

Journal of the Senate

FIFTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 27, 2001—9:30 a.m.

The Senate was called to order by President Dave Kerr.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Once again we pause a minute for a brief prayer.

We need this minute, O God.

It is a minute when we touch base with You.

A minute that can calm us down.

A minute in which we can organize our thoughts, clarify our thinking, and focus on our objectives.

A minute which reminds us we are not alone.

A minute that assures us that You really care about us. That You are indeed a loving God. That we have access to the Almighty God, an awesome reality. That we can experience the All Wise God, and that nothing escapes Your attention.

We stand with heads bowed in Your presence, vividly aware that You passionately want us to trust You.

May it be so, O God. I pray in Jesus Name,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Financial Institutions & Insurance: **SB 359**.

MESSAGE FROM THE HOUSE

The House announces the appointment of Representative Gatewood to replace Representative Gilbert as a conferee on **HB 2119**.

COMMITTEE OF THE WHOLE

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

Recommended **SB 100** be passed.

HB 2178 be amended by motion of Senator Vratil on page 1, in line 21 by striking "hydroxybutyric" and inserting "hydroxybutyric";

On page 12, in line 8, by striking "hydroxygutyric" and inserting "hydroxybutyric"

Senator Barnett offered an amendment to the bill on page 1, following line 13, by inserting:

"New Section 1. This section through section 6, and amendments thereto, shall be known and may be cited as the beer and cereal malt beverage keg registration act.

New Sec. 2. (a) Any ordinance or resolution adopted by a city or county which is in conflict with or contrary to the provisions of the beer and cereal malt beverage keg registration act shall be null and void.

(b) Neither the governing body of any city nor the board of county commissioners of any county shall impose a fee, tax or other charge for the registration of a keg in any ordinance or resolution adopted by such city or county which is the same as the provisions of this act or which supplements the provisions of this act by providing additional provisions or provisions which are stricter than those established by this act or any rules and regulations adopted pursuant to this act.

(c) Neither the governing body of any city nor the board of county commissioners of any county shall require an additional tag or label for the registration of a keg in any ordinance or resolution adopted by such city or county which is the same as the provisions of this act or which supplements the provisions of this act by providing additional provisions or provisions which are stricter than those established by this act or any rules and regulations adopted pursuant to this act.

The governing body of any city or the board of county commissioners of any county may require a stamp, seal or other indication of registration required by the governing body or board as long as such stamp, seal or other indication is attached or affixed to the tag or label provided by the secretary pursuant to section 5, and amendments thereto.

New Sec. 3. Nothing in the beer and cereal malt beverage keg registration act shall be construed as creating a private cause of action against a retailer or a retailer's agent or employee.

New Sec. 4. In any criminal prosecution or proceeding brought against a retailer or a retailer's agent or employee for a violation of the beer and cereal malt beverage keg registration act, in which the defendant is the prevailing party, the court may award to the defendant reasonable attorney's fees and all other reasonable costs if the court finds the prosecution or proceeding was not brought in good faith or was brought without a reasonable basis in fact or law.

New Sec. 5. (a) Prior to the sale at retail of any beer in a container having a liquid capacity of four or more gallons, the retailer or the retailer's employee or agent shall affix to the beer container a keg identification number. At the time of sale at retail of any such container of beer, the retailer or the retailer's employee or agent shall record the keg number; the date of the sale; the purchaser's name and address; and the number of a piece of identification, bearing both the purchaser's picture and the purchaser's signature, exhibited at the time of sale.

(b) For the purpose of investigating a violation of laws prohibiting the furnishing to or possession or consumption of beer by persons under the age of 21 and if such violation involves a container required to be registered under the beer and cereal malt beverage keg registration act and if there is reason to believe that a retailer sold such container, such retailer's records relating to the sale of such container which are required to be kept by this section shall be available for inspection by any law enforcement officer during normal business hours of the retailer or at any other reasonable time. Records required to be kept by this section shall not be available for inspection or use or subject to subpoena in any civil or administrative action or criminal prosecution other than a civil or administrative action or criminal prosecution relating to a specific violation of K.S.A. 21-3610 or 41-727, and amendments thereto. Except as specifically provided by this subsection, records required to be kept by this section shall not be sold, distributed or otherwise released to any person other than a law enforcement officer.

(c) Upon a determination that a retailer or a retailer's employee or agent has violated this section or any rules and regulations adopted pursuant to this section, the director may suspend or revoke the retailer's license in the manner provided by K.S.A. 41-320, and amendments thereto, and may impose a fine as provided by K.S.A. 41-328, and amendments thereto.

(d) It is a class B nonperson misdemeanor for a person who is not a retailer acting in the ordinary course of business to: (1) Remove from a beer container all or part of a keg identification number required pursuant to this section; (2) make unreadable all or any part of a keg identification number required by this section to be affixed to a beer container; or

(3) possess a beer container required to be registered under this act that does not have the keg identification number required by this section.

(e) The secretary of revenue shall adopt any rules and regulations necessary to implement the provisions of this section.

(f) The secretary of revenue shall provide any keg identification tags or labels required by this section. Such tags or labels shall be designed so that when affixed to a keg, such tags or labels do not mar or otherwise damage the keg. There shall be no charge for such tags or labels.

(g) If a person legally sold beer in compliance with the provisions of this section and any rules and regulations adopted pursuant thereto, it shall be a defense to any criminal prosecution or civil or administrative action under this section.

(h) The provisions of this section shall not apply to sales of kegs by distributors or retailers to clubs, drinking establishments and caterers licensed under the club and drinking establishment act.

(i) Words or phrases used in this section shall have the meaning ascribed thereto by K.S.A. 41-102, and amendments thereto.

