

Journal of the Senate

FIFTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, April 4, 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,

One of the many questions legislators face is whether to try to get all they want at one time, and risk getting nothing, or to settle for getting a little at a time with hopes of eventually getting all, or most of, what they want. . . . believing that if they don't get it all, at least they get something.

Another factor they have to consider is the tendency of what they thought was a lost cause to resurrect suddenly for another chance at life, maybe more than once.

Politics has been called "the art of compromise"—that is knowing how and when to compromise in order to gain more than they lose—how much to give up in order to get something they want.

Still another factor is that most of them have a line they will not cross. A principle or a conviction for which there is no room for compromise and is non-negotiable. They are willing to compromise their progress, but never compromise their objective.

Some think any compromise is wrong, and others believe that those who never compromise are being unrealistic and less likely to accomplish their objectives.

I pray that all of them will touch base with You, O God, before they choose their objectives, regardless of the strategy they use to reach them, otherwise they could be pursuing goals which are not pleasing to You, and ultimately not good for their constituents.

And I pray this in the Name of Christ,

Amen

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Public Health and Welfare: **SB 360**.

CHANGE OF REFERENCE

The President withdrew **Sub SB 85** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Ways and Means.

MESSAGE FROM THE GOVERNOR

SB 8 approved on March 28, 2001.

SB 29, SB 178 approved on March 30, 2001.

SB 43, SB 44, SB 64, SB 139, SB 334 approved on April 2, 2001.

SB 7, SB 41, SB 42, SB 55, SB 75, SB 125, SB 137, SB 253 approved on April 3, 2001.

COMMUNICATIONS FROM STATE OFFICERS

SECRETARY OF STATE
State of North Dakota
March 26, 2001

As instructed by the 57th Legislative Assembly of North Dakota, Alvin A. Jaeger, North Dakota Secretary of State, has forwarded for favorable consideration a copy of recently passed House Concurrent Resolution No. 3031, a concurrent resolution making application to Congress to submit to the states an amendment to the Constitution of the United States to prohibit the United States Supreme Court and any federal court from ordering a state or political subdivision to levy or increase taxes.

SECRETARY OF STATE
State of North Dakota
March 28, 2001

As instructed by the 57th Legislative Assembly of North Dakota, Alvin A. Jaeger, North Dakota Secretary of State, has forwarded for favorable consideration a copy of recently passed Senate Concurrent Resolution No. 4028, a concurrent resolution rescinding all applications made by the Legislative Assembly to the Congress of the United States to call a convention pursuant to the terms of Article V of the United States Constitution for proposing amendments to that Constitution and urging the legislative bodies in other states to take similar action.

The President announced the above communications are on file in the office of the Secretary of the Senate and are available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2106**.

Also, passage **SB 110**.

Passage of **SB 19**, as amended, **SB 69**, as amended, **SB 180**, as amended.

The House nonconcur in Senate amendments to **HB 2145**, requests a conference and has appointed Representatives Hayzlett, Vickrey and M. Long as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2268**, requests a conference and has appointed Representatives Holmes, Sloan and McClure as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 161** and has appointed Representatives Horst, Faber and Gatewood as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 322** and has appointed Representatives Wilk, Neufeld and Shriver as conferees on the part of the House.

The House nonconcur in Senate amendments to **Senate Substitute for HB 2146**.

The House announces the appointment of Representative Flora to replace Representative Wells as a conferee on **SB 183**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2106 was thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Vratil moved the Senate concur in house amendments to **SB 69**.

Senator Corbin offered a substitute motion to nonconcur and requested a new conference committee be appointed. The motion carried.

The President appointed Corbin, Jenkins and Lee as a conference committee on the part of the Senate.

ORIGINAL MOTION

Pursuant to Senate Rule 75, President Kerr determined **SB 180**, as amended by the House, to be materially changed.

President Kerr then referred the bill to the Committee on Judiciary.

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 Morris in the chair.

Recommended **S Sub for HB 2051** be amended by adoption of the committee report recommending a substitute bill.

