received three days after mailing.

(j) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(k) The rules regarding evidence and procedure at hearings held under ~~K.S.A. 8-1002~~ section 5, and amendments thereto, shall be applicable to hearings held under this section. At the hearing on a disqualification of commercial driving privileges, the issues shall be limited to those set out in the certification.

(l) The division shall prepare and distribute forms for use by law enforcement officers in giving the notice required by this section.

Sec. 16. K.S.A. 2000 Supp. 8-1001 is hereby amended to read as follows: 8-1001. (a) Any person who operates or attempts to operate a vehicle within this state is deemed to

have given consent, subject to the provisions of this act, to submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The testing deemed consented to herein shall include all quantitative and qualitative tests for alcohol and drugs. A person who is dead or unconscious shall be deemed not to have withdrawn the person's consent to such test or tests, which shall be administered in the manner provided by this section.

(b) A law enforcement officer shall request a person to submit to a test or tests deemed consented to under subsection (a) if the officer has reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person was driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, *or was under the age of 21 years* while having alcohol or other drugs in such person's system; and one of the following conditions exists: (1) The person has been arrested or otherwise taken into custody for any offense involving operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both, *or for a violation of K.S.A. 8-1567a, and amendments thereto*, or involving driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, in violation of a state statute or a city ordinance; or (2) the person has been involved in a vehicle accident or collision resulting in property damage, personal injury or death. The law enforcement officer directing administration of the test or tests may act on personal knowledge or on the basis of the collective information available to law enforcement officers involved in the accident investigation or arrest.

(c) If a law enforcement officer requests a person to submit to a test of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) any qualified medical technician, including, but not limited to, an emergency medical technician-intermediate or mobile intensive care technician, as those terms are defined in K.S.A. 65-6112, and amendments thereto, or a phlebotomist. When presented with a written statement by a law enforcement officer directing blood to be withdrawn from a person who has tentatively agreed to allow the withdrawal of blood under this section, the person authorized herein to withdraw blood and the medical care facility where blood is withdrawn may rely on such a statement as evidence that the person has consented to the medical procedure used and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent. No person authorized by this subsection to withdraw blood, nor any person assisting in the performance of a blood test nor any medical care facility where blood is withdrawn or tested that has been directed by any law enforcement officer to withdraw or test blood, shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices in the community where performed.

(d) If there are reasonable grounds to believe that there is impairment by a drug which is not subject to detection by the blood or breath test used, a urine test may be required. If a law enforcement officer requests a person to submit to a test of urine under this section, the collection of the urine sample shall be supervised by persons of the same sex as the person being tested and shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence.

(e) No law enforcement officer who is acting in accordance with this section shall be liable in any civil or criminal proceeding involving the action.

(f) (†) Before a test or tests are administered under this section, the person shall be given oral and written notice that: (A) Kansas law requires the person to submit to and complete one or more tests of breath, blood or urine to determine if the person is under the influence of alcohol or drugs, or both;

(B) the opportunity to consent to or refuse a test is not a constitutional right;

(C) there is no constitutional right to consult with an attorney regarding whether to submit to testing;

(D) *if the person refuses to submit to and complete any breath, blood or urine test when requested by a law enforcement officer, the person shall be guilty of a class B misdemeanor;*

(E) *if the person refuses to submit to and complete any test of breath, blood or urine hereafter requested by a law enforcement officer, the person's driving privileges will be suspended for at least one year for the first occurrence, two years for the second occurrence, three years for the third occurrence, 10 years for the fourth occurrence and permanently revoked for a fifth or subsequent offense;*

~~(E)~~ (F) *if the person submits to and completes the test or tests and the test results show an alcohol concentration of .08 or greater, the person's driving privileges will be suspended for at least 30 days for the first occurrence, one year for the second, third or fourth occurrence and permanently revoked for a fifth or subsequent offense; (F) if the person refuses a test or the test results show an alcohol concentration of .08 or greater and if, within the past five years, the person has been convicted or granted diversion on a charge of driving under the influence of alcohol or drugs, or both, or a related offense or has refused or failed a test, the person's driving privileges will be suspended for at least one year;*

(G) *if the person is less than 21 years of age at the time of the test request and submits to and completes the tests and the test results show an alcohol concentration of .08 or greater, the person's driving privileges will be suspended up to one year;*

(H) *refusal to submit to testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both;*

(I) *the results of the testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both; and*

(J) *after the completion of the testing, the person has the right to consult with an attorney and may secure additional testing, which, if desired, should be done as soon as possible and is customarily available from medical care facilities and physicians.*

(g) *If a law enforcement officer has reasonable grounds to believe that the person has been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, the person must shall also be provided the oral and written notice pursuant to K.S.A. 8-2,145 and amendments thereto. Any failure to give the notices required by K.S.A. 8-2,145 and amendments thereto shall not invalidate any action taken as a result of the requirements of this section. If a law enforcement officer has reasonable grounds to believe that the person has been driving or attempting to drive a vehicle while having alcohol or other drugs in such person's system and such person was under 21 years of age, the person also shall be given the notices required by K.S.A. 8-1567a, and amendments thereto. Any failure to give the notices required by K.S.A. 8-1567a, and amendments thereto, shall not invalidate any action taken as a result of the requirements of this section.*