New Sec. 6. (a) Prior to the sale by a retailer or a retailer's employee or agent of any cereal malt beverage in a container having a liquid capacity of four or more gallons, the retailer or the retailer's employee or agent shall affix to the cereal malt beverage container a keg identification number. At the time of sale of any such container of cereal malt beverage, the retailer, or the retailer's employee or agent, shall record the keg number; the date of the sale; the purchaser's name and address; and the number of a piece of identification, bearing both the purchaser's picture and the purchaser's signature, exhibited at the time of sale.

(b) For the purpose of investigating a violation of laws prohibiting the furnishing to or possession or consumption of cereal malt beverage by persons under the legal age for consumption of cereal malt beverage and if such violation involves a container required to be registered under the beer and cereal malt beverage keg registration act and if there is reason to believe that such retailer sold such container, such retailer's records relating to the sale of such container which are required to be kept by this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Records required to be kept by this section shall not be available for inspection or use or subject to subpoena in any civil or administrative action or criminal prosecution other than a civil or administrative action or criminal prosecution relating to a specific violation of K.S.A. 21-3610a or 41-727, and amendments thereto. Except as specifically provided by this subsection, records required to be kept by this section shall not be sold, distributed or otherwise released to any person other than a law enforcement officer.

(c) Upon a determination that a retailer or a retailer's employee or agent has violated this section or any rules and regulations adopted pursuant to this section, the board of county commissioners or the governing body of the city may suspend or revoke the retailer's license in the manner provided by K.S.A. 41-2708, and amendments thereto, and may impose a fine pursuant to K.S.A. 41-2711, and amendments thereto.

(d) It is a class B nonperson misdemeanor for a person who is not a retailer acting in the ordinary course of business to: (1) Remove from a cereal malt beverage container all or part of a keg identification number required pursuant to this section; (2) make unreadable all or any part of a keg identification number required by this section to be affixed to a cereal malt beverage container; or (3) possess a cereal malt beverage container required to be registered under this act that does not have the keg identification number required by this section.

(e) The secretary of revenue shall adopt any rules and regulations necessary to implement the provisions of this section.

(f) The secretary of revenue shall provide any keg identification tags or labels required by this act. There shall be no charge for such tags or labels. Such tags or labels shall be designed so that when affixed to a keg, such tags or labels do not mar or otherwise damage the keg.

(g) If a person legally sold cereal malt beverage in compliance with the provisions of this section and any rules and regulations adopted pursuant thereto, it shall be a defense to any criminal prosecution or civil or administrative action under this section.

(h) Words and phrases used in this section shall have the meaning ascribed thereto by K.S.A. 41-2701, and amendments thereto.

Sec. 7. K.S.A. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of ~~this~~ *the liquor control act, the beer and cereal malt beverage keg registration act* or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702 and amendments thereto shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not have a written lease thereon for at least $\frac{3}{4}$ of the period for which the license is to be issued; or

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license.

(b) No retailer's license shall be issued to:

(1) A person who is not a resident of this state;

(2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) a person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages;

(4) a person who has beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(5) a copartnership, unless all of the copartners are qualified to obtain a license;

(6) a corporation; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state; or

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state; or

(5) an individual who has not been a resident of this state for at least 10 years immediately preceding the date of application, except that:

(A) A wholesaler of cereal malt beverages properly licensed on September 1, 1948, shall be eligible for a beer distributor's license; and

(B) a person who has been a resident of the state for at least one year immediately preceding the date of application shall be eligible for a beer distributor's license.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license or farm winery license shall be issued to a:

(1) Person who is not a resident of this state;

(2) person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages other than that produced by such brewery or winery;

(4) person, copartnership or association which has beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702 and amendments thereto;

(5) copartnership, unless all of the copartners are qualified to obtain a license;

(6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (d)(4), (f)(1) and (f)(2) shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

Sec. 8. K.S.A. 41-2708 is hereby amended to read as follows: 41-2708. (a) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;

(2) the licensee has violated any of the provisions of ~~this act~~ *K.S.A. 41-2701 et seq., and amendments thereto*, or any rules or regulations made by the board or the city, as the case may be;

(3) the licensee has become ineligible to obtain a license under this act;

(4) drunkenness of the licensee or permitting any intoxicated person to remain in the licensee's place of business;

(5) the sale of cereal malt beverages to any person under the legal age for consumption of cereal malt beverage;

(6) the nonpayment of any license fees;

(7) permitting any gambling in or upon the licensee's place of business;

(8) permitting any person to mix drinks with materials purchased in the place of business or brought in for that purpose;

(9) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages;

(10) the employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States; ~~or~~

(11) the sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor as defined by K.S.A. 41-102 and amendments thereto; or

(12) *the licensee has been convicted of a violation of the beer and cereal malt beverage keg registration act.*

(b) The provisions of subsections (a)(8) and (11) shall not apply if the place of business or premises are also currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(c) Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal. In case of the revocation of the license of any licensee, no new license shall be issued to the former licensee, or to any person acting for or on the former licensee's behalf, for a period of six months thereafter.”;

By renumbering sections accordingly;

On page 20, in line 5, before “K.S.A.” by inserting “K.S.A. 41-311 and 41-2708 and”;

In the title, by striking all in lines 9, 10 and 11 and inserting:

“AN ACT concerning crimes and punishments; relating to alcohol and other drugs; amending K.S.A. 41-311 and 41-2708 and K.S.A. 2000 Supp. 21-3445, 65-4101, 65-4105, 65-4109, 65-4111 and 65-7003 and repealing the existing sections.”

A ruling of the chair was requested as to the germaneness of the amendment to the bill.

The Chair ruled the amendment to be germane; the ruling of the Chair was challenged.

On a voice vote, the chair was over-ruled.