Senator Harrington moved to amend the bill **HB 2051**, on page 1, by striking all of lines 22 through 43;

On pages 2 through 38, by striking all of lines 1 through 43;

On page 39, by striking all of lines 1 through 19; following line 19, by inserting the following eight sections:

Section 1. K.S.A. 2000 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a) "Pupil" means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district. Except as otherwise provided in this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education *and related* services, except special education *and related* services for preschool-aged exceptional children *or for exceptional infants or toddlers*, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education *and related* services for preschool-aged exceptional children provided for by the district shall be counted as $\frac{1}{2}$ pupil. *A pupil enrolled in a district and attending special education and related services for exceptional infants or toddlers provided for by the district shall not be counted, but shall be included in enrollment of the district for the purpose of determining assignment of program weighting on the basis of costs attributable to the provision of special education and related services.* A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the custody of the secretary of social and rehabilitation services and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils. A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall

not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution shall not be counted.

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(c) "*Exceptional infants or toddlers*" means exceptional children who have not attained the age of three years.

~~(d)~~ (d) "At-risk pupils" means pupils who are eligible for free meals under the national school lunch act and who are enrolled in a district which maintains an approved at-risk pupil assistance plan.

~~(e)~~ (e) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs. The state board shall select not more than 1,794 preschool-aged at-risk pupils to be counted in the 1999-2000 school year and not more than 2,230 2,666 preschool-aged at-risk pupils to be counted in any school year thereafter.

~~(f)~~ (f) "Enrollment" means, for districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not hereinbefore specified, the number of pupils regularly enrolled in the district on September 20. Notwithstanding the foregoing, if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (1) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (2) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (A) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (B) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (C) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled.

~~(g)~~ (g) "Adjusted enrollment" means enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, correlation weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, and transportation weighting to enrollment.

~~(h)~~ (h) "At-risk pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of at-risk pupils.

~~(i)~~ (i) "Program weighting" means an addend component assigned to enrollment of districts on the basis of pupil attendance in educational programs which differ in cost from regular educational programs.

~~(j)~~ (j) "Low enrollment weighting" means an addend component assigned to enrollment of districts having under 1,725 enrollment on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having 1,725 or over enrollment.

~~(k)~~ (k) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities. School facilities weighting may be assigned to enrollment of a district only if the district has adopted a local option budget and budgeted therein the total amount authorized for the school year. School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

~~(k)~~ (l) "Transportation weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to the provision or furnishing of transportation.

~~(j)~~ (m) "Correlation weighting" means an addend component assigned to enrollment of districts having 1,725 or over enrollment on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts having under 1,725 enrollment.

~~(i)~~ (n) "Ancillary school facilities weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2000 Supp. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities. Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 2000 Supp. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.

~~(h)~~ (o) "Juvenile detention facility" means any community juvenile corrections center or facility, the Forbes Juvenile Attention Facility, the Sappa Valley Youth Ranch of Oberlin, Salvation Army/Koch Center Youth Services, the Clarence M. Kelley Youth Center, Trego County Secure Care Center, St. Francis Academy at Atchison, St. Francis Academy at Ellsworth, St. Francis Academy at Salina, and St. Francis Center at Salina.

Sec. 2. K.S.A. 2000 Supp. 72-6410 is hereby amended to read as follows: 72-6410. (a) "State financial aid" means an amount equal to the product obtained by multiplying base state aid per pupil by the adjusted enrollment of a district.

(b) "Base state aid per pupil" means an amount of state financial aid per pupil. Subject to the other provisions of this subsection, the amount of base state aid per pupil is ~~\$3,770 in the 1999-2000 school year and \$3,820 in the 2000-01 school year and in school years thereafter~~ \$3,870. The amount of base state aid per pupil is subject to reduction commensurate with any reduction under K.S.A. 75-6704, and amendments thereto, in the amount of the appropriation from the state general fund for general state aid. If the amount of appropriations for general state aid is insufficient to pay in full the amount each district is entitled to receive for any school year, the amount of base state aid per pupil for such school year is subject to reduction commensurate with the amount of the insufficiency.

(c) "Local effort" means the sum of an amount equal to the proceeds from the tax levied under authority of K.S.A. 72-6431, and amendments thereto, and an amount equal to any unexpended and unencumbered balance remaining in the general fund of the district, except amounts received by the district and authorized to be expended for the purposes specified in K.S.A. 72-6430, and amendments thereto, and an amount equal to any unexpended and unencumbered balances remaining in the program weighted funds of the district, except any amount in the vocational education fund of the district if the district is operating an area vocational school, and an amount equal to any remaining proceeds from taxes levied under authority of K.S.A. 72-7056 and 72-7072, and amendments thereto, prior to the repeal of such statutory sections, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district under the provisions of subsection (a) of K.S.A. 72-1046a, and amendments thereto, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district pursuant to contracts made and entered into under authority of K.S.A. 72-6757, and amendments thereto, and an amount equal to the amount credited to the general fund in the current school year from amounts distributed in such year to the district under the provisions of articles 17 and 34 of chapter 12 of Kansas Statutes Annotated and under the provisions of articles 42 and 51 of chapter 79 of Kansas Statutes Annotated, and an amount equal to 75% of the federal impact aid of the district.