(h) *After giving the foregoing information, a law enforcement officer shall request the person to submit to testing. The selection of the test or tests shall be made by the officer. If the person refuses to submit to and complete a test as requested pursuant to this section, additional testing shall not be given unless the certifying officer has probable cause to believe that the person, while under the influence of alcohol or drugs, or both, has operated a vehicle in such a manner as to have caused the death of or serious injury to another person. As used in this section, the officer shall have probable cause to believe that the person operated a vehicle while under the influence of alcohol or drugs, or both, if the vehicle was operated by such person in such a manner as to have caused the death of or serious injury to another person. In such event, such test or tests may be made pursuant to a search warrant issued under the authority of K.S.A. 22-2502, and amendments thereto, or without a search warrant under the authority of K.S.A. 22-2501, and amendments thereto. If the test results show a blood or breath alcohol concentration of .08 or greater, the person's driving privileges shall be subject to suspension, or suspension and restriction, as provided in K.S.A. 8-1002 and 8-1014, and amendments thereto.*

(i) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of the alleged operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both.

(j) If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .04 or greater, the person shall be disqualified from driving a commercial motor vehicle, pursuant to K.S.A. 8-2,142, and amendments thereto. If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .08 or greater, or the person refuses a test, the person's driving privileges shall be subject to suspension, or suspension and restriction, pursuant to this section, in addition to being disqualified from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.

(k) *An officer shall have probable cause to believe that the person operated a vehicle while under the influence of alcohol or drugs, or both, if the vehicle was operated by such person in such a manner as to have caused the death of or serious injury to another person. In such event, such test or tests may be made pursuant to a search warrant issued under the authority of K.S.A. 22-2502, and amendments thereto, or without a search warrant under the authority of K.S.A. 22-2501, and amendments thereto.*

~~(l)~~ (l) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

~~(m)~~ (m) It shall not be a defense that the person did not understand the written or oral notice required by this section.

~~(n)~~ (n) No test results shall be suppressed because of technical irregularities in the consent or notice required pursuant to ~~K.S.A. 8-2,145, and amendments thereto~~ this act.

~~(o)~~ (o) Nothing in this section shall be construed to limit the admissibility at any trial of alcohol or drug concentration testing results obtained pursuant to a search warrant.

~~(p)~~ (p) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.

~~(q)~~ (q) This act is remedial law and shall be liberally construed to promote public health, safety and welfare.

Sec. 17. K.S.A. 2000 Supp. 8-1002 is hereby amended to read as follows: 8-1002. (a) Whenever a test is requested pursuant to this act and results in either a test failure or test refusal, a law enforcement officer's certification shall be prepared. If the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, a separate certification pursuant to K.S.A. 8-2,145 and amendments thereto shall be prepared in addition to any certification required by this section. The certification required by this section shall be signed by one or more officers to certify:

(1) With regard to a test refusal, that: (A) There existed reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, *or is under 21 years of age* while having alcohol or other drugs in such person's system; (B) the person had been placed under arrest, was in custody or had been involved in a vehicle accident or collision; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; and (D) the person refused to submit to and complete a test as requested by a law enforcement officer.

(2) With regard to a test failure, that: (A) There existed reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, *or is under 21 years of age* while having alcohol or other drugs in such person's system; (B) the person had been placed under arrest, was in custody or had been involved in a vehicle accident or collision; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001,

and amendments thereto; and (D) the result of the test showed that the person had an alcohol concentration of .08 or greater in such person's blood or breath.

(3) With regard to failure of a breath test, in addition to those matters required to be certified under subsection (a)(2), that: (A) The testing equipment used was certified by the Kansas department of health and environment; (B) the testing procedures used were in accordance with the requirements set out by the Kansas department of health and environment; and (C) the person who operated the testing equipment was certified by the Kansas department of health and environment to operate such equipment.

(b) For purposes of this section, certification shall be complete upon signing, and no additional acts of oath, affirmation, acknowledgment or proof of execution shall be required. The signed certification or a copy or photostatic reproduction thereof shall be admissible in evidence in all proceedings brought pursuant to this act, and receipt of any such certification, copy or reproduction shall accord the department authority to proceed as set forth herein. Any person who signs a certification submitted to the division knowing it contains a false statement is guilty of a class B nonperson misdemeanor.

(c) When the officer directing administration of the testing determines that a person has refused a test and the criteria of subsection (a)(1) have been met or determines that a person has failed a test and the criteria of subsection (a)(2) have been met, the officer shall serve upon the person notice of suspension of driving privileges pursuant to K.S.A. 8-1014, and amendments thereto. If the determination is made while the person is still in custody, service shall be made in person by the officer on behalf of the division of vehicles. In cases where a test failure is established by a subsequent analysis of a breath, blood or urine sample, the officer shall serve notice of such suspension in person or by another designated officer or by mailing the notice to the person at the address provided at the time of the test.