HB 2178 be passed as amended by Senator Vratil.

On motion of Senator Oleen, the Senate recessed until 2:00 p.m.

AFTERNOON SESSION

COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole for further consideration of bills on the calendar under the heading of General Orders with Senator Pugh in the chair.

On motion of Senator Pugh the committee reports were adopted:

SB 348 be amended by adoption of the committee amendments, be further amended by motion of Senator Feleciano as amended by Senate Committee, on page 126, in line 9, preceding the period, by inserting “: *And provided further*, That the department of corrections and the secretary of corrections shall consult, cooperate and coordinate activities relating to placement of any day reporting center which takes placements of or which provides services for any person sentenced to the custody of the secretary with such municipalities and members of the public that have an interest in such placement and may be affected by the secretary's decision on such placement to ensure that the municipality and the comments and concerns of the public are considered by the department prior to making such placement: *And provided further*, That, in making a final determination of such placement of any such facility by the secretary, the secretary shall make such determination only after, (1) providing appropriate updates and relevant information on the department's progress toward a final placement decision, (2) giving due consideration to whether such placement is supported by such municipalities and the public and whether such placement is conducive to the location chosen, the community and the purpose behind the placement of such facility, (3) providing timely notice of a final decision, and (4) receiving approval from the governing body of the city in which the facility will be located”

Senator Emler further amended the bill as amended by Senate Committee, on page 50, in line 10, by striking “ending June 30, 2002” and inserting in lieu thereof or years specified; by striking all in line 11 and inserting in lieu thereof the following:

"State operations

For the fiscal year ending June 30, 2002..... \$200,000";

Also on page 50, after line 21, by inserting the following:

"State operations

For the fiscal year ending June 30, 2003..... \$200,000

Provided, That any unencumbered balance in excess of \$100 as of June 30, 2002, in the state operations account is hereby reappropriated for fiscal year 2003: *Provided, however*, That expenditures from such reappropriated balance shall be made only upon approval of the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto: *Provided further*, That expenditures shall be made from the state operations account to disburse a grant in the amount of \$200,000 to the Eisenhower Library and Museum located in Abilene, Kansas."

Senator Morris further amended the bill on page 51, in line 19 by striking "\$0" and inserting "No limit"; by striking all in lines 20 through 35;

On page 53, in line 27, by striking loan repayment; in line 29, by striking loan repayment;

On page 54, by striking all in lines 4 through 35 and inserting the following:

"Kansas industrial training program and Kansas industrial retraining

program..... \$3,600,000

Grants to small business development centers..... \$485,000

Grants to certified development companies \$400,000

Provided, That expenditures may be made from the grants to certified development companies account for certified development companies that have been determined to be qualified for such grants by the secretary of commerce and housing, except that expenditures for such grants shall not be made for grants to more than 10 certified development companies that have been determined to be qualified for such grants by the secretary of commerce and housing.

Trade show promotion grants..... \$150,000

Community capacity building grant program \$197,000

Main street development grants..... \$216,800

Tourism promotion grants..... \$1,052,000

Training equipment grants..... \$277,500

Agriculture products development \$540,000

Provided, That expenditures may be made from the agriculture products development account of the Kansas economic development endowment account of the state economic development initiatives fund for loans pursuant to loan agreements which are hereby authorized to be entered into by the secretary of commerce and housing in accordance with repayment provisions and other terms and conditions as may be prescribed by the secretary therefor under the agricultural value added center program.

Motion picture and television sales tax reimbursements \$75,000

Provided, That all expenditures from the motion picture and television production sales tax reimbursements account shall be made to reimburse sales and use taxes paid on sales of tangible personal property purchases by or on behalf of a motion picture or television production company to be used or consumed in association with an eligible production in accordance with administrative policies and procedures adopted by the secretary of commerce and housing, including any necessary forms: *Provided, however*, That all reimbursements from this account shall be based on valid receipts for taxes paid for taxable transactions occurring on or after July 1, 2001: *Provided further*, That, as used in this proviso, eligible production includes feature-length motion pictures intended for theatrical release or for exhibition on national television by a network or through national syndication, television projects for broadcast on a network or through national syndication, direct video and compact disc projects and television commercials.

HOME program \$530,000

Kansas existing industry expansion program \$500,000

Provided, That expenditures may be made from the Kansas existing industry expansion program account for loans pursuant to loan agreements which are hereby authorized to be entered into by the secretary of commerce and housing in accordance with repayment

provisions and other terms and conditions as may be prescribed by the secretary therefor under the Kansas existing industry expansion program.”;

On page 55, by striking all in lines 1 through 43;

On page 56, by striking all in lines 1 through 9;

Also on page 56, by striking all in line 43;

On page 57, by striking all in lines 1 through 42 and inserting the following:

(e) On August 15, 2001, and December 15, 2001, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$1,750,000 from the state economic development initiatives fund to the Kansas economic opportunities initiatives fund of the department of commerce and housing.”

Senator Steineger further amended the bill as amended by Senate Committee, on page 76, in line 38, preceding the period, by inserting “; *And provided further*, That no expenditures shall be made from the alcohol and drug abuse services account for any payment or loan to any residential alcohol and substance abuse program, including any halfway house for persons in such program, unless the secretary of social and rehabilitation services certifies that such program or halfway house has consulted, cooperated and coordinated with the governing body of any city in which such residential facility or halfway house is to be located and has taken into consideration the comments and concerns of interested members of the public residing in such city relating to locating such residential facility or halfway house within such city: *And provided further*, That, in making a final determination of certifying such residential facility or halfway house, the secretary shall make such determination only after, (1) giving due consideration to whether the location of such residential facility or halfway house is supported by such city and members of the public and whether such location is conducive to the community and the purpose behind such residential facility or halfway house, (2) providing timely notice of a final decision to such governing body and members of the public, and (3) receiving approval from the governing body of the city in which such residential facility or halfway house will be located”, and **SB 348** be passed as further amended.