(d) "Federal impact aid" means an amount equal to the federally qualified percentage of the amount of moneys a district receives in the current school year under the provisions of title I of public law 874 and congressional appropriations therefor, excluding amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program. The amount of federal impact aid defined herein as an amount equal to the federally qualified percentage of the amount of moneys provided for the district under title I of public law 874 shall be determined by the state board in accordance with terms

and conditions imposed under the provisions of the public law and rules and regulations thereunder.

Sec. 3. K.S.A. 72-6413 is hereby amended to read as follows: 72-6413. The program weighting of each district shall be determined by the state board as follows:

(a) Compute full time equivalent enrollment in programs of bilingual education and multiply the computed enrollment by 0.2;

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

(c) *compute full time equivalent enrollment of exceptional children with severe disabilities in special education and related services provided in compliance with the special education for exceptional children act and multiply the computed enrollment by 3.113;*

(d) *compute full time equivalent enrollment of exceptional children, other than exceptional children with severe disabilities, in special education and related services provided in compliance with the special education for exceptional children act and multiply the computed enrollment by .6968;*

~~(e)~~ (e) add the products obtained under (a) ~~and~~, (b), (c) and (d). The sum is the program weighting of the district.

~~(d) The provisions of this section shall take effect and be in force from and after July 1, 1992.~~

Sec. 4. K.S.A. 2000 Supp. 72-6414 is hereby amended to read as follows: 72-6414. The at-risk pupil weighting of each district shall be determined by the state board by multiplying the number of at-risk pupils included in enrollment of the district by ~~.09~~ .10. The product is the at-risk pupil weighting of the district.

Sec. 5. K.S.A. 2000 Supp. 72-6431 is hereby amended to read as follows: 72-6431. (a) The board of each district shall levy an ad valorem tax upon the taxable tangible property of the district in the school years specified in subsection (b) for the purpose of:

(1) Financing that portion of the district's general fund budget which is not financed from any other source provided by law;

(2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the ~~1999-2000~~ 2001-02 school year and in the ~~2000-01~~ 2002-03 school year.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the general fund of the district.

(d) On June 1 of each year, the amount, if any, by which a district's local effort exceeds the amount of the district's state financial aid, as determined by the state board, shall be remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(e) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments to such sections.

Sec. 6. K.S.A. 2000 Supp. 79-201x is hereby amended to read as follows: 79-201x. For taxable years ~~1999~~ 2001 and ~~2000~~ 2002, the following described property, to the extent herein specified, shall be and is hereby exempt from the property tax levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto: Property used for residential purposes to the extent of \$20,000 of its appraised valuation.

Sec. 7. K.S.A. 72-6413 and K.S.A. 2000 Supp. 72-978, 72-979, 72-983, 72-6407, 72-6410, 72-6414, 72-6431 and 79-201x are hereby repealed.

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

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

On roll call, the vote was: Yeas 16, Nays 24, Present and Passing 0, Absent or Not Voting 0.

Yeas: Brownlee, Clark, Corbin, Donovan, Harrington, Huelskamp, Jackson, Jordan, Kerr, Lyon, O'Connor, Pugh, Salmans, Taddiken, Tyson, Wagle.

Nays: Adkins, Allen, Barnett, Barone, Brungardt, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Jenkins, Lee, Morris, Oleen, Praeger, Schmidt, Schodorf, Steineger, Teichman, Umbarger, Vratil.

The motion failed and the amendment was rejected.

Senator O'Connor moved to amend **S Sub for HB 2051 HB 2051**, on page 39, following line 8, by inserting seven new sections as follows:

“New Sec. 36. This act shall be known and may be cited as the Kansas opportunity scholarship research experiment act. The purpose of this act is to provide for a research experiment structured to determine whether there is a positive, negative or neutral correlation between vouchers which provide availability of choice in the selection of schools and successful pupil learning. The experiment shall be conducted in the 2002-03 through 2005-06 school years in geographic areas selected by the researcher or team of researchers with whom the state board of education contracts for the purpose of designing and conducting the research experiment.