(d) In addition to the information required by subsection (a), the law enforcement officer's certification and notice of suspension shall contain the following information: (1) The person's name, driver's license number and current address; (2) the reason and statutory grounds for the suspension; (3) the date notice is being served and a statement that the effective date of the suspension shall be the 30th calendar day after the date of service; (4) the right of the person to request an administrative hearing; and (5) the procedure the person must follow to request an administrative hearing. The law enforcement officer's certification and notice of suspension shall also inform the person that all correspondence will be mailed to the person at the address contained in the law enforcement officer's certification and notice of suspension unless the person notifies the division in writing of a different address or change of address. The address provided will be considered a change of address for purposes of K.S.A. 8-248, and amendments thereto, if the address furnished is different from that on file with the division.

(e) If a person refuses a test or if a person is still in custody when it is determined that the person has failed a test, the officer shall take any license in the possession of the person and, if the license is not expired, suspended, revoked or canceled, shall issue a temporary license effective until the 30th calendar day after the date of service set out in the law enforcement officer's certification and notice of suspension. If the test failure is established by a subsequent analysis of a breath or blood sample, the temporary license shall be served together with the copy of the law enforcement officer's certification and notice of suspension. A temporary license issued pursuant to this subsection shall bear the same restrictions and limitations as the license for which it was exchanged. Within five days after the date of service of a copy of the law enforcement officer's certification and notice of suspension the officer's certification and notice of suspension, along with any licenses taken, shall be forwarded to the division.

(f) Upon receipt of the law enforcement officer's certification, the division shall review the certification to determine that it meets the requirements of subsection (a). Upon so determining, the division shall proceed to suspend the person's driving privileges in accordance with the notice of suspension previously served. If the requirements of subsection (a) are not met, the division shall dismiss the administrative proceeding and return any license surrendered by the person.

~~(g) If the person mails a written request which is postmarked within 10 days after service of the notice, if by personal service, or 13 days after service, if by mail, the division shall~~

schedule a hearing in the county where the alleged violation occurred, or in a county adjacent thereto. The licensee may request that subpoenas be issued in accordance with the notice provided pursuant to subsection (d). Any request made by the licensee to subpoena witnesses must be made in writing at the time the hearing is requested and must include the name and current address of such witnesses and, except for the law enforcement officer or officers certifying refusal or failure, a statement of how the testimony of such witness is relevant. Upon receiving a timely request for a hearing, the division shall mail to the person notice of the time, date and place of hearing in accordance with subsection (l) and extend the person's temporary driving privileges until the date set for the hearing by the division.

(h) (1) If the officer certifies that the person refused the test, the scope of the hearing shall be limited to whether: (A) A law enforcement officer had reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2-128, and amendments thereto, while having alcohol or other drugs in such person's system; (B) the person was in custody or arrested for an alcohol or drug related offense or was involved in a vehicle accident or collision resulting in property damage, personal injury or death; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; and (D) the person refused to submit to and complete a test as requested by a law enforcement officer.

(2) If the officer certifies that the person failed the test, the scope of the hearing shall be limited to whether: (A) A law enforcement officer had reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2-128, and amendments thereto, while having alcohol or other drugs in such person's system; (B) the person was in custody or arrested for an alcohol or drug related offense or was involved in a vehicle accident or collision resulting in property damage, personal injury or death; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; (D) the testing equipment used was reliable; (E) the person who operated the testing equipment was qualified; (F) the testing procedures used were reliable; (G) the test result determined that the person had an alcohol concentration of .08 or greater in such person's blood or breath; and (H) the person was operating a vehicle.

(i) At a hearing pursuant to this section, or upon court review of an order entered at such a hearing, an affidavit of the custodian of records at the Kansas department of health and environment stating that the breath testing device was certified and the operator of such device was certified on the date of the test shall be admissible into evidence in the same manner and with the same force and effect as if the certifying officer or employee of the Kansas department of health and environment had testified in person. Such affidavit shall be admitted to prove such reliability without further foundation requirement. A certified operator of a breath testing device shall be competent to testify regarding the proper procedures to be used in conducting the test.

(j) At a hearing pursuant to this section, or upon court review of an order entered at such hearing, in which the report of blood test results have been prepared by the Kansas bureau of investigation or other forensic laboratory of a state or local law enforcement agency are to be introduced as evidence, the report, or a copy of the report, of the findings of the forensic examiner shall be admissible into evidence in the same manner and with the same force and effect as if the forensic examiner who performed such examination, analysis, comparison or identification and prepared the report thereon had testified in person.

(k) If no timely request for hearing is made, the suspension period imposed pursuant to this section shall begin upon the expiration of the temporary license granted under subsection (e). If a timely request for hearing is made, the hearing shall be held within 30 days of the date the request for hearing is received by the division, except that failure to hold such hearing within 30 days shall not be cause for dismissal absent a showing of prejudice. At the hearing, the director or the representative of the director, shall either affirm the order of suspension or suspension and restriction or dismiss the administrative action. If the division is unable to hold a hearing within 30 days of the date upon which the request for

hearing is received, the division shall extend the person's temporary driving privileges until the date set for the hearing by the division. No extension of temporary driving privileges shall be issued for continuances requested by or on behalf of the licensee. If the person whose privileges are suspended is a nonresident licensee, the license of the person shall be forwarded to the appropriate licensing authority in the person's state of residence if the result at the hearing is adverse to such person or if no timely request for a hearing is received.