The following amendments to **SB 348** were rejected:

Senator Hensley moved to amend the bill as amended by Senate Committee, on page 131, line 11, by adding \$400,000 to the dollar amount and by adjusting the dollar amount in line 11 accordingly; in line 19, preceding the period, by inserting: “; *And provided further*, That the juvenile justice authority is hereby authorized and directed to make expenditures from the operating expenditures account for the last six months of fiscal year 2002 for the purpose of matching federal funds to increase reimbursement rates for Level V residential providers: *And provided further*, That, expenditures from the operating expenditures account by the above agency for the last six months of fiscal year 2002 for such increased reimbursement rates shall not exceed \$400,000”

The motion failed and the amendment was rejected.

Senator Huelskamp moved to amend the bill as amended by Senate Committee, On page 179, following line 22, by inserting the following:

“Sec. 95. (a) On July 1, 2001, all positions of officers or employees of each state agency named in this act that are vacant as of March 1, 2001, and that have been vacant for a continuous period of 24 months or more, as determined by the director of the budget in consultation with the director of personnel services, are hereby abolished and no moneys appropriated for any such state agency for the fiscal year ending June 30, 2002, from the state general fund or any special revenue fund by this or other appropriation act of the 2001 regular session of the legislature, shall be expended for any such abolished position.

(b) On July 1, 2001, the position limitations established by section 22 or 88 of this act or one or more sections of another appropriation act of the 2001 regular session of the legislature, as established by this or other appropriation act of the 2001 regular session of the legislature, or as established by the state finance council on the number of full-time and regular part-time positions equated to full-time for the fiscal year ending June 30, 2002, for the state agencies for which such position limitations are established and for which positions are abolished under subsection (a), are hereby decreased accordingly for each such agency by the full-time equivalent number of such abolished positions.”;

And by renumbering sections accordingly

The motion failed and the amendment was rejected.

Senator Barone moved to amend the bill as amended by Senate Committee, on page 99, in line 30, by adding \$320,000 to the dollar amount and by adjusting the dollar amount in line 30 accordingly;

On page 102, in line 5, by adding \$1,022,084 to the dollar amount and by adjusting the dollar amount in line 5 accordingly;

On page 106, in line 39, by adding \$24,750 to the dollar amount and by adjusting the dollar amount in line 39 accordingly;

On page 107, in line 41, by adding \$272,030 to the dollar amount and by adjusting the dollar amount in line 41 accordingly;

On page 109, in line 42, by adding \$266,000 to the dollar amount and by adjusting the dollar amount in line 42 accordingly;

On page 112, in line 11 by adding \$1,268,168 to the dollar amount and by adjusting the dollar amount in line 11 accordingly;

On page 116, in line 14, by adding \$106,616 to the dollar amount and by adjusting the dollar amount in line 14 accordingly;

On page 119, in line 1, by adding \$592,574 to the dollar amount and by adjusting the dollar amount in line 1 accordingly;

On page 165, after line 35, by inserting the following material to read as follows:

"Sec. 90. On July 1, 2001, and on the 1st day of each month during the fiscal year ending June 30, 2002, or as soon after each such date as moneys are available, the director of accounts and reports shall transfer \$197,685 from the state economic development initiatives fund to the state general fund.";

And by renumbering sections accordingly

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

On roll call, the vote was: Yeas 19, Nays 20, Present and Passing 0, Absent or Not Voting 1.

Yeas: Barnett, Barone, Brungardt, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Lee, Oleen, Praeger, Salmans, Schodorf, Steineger, Taddiken, Vratil.

Nays: Allen, Brownlee, Clark, Corbin, Donovan, Emler, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lyon, Morris, O'Connor, Pugh, Schmidt, Teichman, Tyson, Umbarger, Wagle.
Absent or Not Voting: Adkins.

The motion failed and the amendment was rejected.

Senator Lee moved to amend the bill as amended by Senate Committee, on page 125, in line 16, by adding \$187,721 to the dollar amount and by adjusting the dollar amount accordingly; in line 22, before the period, by inserting the following: "*Provided further*, That expenditures shall be made from the central administration operations and parole and post-release supervision operations account for a 2.5% salary increase commencing the first payroll period chargeable to the fiscal year ending June 30, 2002, for unit team staff at Ellsworth correctional facility, El Dorado correctional facility, Hutchinson correctional facility, Lansing correctional facility, Larned correctional mental health facility, Norton correctional facility, Topeka correctional facility and Winfield correctional facility: *And provided further*, That expenditures for such salary increase for unit team staff shall not exceed \$187,721"

The motion failed and the amendment was rejected.

Senator Lee moved to amend the bill as amended by Senate Committee, on page 165, by striking all in lines 36 through 43;

By striking all of page 166;

On page 167, by striking all in lines 1 through 3 and inserting in lieu thereof the following:

"Sec. 90. On July 1, 2001, and on the 1st day of each month during the fiscal year ending June 30, 2002, or as soon after each such date as moneys are available, the director of accounts and reports shall transfer \$1,393,937 from the state economic development initiatives fund to the state general fund.";

And by renumbering sections accordingly

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

On roll call, the vote was: Yeas 18, Nays 22, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Barone, Brungardt, Clark, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Lee, Lyon, Pugh, Schmidt, Steineger, Taddiken, Tyson.

Nays: Adkins, Allen, Brownlee, Corbin, Donovan, Downey, Emler, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Morris, O'Connor, Oleen, Praeger, Salmans, Schodorf, Teichman, Umbarger, Vratil, Wagle.