New Sec. 37. As used in this act:

(a) “Scholarship child” means any child who: (1) Is a resident of this state; (2) is school age and enrolled in or eligible for enrollment in any of the grades three through six at an opportunity scholarship school; (3) is eligible for free meals under the national school lunch act; (4) was enrolled and in attendance at school in a school district during the school year immediately preceding the first school year for which application is made for an opportunity scholarship or was the recipient of an opportunity scholarship for the school year immediately preceding the current school year; (5) is representative of the demographics of pupils enrolled in this state, including exceptional children; and (6) is selected by lottery upon application for participation in the research experiment. The researcher or team of researchers shall establish the lottery procedure to be used for selecting scholarship children.

(b) “Control group of pupils” means a group of pupils who are: (1) Not scholarship children; (2) representative of the demographics of scholarship children; and (3) selected upon application for participation in the research experiment.

(c) “Parent” means and includes natural parents, adoptive parents, stepparents, foster parents and persons acting as parents.

(d) “Person acting as parent” means: (1) A guardian or conservator; or (2) a person, other than a parent, who is liable by law to maintain, care for, or support the child, or who is liable by law to maintain, care for or support the child, or who has actual care and control of the child and is contributing the major portion of the cost of support of the child, or who has actual care and control of the child with the written consent of a person who has legal custody of the child, or who has been granted custody of the child by a court of competent jurisdiction.

(e) “Opportunity scholarship school” means: (1) Any public school which is operated by a participating school district; and (2) any accredited nonpublic school which is located in a geographic area selected by the researcher or team of researchers for participation in the Kansas opportunity scholarship research experiment, operated by a board of education or other governing authority that has elected to participate in the Kansas opportunity scholarship research experiment, and maintaining a nationally standardized assessment program selected by the researcher or team of researchers.

(f) “Accredited” means accredited by any one or more of the following: (1) The state board of education; (2) the north central accrediting association; (3) the independent schools association of the southwest; (4) the independent schools association of the central states; (5) the association of Christian schools international; (6) the national Lutheran accreditation association; (7) the Seventh Day Adventist accreditation association.

(g) "Participating school district" means a school district all or a part of the territory of which is located in a geographic area selected by the researcher or team of researchers for participation in the Kansas opportunity scholarship research experiment.

(h) "Opportunity scholarship" means, for a scholarship child who is enrolling or enrolled in a participating school district that is the school district of residence of the child, entitlement of the child to attend the opportunity scholarship school chosen by the parent of the child, so long as the chosen school is grade level appropriate for the child; for a scholarship child who is enrolling or enrolled in a participating school district that is not the school district of residence of the child, entitlement of the child to attend the opportunity scholarship school chosen by the parent of the child, so long as the chosen school is grade level appropriate for the child, without charge for attendance at the school; for a scholarship child who is enrolling or enrolled in a nonpublic opportunity scholarship school and who has not been determined to be an exceptional child, a voucher in an amount equal to the amount of base state aid per pupil determined for the current school year; for a scholarship child who is enrolling or enrolled in a nonpublic opportunity scholarship school and who has been determined to be an exceptional child, a voucher in an amount equal to the amount of base state aid per pupil determined for the current school year plus an amount equal to the cost of providing the special education services specified under the individualized education program developed for the child.

(i) "School district of residence" means the school district of residence of a scholarship child as determined under the provisions of K.S.A. 72-1046, and amendments thereto.

(j) "State board" means the state board of education.

New Sec. 38. (a) In order to achieve the purpose of this act, the state board shall select and enter into a contract with a researcher or team of researchers who shall design and conduct a research experiment under which the parent of a scholarship child, upon application of the parent and selection of the child by the researcher or team of researchers, receives an opportunity scholarship from the state board in each school year in which the experiment is maintained. Opportunity scholarships may be redeemed by the parent of the child at a participating school district or a nonpublic opportunity scholarship school. Opportunity scholarships redeemed at a participating school district shall entitle the child to attendance at the public opportunity scholarship school selected by the child's parent. Opportunity scholarships redeemed at a nonpublic opportunity scholarship school selected by the child's parent shall be used for payment of the costs of enrollment of the child at the school. Scholarship applications shall be on a form prescribed and furnished by the state board. The application shall request such information as the researcher or team of researchers deem necessary to determine scholarship eligibility and to efficiently conduct the research experiment. The number of opportunity scholarships awarded in any school year shall be determined by the researcher or team of researchers. The number of opportunity scholarships awarded shall not exceed the minimum number necessary to produce a statistically valid sample for conducting the research experiment and such members shall be determined by the state board upon consultation with education experts.