~~(f)~~ All notices affirming or canceling a suspension under this section, all notices of a hearing held under this section and all issuances of temporary driving privileges pursuant to subsection (k) shall be sent by first class mail and a U.S. post office certificate of mailing shall be obtained therefor. All notices so mailed shall be deemed received three days after mailing.

~~(m)~~ (g) The division shall prepare and distribute forms for use by law enforcement officers in giving the notice required by this section.

~~(n)~~ This section and the applicable provisions contained in subsections (d) and (e) of K.S.A. 8-255 and amendments thereto constitute the administrative procedures to be used for all administrative hearings held under this act. To the extent that this section and any other provision of law conflicts, this section prevails.

~~(o)~~ (h) The provisions of K.S.A. 60-206 and amendments thereto regarding the computation of time shall not be applicable in determining the effective date of suspension set out in subsection (d) or the time for requesting an administrative hearing set out in subsection ~~(g)~~. "Calendar day" when used in this section shall mean that every day shall be included in computations of time whether a week day, Saturday, Sunday or holiday.

Sec. 18. K.S.A. 2000 Supp. 8-1567 is hereby amended to read as follows: 8-1567. (a) No person shall operate or attempt to operate any vehicle within this state while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .08 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within two hours of the time of operating or attempting to operate a vehicle, is .08 or more;

(3) under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;

(4) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or

(5) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

(b) No person shall operate or attempt to operate any vehicle within this state if the person is a habitual user of any narcotic, hypnotic, somnifacient or stimulating drug.

(c) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(d) Upon a first conviction of a violation of this section, a person shall be guilty of a class B, nonperson misdemeanor and sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than ~~\$200~~ \$500 nor more than ~~\$500~~ \$1,000. The person convicted must serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. In addition, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or treatment program as provided in K.S.A. 8-1008, and amendments thereto, or both the education and treatment programs.

(e) On a second conviction of a violation of this section, a person shall be guilty of a class A, nonperson misdemeanor and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$500 \$1,000 nor more than \$1,000. ~~The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. Except as provided in subsection (g);~~ \$1,500. The person con-

victed must serve at least ~~five~~ 10 consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. *After 10 consecutive days have been served, the court may place the person convicted under a work release program provided such work release program requires such person to return to confinement at the end of each day in the work release program or under a house arrest program, pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the sentence.* As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete ~~a~~ an inpatient or outpatient treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008, and amendments thereto. *An alcohol and drug safety action education program shall not qualify as a treatment program under this subsection.*

(f) On the third ~~or a subsequent~~ conviction of a violation of this section, a person shall be guilty of a nonperson felony and sentenced to not less than ~~90~~ 120 days nor more than one year's imprisonment and fined not less than ~~\$1,000~~ \$1,500 nor more than \$2,500. ~~Except as provided in subsection (g);~~ The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least ~~90~~ 120 days' imprisonment. ~~The court may also require as a condition of parole that such person~~ *After 120 consecutive days have been served, the court may place the person convicted under a work release program provided such work release program requires such person to return to confinement at the end of each day in the work release program or under a house arrest program, pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the sentence. As a condition of any grant of probation, suspension of sentence or parole or any other release, the person shall be required to enter into and complete a an inpatient or outpatient treatment program for alcohol and drug abuse as provided by K.S.A. 8-1008, and amendments thereto. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. An alcohol and drug safety action education program shall not qualify as a treatment program under this section.*

(g) ~~On a second or subsequent conviction of a violation of this section, the court may place the person convicted under a house arrest program, pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment. On the fourth or subsequent conviction of a violation of this section, a person shall be guilty of a nonperson felony and sentenced to 15 months' imprisonment and fined \$2,500. The person convicted shall not be eligible for parole or reduction of sentence. During the term of imprisonment the person shall be required to participate in a treatment program for alcohol and drug abuse. Upon completion of the mandatory term of imprisonment the person shall be released to a mandatory one year period of postrelease supervision. During postrelease supervision the person shall be required to participate in an approved aftercare plan as a condition of release.~~

(h) Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had a child under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. During the service of the one month enhanced penalty, the person shall not be eligible for house arrest, work release or other conditional release.

~~(h)~~ (i) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

~~(h)~~ (j) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient

amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

~~(j)~~ (k) The court shall report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings or a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

~~(k)~~ (l) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:

(1) "Conviction" includes being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(2) "conviction" includes being convicted of a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

~~(3) only convictions occurring in the immediately preceding five years, including prior to the effective date of this act, shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offender, whichever is applicable; and any convictions occurring during a person's lifetime shall be taken into account when determining the sentence to be imposed for a first, second, third, fourth or subsequent offender;~~

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(5) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, or an ordinance which prohibits the acts of this section, and amendments thereto, only once during the person's lifetime.

~~(l)~~ (m) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

~~(m)~~ (n) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof, but the minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this act for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation. In addition, any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

~~(n)~~ (o) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 *et seq.* or 22-2906 *et seq.*, and amendments thereto, shall not constitute plea bargaining.