The motion failed and the amendment was rejected.

Senator Feleciano moved to amend the bill as amended by Senate Committee, on page 25, in line 34, by adding \$300,000 to the dollar amount and by adjusting the dollar amount in line 34 accordingly;

On page 26, in line 11, preceding the period, by inserting “: *And provided further*, That expenditures, in addition to the amount recommended by the governor and the senate committee on ways and means, of not less than \$300,000 shall be made from the judiciary operations account for salaries for nonjudicial employees”;

On page 31, in line 18, by adding \$94,847 to the dollar amount and by adjusting the dollar amount accordingly; in line 41, after “Annotated” by inserting the following: “: *And provided further*, That of the total amount authorized for expenditure, the amount of \$94,847 shall be expended for the purpose of employing an attorney and a secretary”;

On page 32, in line 31, by adding \$196,701 to the dollar amount and by adjusting the dollar amount in line 31 accordingly;

On page 63, in line 15, by adding \$25,000 to the dollar amount and by adjusting the dollar amount in line 15 accordingly; in line 20, preceding the period, by inserting the following: “: *Provided further*, That of the moneys appropriated in the operating expenditures Kansas soldiers home account, expenditures shall be made for the purpose of employing a safety and security officer: *And provided further*, That expenditures for employing such officer shall not exceed \$25,000”;

On page 94, in line 6, by adding \$250,000 to the dollar amount and by adjusting the dollar amount in line 6 accordingly; in line 36, by adding \$457,397 to the dollar amount and by adjusting the dollar amount in line 36 accordingly;

On page 95, in line 4, preceding the period, by inserting the following: “: *And provided further*, That, of the moneys appropriated in the operating expenditures account, \$457,397 shall be expended for grants to local arts programs”; in line 41, by adding \$39,755 to the dollar amount and adjusting the dollar amount in line 41 accordingly;

On page 96, in line 3, preceding the period, by inserting the following: “: *Provided further*, That the above agency shall make expenditures from the operating expenditures account of not less than \$39,755 for teacher salary equity adjustments in addition to any other teach salary increases for which funding is included in the operating expenditures account”;

On page 97, in line 5, by adding \$90,018 to the dollar amount and adjusting the dollar amount in line 5 accordingly; in line 10, preceding the period, by inserting the following: “: *Provided further*, That the above agency shall make expenditures from the operating expenditures account of not less than \$90,018 for teacher salary equity adjustments in addition to any other teacher salary increases for which funding is included in the operating expenditures account”;

On page 121, in line 23, by adding \$80,000 to the dollar amount and by adjusting the dollar amount in line 23 accordingly;

On page 122, in line 9, by adding \$80,000 to the dollar amount and by adjusting the dollar amount in line 9 accordingly; in line 11, by adding \$30,000 to the dollar amount and by adjusting the dollar amount in line 11 accordingly;

On page 125, in line 16, by adding \$104,422 to the dollar amount and by adjusting the dollar amount in line 16 accordingly; in line 22, preceding the period, by inserting the following: “: *Provided further*, That \$104,422 shall be expended from this account for parole officer and parole supervisor enhancement compensation in addition to any other compensation provided therefor in this or other appropriation act of the 2001 regular session of the legislature”; in line 23, by adding \$150,000 to the dollar amount and by adjusting the dollar amount in line 23 accordingly; in line 33, preceding the period, by inserting the following: “: *And provided further*, That \$150,000 shall be expended from this account for intensive supervision officers enhancement compensation in addition to any other

compensation provided therefor in this or other appropriation act of the 2001 regular session of the legislature”;

On page 131, in line 11, by adding \$205,257 to the dollar amount and by adjusting the dollar amount in line 11 accordingly; in line 19, preceding the period, by inserting the following: “: *And provided further*, That the juvenile justice authority is hereby authorized and directed to make expenditures from the operating expenditures account for fiscal year 2002 for the purpose of funding additional full-time equivalent auditor positions to increase accountability in the disbursement of state and federal fund to local entities: *And provided further*, That expenditures from the operating expenditures account for fiscal year 2002 for such auditor positions shall not exceed \$205,257”;

On page 134, in line 40, by adding \$252,782 to the dollar amount and by adjusting the dollar amount accordingly;

On page 135, in line 1, before the period, by inserting the following: “: *Provided further*, That of the moneys appropriated in the operating expenditures account \$252,782 shall be expended for the purpose of financing expenditures associated with the educational assistance program of the adjutant generals department”;

On page 161, in line 23, by adding 2.0 to the number in the line and by adjusting the number in line 23 accordingly; in line 35, by adding 1.0 to the number in the line and by adjusting the number in line 35 accordingly;

On page 162, in line 8, by adding 4.0 to the number in the line and by adjusting the number in line 8 accordingly

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

On roll call, the vote was: Yeas 10, Nays 30, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barone, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Lee, Steineger.

Nays: Adkins, Allen, Barnett, Brownlee, Brungardt, Clark, Corbin, Donovan, Emler, Harrington, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The motion failed and the amendment was rejected.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2160**, **HB 2292**, **HB 2548**, **HB 2549**, **HB 2573**.

Passage of **SB 14**, as amended, **SB 57**, as amended, **SB 263**, as amended.

The House concurs in Senate amendments to **HB 2105** and requests the Senate to return the bill.

The House concurs in Senate amendments to **HB 2300** and requests the Senate to return the bill.