~~(o)~~ (p) The alternatives set out in subsections (a)(1) ~~(2) and (3)~~, (a)(2) and (a)(3) may be pleaded in the alternative, and the state, city or county, but shall not be required to, may elect one or two of the three prior to submission of the case to the fact finder.

~~(p)~~ (q) Upon a fourth or subsequent conviction, the judge of any court in which any person is convicted of violating this section, may revoke the person's license plate or temporary registration certificate of the motor vehicle driven during the violation of this section for a period of one year. Upon revoking any license plate or temporary registration certificate pursuant to this subsection, the court shall require that such license plate or temporary registration certificate be surrendered to the court.

~~(c)~~ (r) For the purpose of this section: (1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(2) "Imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.

Sec. 19. K.S.A. 2000 Supp. 21-4704 is hereby amended to read as follows: 21-4704. (a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3411, aggravated assault against a law enforcement officer or K.S.A. 21-3415, aggravated battery against a law enforcement officer and amendments thereto which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of *subsection (f) of K.S.A. 8-1567* and subsection (c)(3) of K.S.A. 21-3412 and amendments thereto shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. Notwithstanding

the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567 and subsection (c)(3) of K.S.A. 21-3412 and amendments thereto shall not be served in a state facility in the custody of the secretary of corrections. *The term of imprisonment imposed for the fourth or subsequent violation of the felony provision of K.S.A. 8-1567, and amendments thereto, shall be served in a state facility in the custody of the secretary of corrections.*

(j) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term. Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who: (1) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (2) at the time of the conviction under subsection (1) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government. The provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, or any substantially similar offense from another jurisdiction.

(l) The sentence for a violation of subsection (a) of K.S.A. 21-3715 and amendments thereto when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716 and amendments thereto shall be presumed imprisonment.

Sec. 20. K.S.A. 2000 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section, K.S.A. 1993 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638 and amendments thereto, *and K.S.A. 8-1567, and amendments thereto*, an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618 and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) Except as provided by K.S.A. 21-4635 through 21-4638 and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated murder, committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(3) Except as provided by K.S.A. 1993 Supp. 21-4628 prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced

pursuant to K.S.A. 21-4618 and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(4) An inmate sentenced to imprisonment for a violation of subsection (a) of K.S.A. 21-3402 and amendments thereto committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(c) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(1) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608 and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(2) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 1 through 4 crimes and drug severity levels 1 and 2 crimes must serve 36 months, plus the amount of good time earned and retained pursuant to K.S.A. 21-4722 and amendments thereto, on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes and drug severity level 3 crimes must serve 24 months, plus the amount of good time earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 7 through 10 crimes and drug severity level 4 crimes must serve 12 months, plus the amount of good time earned and retained pursuant to K.S.A. 21-4722 and amendments thereto, on postrelease supervision.

(D) (i) The sentencing judge shall impose the postrelease supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually violent or sexually motivated. In that event, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721 and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to subsection (e) of K.S.A. 21-4714 and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the parole board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718 and amendments thereto.

(vi) Upon petition, the parole board may provide for early discharge from the post-release supervision period upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the parole board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated, shall be registered according to the habitual sex offender registration act, K.S.A. 22-4901 through 22-4910 and amendments thereto.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(2) As used in this section, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;

(J) any conviction for a felony offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (A) through (I), or any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;

(K) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302, 21-3303, and amendments thereto, of a sexually violent crime as defined in this section; or

(L) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the Kansas parole board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724 and amendments thereto, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the Kansas parole board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of post-release supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628 prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date,

shall remain on postrelease supervision for life or until discharged from supervision by the Kansas parole board.

(g) Subject to the provisions of this section, the Kansas parole board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, for deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The Kansas parole board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least the month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of a class A felony the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338 and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the Kansas parole board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made; comments of the victim and the victim's family; comments of the public; official comments; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the parole board will review the inmates proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on post-release supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) Before ordering the parole of any inmate, the Kansas parole board shall have the inmate appear before either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the Kansas parole board formally considers placing an inmate on parole and no agreement has

been entered into with the inmate under K.S.A. 75-5210a and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a and amendments thereto and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a and amendments thereto and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to 10 years but any such deferral shall require the board to state the basis for its findings.

(k) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(l) The Kansas parole board shall adopt rules and regulations in accordance with K.S.A. 77-415 *et seq.*, and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the Kansas parole board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

(2) to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so;

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized not-for-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 2000 Supp. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable; and

(5) unless it finds compelling circumstances which would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the parole board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522 and amendments thereto, whichever is less, minus any previous payments for such services.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the Kansas parole board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the Kansas parole board grants the parole of an inmate, the board, within 10 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725 and amendments thereto may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to the effective date of this act who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section for offenders convicted of severity level 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity level 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity level 5 and 6 crimes on the sentencing guidelines grid for nondrug crimes and severity level 3 crimes on the sentencing guidelines grid for drug crimes on or before January 1, 2001.

Sec. 21. K.S.A. 2000 Supp. 65-1,107 is hereby amended to read as follows: 65-1,107. The secretary of health and environment may adopt rules and regulations establishing:

(a) The procedures, *testing protocols* and qualifications of authorized personnel, instruments and methods used in laboratories performing tests for the presence of controlled substances included in schedule I or II of the uniform controlled substances act or metabolites thereof;

(b) the procedures, *testing protocols*, qualifications of personnel and standards of performance in the testing of human breath for law enforcement purposes, including procedures for the periodic inspection of apparatus, equipment and devices, other than preliminary screening devices, approved by the secretary of health and environment for the testing of human breath for law enforcement purposes;

(c) the requirements for the training, certification and periodic testing of persons who operate apparatus, equipment or devices, other than preliminary screening devices, for the testing of human breath for law enforcement purposes;

(d) criteria for preliminary screening devices for testing of breath for law enforcement purposes, based on health and performance considerations; and

(e) a list of preliminary screening devices which are approved for testing of breath for law enforcement purposes and which law enforcement agencies may purchase and train officers to use as aids in determining probable cause to arrest and grounds for requiring testing pursuant to K.S.A. 8-1001 and amendments thereto.”;

By renumbering remaining sections accordingly;

Also on page 38, in line 23, before “K.S.A.”, by inserting “K.S.A. 8-2,145 and”; also in line 23, after “Supp.”, by inserting “8-241.”; in line 24, by striking “and” and inserting “, 8-1567”; also in line 24, before “are”, by inserting “, 21-4704, 22-3717 and 65-1,107”;

In the title, in line 17, after “8-285,” by inserting “8-2,145”; in line 18, after “Supp.” by inserting “8-241.”; in line 19, after “8-1016”, by striking “and” and inserting “, 8-1567.”; also in line 19, after “8-1567a”, by inserting “, 21-4704, 22-3717 and 65-1,107”;

Also, on motion of Rep. O’Neal **SB 67** be amended on page 33, in line 17, before “a” by inserting “for a charge of \$20”; and **SB 67** be passed as amended.

Having voted on the prevailing side, Rep. Landwehr moved, pursuant to House Rule 2303, that the House reconsider its previous action in adoption of the Committee of the Whole report (see Morning Session) recommending **SB 195** favorably for passage and the bill be returned to General Orders for reconsideration. The motion prevailed.

Also, on motion of Rep. Landwehr **SB 195** be amended on page 2, after line 10, by inserting the following:

“(f) Any records under subsection (a) or (b) shall be released to any member of the standing committee on appropriations of the house of representatives or the standing committee on ways and means of the senate upon request of such member in carrying out such member’s or committee’s official functions. No person receiving records under this subsection shall disseminate the records or information contained in such records without the consent of the person whose records or information will be disseminated unless required by law.”;

And by relettering subsections accordingly; and **SB 195** be passed as amended.

Committee report to **HB 2128** be adopted; and the bill be passed as amended.

Committee report to **HB 2091** be adopted; also, on motion of Rep. Edmonds be amended in line 27, by striking “2001 and 2002” and inserting “2002 and 2003”; in line 28, by striking “2003” and inserting “2004”; and **HB 2091** be passed as amended.

Committee report to **SB 184** be adopted; and the bill be passed as amended.

Committee report to **SB 98** be adopted; and the bill be passed as amended.

Committee report to **SB 138** be adopted; and the bill be passed as amended.

SB 172 be passed over and retain a place on the calendar.

Committee report to **Sub. SB 204** be adopted; also, on motion of Rep. Flora to amend, the motion did not prevail, and the substitute bill be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Appropriations** recommends **HB 2566** be passed.

The Committee on **Appropriations** recommends **HB 2548** be amended on page 3, in line 9, by striking “\$120,000” and inserting “\$146,532”; after line 15, by inserting the following:

“Dorm renovation

For the fiscal year ending June 30, 2002..... \$384,686”;

Also on page 3, in line 22, by striking “\$4,743,000” and inserting “\$4,443,000”; in line 35, by striking “\$1,242,472” and inserting “\$1,542,472”;

On page 9, by striking all in line 18;

On page 11, by striking all in lines 10 through 25;

On page 14, by striking all in lines 14 through 22;

And by renumbering sections accordingly;

On page 23, in line 20, by striking “\$4,740,000” and inserting “\$5,240,000”; after line 40, by inserting the following material to read as follows:

“(c) On the effective date of this act, the expenditure limitation established by section 93(a) of chapter 130 of the 2000 Session Laws of Kansas on expenditures for the capital

improvement project to construct and equip a research support facility is hereby increased from \$4,740,000, plus all amounts required for costs of any bond issuance, costs of interest on any bond issued or obtained for such capital improvement project and any required reserves for payment of principal and interest on any bond, to \$5,240,000, plus all amounts required for costs of any bond issuance, costs of interest on any bond issued or obtained for such capital improvement project and any required reserves for payment of principal and interest on any bond.”;