The House nonconcur in Senate amendments to **HB 2124**, requests a conference and has appointed Representatives Ray, Campbell and Gilbert as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub for HB 2154**, requests a conference and has appointed Representatives Boston, Jim Morrison and Showalter as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2176**, requests a conference and has appointed Representatives O'Neal, Loyd and Pauls as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2208**, requests a conference and has appointed Representatives O'Neal, Loyd and Pauls as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2275**, requests a conference and has appointed Representatives Boston, Jim Morrison and Showalter as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub for HB 2299**, requests a conference and has appointed Representatives T. Powell, Powers and Alldritt as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 45** and has appointed Representatives Edmonds, Huff and Larkin as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 56** and has appointed Representatives Hayzlett, Vickrey and M. Long as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 138** and has appointed Representatives Edmonds, Huff and Larkin as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 147** and has appointed Representatives Freeborn, Myers and Flora as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 160** and has appointed Representatives Boston, Jim Morrison and Showalter as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 195** and has appointed Representatives O'Neal, Loyd and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 237** and has appointed Representatives Freeborn, Hutchins and Flora as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 239** and has appointed Representatives Boston, Jim Morrison and Showalter as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 294** and has appointed Representatives Wilk, Neufeld and Nichols as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2160, HB 2292, HB 2548, HB 2549, HB 2573 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

SB 1. An act relating to sales taxation; concerning the taxation of certain services provided by telecommunications companies; amending K.S.A. 2000 Supp. 79-3603 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Senate concurred.

SB 10. An act concerning postsecondary educational institutions; relating to the identification, selection and approval of core indicators of quality performance; preserving certain powers, duties and functions of community college boards of trustees; amending K.S.A. 2000 Supp. 71-801, 74-3202c and 74-3202d and repealing the existing sections.

On roll call, the vote was: Yeas 39, Nays 1, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Lyon.

The Senate concurred.

SB 11. An act concerning vocational education; relating to supervision of the administration of programs by local educational agencies; amending K.S.A. 2000 Supp. 72-4408 and 72-4412, as amended by section 2 of 2001 House Bill No. 2001, and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Senate concurred.

SB 98. An act concerning publication of proclamations issued by the governor; amending K.S.A. 64-103 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Senate concurred.

SB 184. An act concerning natural resources; creating the natural resources damages trust fund.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Senate concurred.

Sub SB 204. An act concerning the waters of the state; relating to classified stream segments and designated uses of classified stream segments.

On roll call, the vote was: Yeas 30, Nays 10, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Downey, Emler, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Steineger, Taddiken, Teichman, Tyson, Umbarger.

Nays: Adkins, Donovan, Feleciano, Gilstrap, Gooch, Jordan, Praeger, Schodorf, Vratil, Wagle.

The Senate concurred.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **Sub SB 204**. On March 26, 2001, Secretary of Health and Environment Clyde Graeber signed a Memorandum of Understanding with the U.S. Environmental Protection Agency. This M.O.U. outlines the process that both KDHE and EPA believe is reasonable in addressing the concerns of stream classification, farm ponds, waste water treatment plants as well as a variety of other issues relating to water quality in Kansas. This M.O.U. makes **Sub SB 204** unnecessary legislation.—SANDY PRAEGER

Senators Adkins and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Praeger on **Sub SB 204**.

SB 205. An act concerning crimes, criminal procedure and punishment; relating to appearance bonds; conditions; concerning protection from abuse orders; amending K.S.A. 22-2802 and 60-3108 and K.S.A. 2000 Supp. 12-4301, 60-3102 and 60-3104 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger,

Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Senate concurred.

SB 209. An act concerning crimes, criminal procedure and punishment; enacting the national crime prevention and privacy compact.

On roll call, the vote was: Yeas 26, Nays 14, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Corbin, Downey, Emler, Feleciano, Gilstrap, Goodwin, Hensley, Jenkins, Kerr, Lee, Morris, O'Connor, Oleen, Praeger, Schmidt, Schodorf, Steineger, Teichman, Tyson, Umbarger, Vratil.

Nays: Brownlee, Clark, Donovan, Gooch, Haley, Harrington, Huelskamp, Jackson, Jordan, Lyon, Pugh, Salmans, Taddiken, Wagle.

The Senate concurred.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 67** and requested a conference committee be appointed.

The President appointed Senators Vratil, Schmidt and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 97** and requested a conference committee be appointed.

The President appointed Senators Vratil, Adkins and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 119** and requested a conference committee be appointed.

The President appointed Senators Vratil, Pugh and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 128** and requested a conference committee be appointed.

The President appointed Senators Vratil, Schmidt and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Harrington the Senate nonconcurred in the House amendments to **H Sub for SB 192** and requested a conference committee be appointed.

The President appointed Senators Harrington, Brungardt and Hensley as a conference committee on the part of the Senate.

On motion of Senator Allen the Senate nonconcurred in the House amendments to **SB 218** and requested a conference committee be appointed.

The President appointed Senators Allen, O'Connor and Gilstrap as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Corbin, the Senate acceded to the request of the House for a conference on **HB 2007**.

The President appointed Senators Corbin, Jenkins and Lee as conferees on the part of the Senate.

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **S Sub for HB 2017**.

The President appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2047**.

The President appointed Senators Tyson, Huelskamp and Lee as conferees on the part of the Senate.

On motion of Senator Corbin, the Senate acceded to the request of the House for a conference on **HB 2055**.

The President appointed Senators Corbin, Jenkins and Lee as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2083**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2084**.

The President appointed Senators Vratil, Adkins and Goodwin as conferees on the part of the Senate

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2098**.

The President appointed Senators Tyson, Taddiken and Lee as conferees on the part of the Senate

On motion of Senator Schmidt, the Senate acceded to the request of the House for a conference on **HB 2103**.

The President appointed Senators Schmidt, Huelskamp and Downey as conferees on the part of the Senate

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2119**.