On page 24, after line 33, by inserting the following material to read as follows:
“Athletic facilities enhancements—special revenue fund No limit
Provided, That Wichita state university may make expenditures from the athletic facilities enhancements—special revenue fund to renovate and expand athletic facilities at such university, in addition to the expenditure of other moneys appropriated therefor or obtained by such university from other sources: *Provided, however*, That expenditures from this fund for such capital improvements project shall not exceed \$15,000,000 plus all amounts required for costs of any bond issuance, cost of interest on any bond issued or obtained for such capital improvement project and any required reserves for payment of principal and interest on any such bond: *Provided further*, That such capital improvement project is hereby approved for Wichita state university for the purposes of subsection (b) of K.S.A. 74-8905 and amendments thereto and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: *And provided further*, That all moneys received from the issuance of any bonds issued pursuant to subsection (b) of K.S.A. 74-8905 and amendments thereto shall be deposited in the state treasury to the credit of this fund.”;

On page 25, in line 9, by striking “\$75,000” and inserting “\$50,000”;
On page 26, by striking all in lines 15 through 18;
And by relettering subsections accordingly;

On page 26, preceding line 36, by inserting the following material to read as follows:
“(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2002, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures shall not exceed the following:

Remodel Great Bend facility fund \$239,329

(c) On July 1, 2001, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$239,329 from the state general fund to the remodel Great Bend facility fund.

(d) On July 1, 2001, or as soon thereafter are moneys are available, the director of accounts and reports shall make one or more transfers from the Kansas bureau of investigation state forfeiture fund to the state general fund for the purpose of reimbursing the state general fund for moneys advanced to the remodel Great Bend facility fund: *Provided*, That the aggregate of such transfer or transfers during the fiscal year ending June 30, 2002, shall not exceed \$239,329.”;

On page 28, following line 29, by inserting:
“(f) In addition to the other purposes for which expenditures may be made by the above agency from the boating fee fund for fiscal year 2002, expenditures may be made by the above agency for fiscal year 2002 from the boating fee fund for the capital improvement project or projects, subject to the expenditure limitations prescribed therefor:
Kansas and Missouri River access..... \$200,000

Provided, That all expenditures from the unencumbered balance in the Kansas and Missouri River access account shall be in addition to any expenditure limitation imposed on the boating fee fund for fiscal year 2002.”;

And by redesignating subsections in the section accordingly;
On page 29, in line 42, by striking “\$1,940,000” and inserting in lieu thereof “\$1,690,000”;

preceding line 43, by inserting:
“*Provided*, That expenditures by the above agency from wildlife conservation fund—capital improvement projects account during the fiscal year ending June 30, 2002, for general land acquisition shall not exceed \$250,000.”;

On page 31, preceding line 29, by inserting the following material to read as follows:

“(r) For the fiscal year ending June 30, 2002, any expenditures by the above agency from any moneys appropriated from the state general fund or any special revenue fund for fiscal year 2002, for wetland acquisition shall be for the acquisition of existing wetlands that are located within 1.1 miles of state-owned wetlands.

(s) For the fiscal year ending June 30, 2002, any expenditures by the above agency from any moneys appropriated for fiscal year 2002, for land acquisition related to the playa lakes project shall be for lands which are adjacent to playa lakes properties that are already owned by the state: *Provided*, That no expenditures shall be made by the above agency from any moneys appropriated from the state general fund or any special revenue fund for fiscal year 2002 for pumping of groundwater on any such newly-acquired properties.

(t) During the fiscal year ending June 30, 2002, no expenditures shall be made from any moneys appropriated for the above agency from the state general fund or any special revenue fund for fiscal year 2002 for construction of any new river access on the Kansas River or Missouri River unless the secretary of wildlife and parks has obtained (1) the prior written permission for the proposed river access from each owner of each parcel of real property on the river which is immediately adjacent to the real property upon which the new river access project is to be constructed, and (2) if a parcel of any such immediately adjacent real property is being leased, then the secretary of wildlife and parks also shall obtain the prior written permission for the proposed new river access from the lessor of such immediately adjacent real property.”;

On page 31, in line 32, by striking “ending June 30, 2002” and inserting “or years specified”; in line 37, by striking all after “education”; preceding line 38, by inserting the following material to read as follows:

“For the fiscal year ending June 30, 2002 \$10,000,000
For the fiscal year ending June 30, 2003 \$10,000,000”;

On page 32, in line 8, by striking all after “institutions”; preceding line 9, by inserting the following material to read as follows:

“For the fiscal year ending June 30, 2002 \$15,000,000”;
And the bill be passed as amended.

The Committee on **Judiciary** recommends **SB 263** be amended on page 1, in line 22, by striking “person felony, or on”; by striking all in lines 23 through 30; in line 31, by striking all before “including” and inserting: “offense which requires such person to register as an offender pursuant to the Kansas offender registration act, K.S.A. 22-4901 *et seq.*, or a violation of subsection (a)(1) of K.S.A. 21-3505, 21-3508, 21-3602, 21-3609, 21-3715 or 21-3716, and amendments thereto,”;

On page 4, in line 17, by striking “and notwithstanding”; in line 18, by striking all before “a”; in line 20, by striking all after the comma where it appears for the last time; by striking all in line 21; in line 22, by striking “2001,”; also in line 22, by striking all after “commenced” and inserting: “within the limitation of time provided by the law pertaining to such offense”; in line 24, by striking all after the period; by striking all in lines 25 through 39; in line 40, by striking “(c)” and inserting “(b)”;

On page 6, in line 43, by striking “favorable” and inserting “not unfavorable”;

On page 7, after line 11, by inserting the following:

“Sec. 4. K.S.A. 21-4614 is hereby amended to read as follows: 21-4614. In any criminal action in which the defendant is convicted upon a plea of guilty *or no contest* or trial by court or jury or upon completion of an appeal, the judge, if ~~he or she~~ *the judge* sentences the defendant to confinement, shall direct that for the purpose of computing defendant’s sentence and ~~his or her~~ parole eligibility and conditional release dates thereunder, that such sentence is to be computed from a date, to be specifically designated by the court in the sentencing order of the journal entry of judgment or the judgment form, whichever is delivered with the defendant to the correctional institution, such date shall be established to reflect and shall be computed as an allowance for the time which the defendant has spent incarcerated pending the disposition of the defendant’s case. In recording the commencing date of such sentence the date as specifically set forth by the court shall be used as the date of sentence and all good time allowances as are authorized by the Kansas ~~adult authority parole board~~ are to be allowed on such sentence from such date as though the defendant were actually incarcerated in any of the institutions of the state correctional system. Such

jail time credit is not to be considered to reduce the minimum or maximum terms of confinement as are authorized by law for the offense of which the defendant has been convicted.

Sec. 5. K.S.A. 38-1611 is hereby amended to read as follows: 38-1611. (a) Fingerprints or photographs shall not be taken of any juvenile who is taken into custody for any purpose, except that:

(1) Fingerprints or photographs of the juvenile may be taken if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall be taken, and photographs of a juvenile may be taken, immediately upon taking the juvenile into custody or upon first appearance or in any event before final sentencing, before the court for an offense which, if committed by a person 18 or more years of age, would make the person liable to be arrested and prosecuted for the commission of a felony as defined by K.S.A. 21-3105 and amendments thereto or, a class A or B misdemeanor or assault, as defined by K.S.A. 21-3408, and amendments thereto; and

(3) fingerprints or photographs of a juvenile may be taken under K.S.A. 21-2501 and amendments thereto if the juvenile has been:

(A) Prosecuted as an adult by reason of 38-1636, and amendments thereto; or

(B) convicted of aggravated juvenile delinquency as defined by K.S.A. 21-3611 and amendments thereto; or

(C) taken into custody for an offense described in subsection (b)(1) or (2) of K.S.A. 38-1602 and amendments thereto.

(b) Fingerprints and photographs taken under subsection (a)(1) or (2) shall be kept readily distinguishable from those of persons of the age of majority. Fingerprints and photographs taken under subsection (a)(3) may be kept in the same manner as those of persons of the age of majority.

(c) Fingerprints and photographs of a juvenile shall not be sent to a state or federal repository, except that:

(1) Fingerprints and photographs may be sent to a state or federal repository if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall, and photographs of a juvenile may, be sent to a state or federal repository if taken under subsection (a)(2); and

(3) fingerprints or photographs taken under subsection (a)(3) shall be processed and disseminated in the same manner as those of persons of the age of majority.

(d) Fingerprints or photographs of a juvenile may be furnished to another juvenile justice agency, as defined by K.S.A. 38-1617 and amendments thereto, if the other agency has a legitimate need for the fingerprints or photographs.

(e) Any fingerprints or photographs of a juvenile taken under the provisions of subsection (a)(2) as it existed before the effective date of this act may be sent to a state or federal repository on or before December 31, 1984.

(f) Any law enforcement agency that willfully fails to make any report required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding \$500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(g) The director of the Kansas bureau of investigation shall adopt any rules and regulations necessary to implement, administer and enforce the provisions of this section, including time limits within which fingerprints shall be sent to a state or federal repository when required by this section.

(h) Nothing in this section shall preclude the custodian of a juvenile from authorizing photographs or fingerprints of the juvenile to be used in any action under the Kansas parentage act.”;

And by renumbering sections accordingly;

Also on page 7, in line 12, after “K.S.A.” by inserting “21-4614 and 38-1611 and K.S.A.”;

In the title, in line 13, after the semicolon where it appears for the last time, by inserting: “relating to the deduction of time spent in confinement; relating to fingerprinting of alleged juvenile offenders.”; in line 14, after “amending” by inserting: “K.S.A. 21-4614 and 38-1611 and””; and the bill be passed as amended.

The Committee on **New Economy** recommends **HB 2573** be passed.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was thereupon introduced and read by title:

HB 2575. An act relating to developmental disabilities; establishing the state council on developmental disabilities; membership; powers and duties; amending K.S.A. 74-5501, 74-5503 and 74-5504 and K.S.A. 2000 Supp. 74-5502 and 74-5505 and repealing the existing sections; also repealing K.S.A. 74-5506, by Committee on Appropriations.

REPORT ON ENGROSSED BILLS

HB 2550, HB 2551 reported correctly engrossed March 22, 2001.

On motion of Rep. Weber, the House adjourned until 9:00 a.m., Friday, March 23, 2001.

CHARLENE SWANSON, *Journal Clerk.*

JANET E. JONES, *Chief Clerk.*