The President appointed Senators Allen, Brownlee and Gilstrap as conferees on the part of the Senate

On motion of Senator Brownlee, the Senate acceded to the request of the House for a conference on **HB 2124**.

The President appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2131**.

The President appointed Senators Tyson, Taddiken and Lee as conferees on the part of the Senate

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2134**.

The President appointed Senators Tyson, Taddiken and Lee as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2136**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **S Sub for HB 2154**.

The President appointed Senators Vratil, Adkins and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2174**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2175**.

The President appointed Senators Vratil, Schmidt and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2176**.

The President appointed Senators Vratil, Schmidt and Goodwin as conferees on the part of the Senate.

On motion of Senator Clark, the Senate acceded to the request of the House for a conference on **HB 2200**.

The President appointed Senators Clark, Kerr, Emler, Lyon and Barone as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2208**.

The President appointed Senators Vratil, Adkins and Goodwin as conferees on the part of the Senate.

On motion of Senator Corbin, the Senate acceded to the request of the House for a conference on **HB 2245**.

The President appointed Senators Corbin, Clark and Lee as conferees on the part of the Senate.

On motion of Senator Corbin, the Senate acceded to the request of the House for a conference on **HB 2266**.

The President appointed Senators Corbin, Clark and Lee as conferees on the part of the Senate.

On motion of Senator Wagle, the Senate acceded to the request of the House for a conference on **HB 2275**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **HB 2297**.

The President appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **S Sub for HB 2299**.

The President appointed Senators Allen, OConnor and Gilstrap as conferees on the part of the Senate.

On motion of Senator Wagle, the Senate acceded to the request of the House for a conference on **HB 2313**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Harrington, the Senate acceded to the request of the House for a conference on **HB 2343**.

The President appointed Senators Harrington, OConnor and Gooch as conferees on the part of the Senate.

On motion of Senator Clark, the Senate acceded to the request of the House for a conference on **HB 2397**.

The President appointed Senators Clark, Emler and Barone as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2406**.

The President appointed Senators Allen, Schmidt and Gilstrap as conferees on the part of the Senate.

On motion of Senator Wagle, the Senate acceded to the request of the House for a conference on **HB 2497**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HCR 5008**.

The President appointed Senators Tyson, Wagle and Lee as conferees on the part of the Senate.

CHANGE OF CONFERENCE

The President announced the appointment of Senator OConnor as a member of the Conference Committee on **HB 2127** to replace Senator Brungardt.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor to the senate for confirmation, were considered.

Senator Oleen moved the following appointments be confirmed as recommended by the Standing Senate Committee:

On the appointment to the:

Public Employees Relations Board:

Shirley A. Sicilian, term expires March 15, 2005.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

On the appointment to the:

Public Employees Relations Board:

Gregory M. Windholz, term expires March 15, 2005.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2128**, as amended by House Committee, be passed.

Also **HB 2268**, as amended by Senate Committee, be passed.

Committee on **Commerce** recommends **SB 306** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 306," as follows:

"Substitute for SENATE BILL No. 306

By Committee on Commerce

"AN ACT concerning telecommunications; relating to the provision of local exchange telephone service; amending K.S.A. 12-2001, 17-1901, 17-1902 and 17-1906 and repealing the existing sections."; and the substitute bill be passed.

Committee on **Natural Resources** recommends **HCR 5009**, as amended by House Committee, be amended on page 1, in line 16, by striking "The" the first time it appears and inserting "Portions of the"; in line 17, by striking "portion" and inserting "region"; in line 31, by striking all after "to"; in line 32, by striking "well as";

On page 2, in line 5, after the semicolon by inserting "Senator Robert Smith, Chairman, United States Senate Committee on Environment, 410 Dirksen Senate Office Building, Washington, D.C. 20515; Representative James Hansen, Chairman, United States House Committee on Resources, 1324 Longworth House Office Building, Washington, D.C. 20515;" and the concurrent resolution be adopted as amended.

Committee on **Transportation** recommends **HB 2145**, as amended by House Committee of the Whole, be amended on page 1, following line 15, by inserting:

"Section 1. K.S.A. 2000 Supp. 8-1343a is hereby amended to read as follows: 8-1343a. As used in K.S.A. 8-1343 through 8-1347, and amendments thereto:

(a) "Passenger car" means a motor vehicle *manufactured or assembled after January 1, 1968*, with motive power designed for carrying 10 passengers or fewer, including vans, but does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis registered for a gross weight of more than 12,000 pounds or a farm truck registered for a gross weight of more than 16,000 pounds; *or*

(b) "child booster seat" means a child passenger restraint system that meets the federal motor vehicle safety standards set forth in 49 C.F.R. 571.213 that is designed to elevate a child to properly sit in a federally approved lap/shoulder belt system.

Sec. 2. K.S.A. 2000 Supp. 8-1344 is hereby amended to read as follows: 8-1344. Every driver as defined in K.S.A. 8-1416, and amendments thereto, who transports a child under the age of 14 years in a passenger car as defined in K.S.A. 2000 Supp. 8-1343a, and amendments thereto, on a highway as defined in K.S.A. 8-1424, and amendments thereto, shall provide for the protection of such child by properly using:

(a) For a child under the age of four years or who weighs less than 40 pounds, a child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213 in effect on July 1, 1997; 2001;

or
(b) for a child under the age of seven but at least four years of age or who weighs less than 80 pounds but weighs at least 40 pounds, a child booster seat; or

~~(c) for a child four or seven years of age but under the age of 14 or who weighs more than 80 pounds, a safety belt manufactured in compliance with federal motor vehicle safety standard no. 208, except that if the number of children subject to this requirement exceeds the number of passenger securing locations available for use by children affected by this requirement, and all of those securing locations are in use by children, then there is not a violation of this section.~~

Sec. 3. K.S.A. 2000 Supp. 8-1345 is hereby amended to read as follows: 8-1345. (a) It shall be unlawful for any driver to violate the provisions of K.S.A. 8-1344, and amendments thereto, and upon conviction such driver shall be punished by a fine of \$20. The failure to provide a child safety restraining system, child booster seat or safety belt for more than one child in the same passenger car at the same time shall be treated as a single violation. Any conviction under the provisions of this subsection shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

(b) Ten dollars of the fine provided for in subsection (a) and court costs assessed under K.S.A. 28-172a, and amendments thereto, shall be waived if the driver convicted of violating subsection (a) or (b) of K.S.A. 8-1344, and amendments thereto, provides proof to the court that such driver has purchased or acquired an approved child passenger safety restraining system or child booster seat.

(c) No driver charged with violating the provisions of this act shall be convicted if such driver produces in the office of the arresting officer or in court proof that the child was 14 years of age or older at the time the violation was alleged to have occurred.

(d) Evidence of failure to secure a child in a child passenger safety restraining system, child booster seat or a safety belt under the provisions of K.S.A. 8-1344, and amendments thereto, shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

Sec. 4. K.S.A. 8-2504 is hereby amended to read as follows: 8-2504. (a) ~~(1) From and after the effective date of this act, and prior to July 1, 1987, a law enforcement officer shall issue a warning citation to anyone violating subsection (a) of K.S.A. 8-2503; and~~

~~(2) from and after July 1, 1987, persons violating subsection (a) of K.S.A. 8-2503, and amendments thereto, shall be fined not more than \$10 including \$25 plus court costs.~~

(b) No court shall report violation of this act to the department of revenue.

(c) Evidence of failure of any person to use a safety belt shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.;

Also on page 1, in line 16, by striking "Section 1." and inserting "Sec. 5.;"

By renumbering the remaining sections accordingly;

Also on page 1, in line 35, by striking "8-2507 is" and inserting "8-2504 and 8-2507 and K.S.A. 2000 Supp. 8-1343a, 8-1344 and 8-1345 are";

In the title, in line 12, following "belts" by inserting "and child passenger safety seats"; in line 13, by striking "8-2507" and inserting "8-2504 and 8-2507 and K.S.A. 2000 Supp. 8-1343a, 8-1344 and 8-1345"; also in line 13, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **HB 2552** be passed.

Also **HB 2550**, **HB 2551**, both as amended by House Committee, be passed.

SCR 1610 be amended on page 1, in line 33, before "Level V" by inserting "Level IV,"; also in line 33, after "VI" by inserting "and emergency care"; and the concurrent resolution be adopted as amended.

REPORT ON ENROLLED BILLS

SR 1829, **SR 1830**, **SR 1832**, **SR 1834** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 27, 2001.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 100**, **SB 348**; **HB 2178** were advanced to Final Action and roll call.

SB 100, An act relating to food service establishments; concerning renewal fees for licenses; amending K.S.A. 36-503 and repealing the existing section.

On roll call, the vote was: Yeas 27, Nays 13, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Clark, Corbin, Downey, Emler, Gooch, Goodwin, Harrington, Jenkins, Kerr, Lyon, Morris, Oleen, Praeger, Pugh, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barone, Donovan, Feleciano, Gilstrap, Haley, Hensley, Huelskamp, Jackson, Jordan, Lee, O'Connor, Salmans, Steineger.

The bill passed.

SB 348, An act making and concerning appropriations for the fiscal years ending June 30, 2002, and June 30, 2003, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2000 Supp. 79-2959, 79-2964, 79-3425i and 79-34,147 and repealing the existing sections.

On roll call, the vote was: Yeas 22, Nays 18, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brungardt, Corbin, Donovan, Emler, Jackson, Jenkins, Jordan, Kerr, Morris, O'Connor, Oleen, Praeger, Salmans, Schmidt, Schodorf, Teichman, Umbarger, Vratil, Wagle.

Nays: Barone, Brownlee, Clark, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Lee, Lyon, Pugh, Steineger, Taddiken, Tyson.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 348**.

Several times during debate, I heard colleagues say our first responsibility is to the bottom line.

While I do not entirely disagree, we have a greater responsibility to set our budget priorities to match the priorities of our constituents.

It is irresponsible to pass a budget that ignores so many priorities. This budget falls short in funding the Board of Regents, Department of Corrections, Juvenile Justice Authority, and Judicial Branch.

This budget does not provide adequate funding for Home and Community Based Services, perhaps our most important priority. Families deserve better than being placed on a list not only for financial assistance, but for qualified direct care workers.

This budget places a heavy burden on local government by failing to provide the required amount of sales tax revenue transfers. This budget is a property tax increase on our constituents because local units will be forced to raise taxes to make up this shortfall.

Finally, this budget neglects our responsibility to state employees by eliminating step movement in their pay plan.

We must recognize that our responsibility to Kansans is to fund priorities, not simply meet the bottom line.—PAUL FELECIANO, JR.

Senators Barone and Hensley request the record to show they concur with the Explanation of Vote offered by Senator Feleciano on **SB 348**.

MR. PRESIDENT: It is March Madness time, and I'm talking about budgets, not basketball. **SB 348** purports to spend \$100 million that the state does not have; that is an act of irresponsibility. Budgeting is about setting priorities, not wish lists. I fear that passage of this budget wish list, with a \$100 million revenue hole, will provide further impetus to raise taxes.—TIM HUELSKAMP

HB 2178, An act concerning controlled substances; relating to gamma hydroxybutyric acid; amending K.S.A. 2000 Supp. 21-3445, 65-4101, 65-4105, 65-4109, 65-4111 and 65-7003 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Wednesday, March 28, 2001.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