(b) An application for an opportunity scholarship may be submitted to the state board, to the the board of education of the school district in which the scholarship child resides, or to the board of education of the school district in which the opportunity scholarship school selected by the scholarship child's parent for enrollment of the child is located. If an application for a scholarship is submitted to the board of education of a school district, the board of education shall transmit the application, immediately upon receipt, to the state board. The state board shall compile and submit the applications to the researcher or team of researchers.

(c) Opportunity scholarships received under this act shall be redeemed at a nonpublic opportunity scholarship school upon certification by the school that a scholarship child is enrolled and in attendance. The state board shall certify to the director of accounts and reports the amount due the parent of the scholarship child. The director of accounts and reports shall issue a warrant to the parent of the scholarship child and shall cause the warrant to be delivered to the school in which the child is enrolled. The parent of the scholarship child shall use the warrant for payment of the costs of enrollment of the child. If the amount paid by the state pursuant to the scholarship is in excess of the amount of the costs of

enrollment charged by an opportunity scholarship school, the school shall pay the excess amount to the state board. The state board shall remit any amounts so received to the state treasurer, and the state treasurer shall deposit the same in the state treasury to the credit of the Kansas opportunity scholarship research fund. If a scholarship child discontinues attendance at an opportunity scholarship school before the end of the school year, the entire amount which the child would otherwise qualify to have refunded, if any, up to the amount paid by the state pursuant to the scholarship redeemed by the parent of the child, shall be paid by the school to the state board. The state board shall remit any amounts so received to the state treasurer, and the state treasurer shall deposit the same in the state treasury to the credit of the Kansas opportunity scholarship research fund.

(d) The amount of an opportunity scholarship redeemed under this act at a nonpublic opportunity scholarship school shall not be considered gross income and shall not be taxable for Kansas income tax purposes.

New Sec. 39. There is established in the state treasury the Kansas opportunity scholarship research fund. The fund shall consist of all amounts credited thereto under the provisions of subsection (c) of section 38, and amendments thereto. In addition to the foregoing amounts, the fund shall consist of an amount which shall be determined by the state board by computing the amount of state financial aid determined for the current school year that would be attributable to enrollment of scholarship children who are enrolled in nonpublic opportunity schools if such children were enrolled in the school district of residence of the children and subtract from the amount so determined an amount equal to the amount paid pursuant to opportunity scholarships redeemed at such nonpublic opportunity schools. The state board shall certify to the director of accounts and reports the amount of the remainder and the director of accounts and reports shall transfer such amount from the state general fund to the Kansas opportunity scholarship research fund. Amounts in the Kansas opportunity research fund shall be used exclusively for the payment, in whole or in part, of expenses attributable to the Kansas opportunity scholarship research experiment.

New Sec. 40. (a) An opportunity scholarship school shall admit scholarship children who have received scholarships and who apply for admission, up to the limit of the school's capacity after reserving places for children required or regularly entitled to be admitted to the school.

(b) A nonpublic opportunity scholarship school shall establish criteria for the admission of scholarship children. Such criteria shall be consistent with the admissions criteria that the school regularly applies.

(c) A nonpublic opportunity scholarship school shall provide assurance to the state board that the amount of the costs of enrollment charged a scholarship child will not be greater than the amount of the costs of enrollment regularly charged by the school.

(d) A nonpublic opportunity scholarship school shall make available to the researcher or team of researchers information regarding the school's program of instruction, achievement data regarding children attending the school (which data shall be stated in the aggregate by grades maintained by the school), and school discipline and safety.

(e) Prior to the commencement of school in each school year in which the opportunity scholarship research experiment is maintained, each nonpublic opportunity scholarship school shall certify to the state board the amount of the costs of enrollment to be charged in such school year.

New Sec. 41. (a) Prior to the commencement of each school year in which the opportunity scholarship research experiment is maintained, the state board shall prepare and publish in the geographic areas selected for participation in the opportunity scholarship research experiment information regarding the experiment, the procedure to be followed by parents in applying for opportunity scholarships for their children, and a list of all opportunity scholarship schools. Such information and list shall be maintained on file at the state department of education and shall be made available to members of the public upon request.

(b) The researcher or team of researchers shall: (1) Select a nationally standardized assessment program under which scholarship children and the control group of pupils shall be tested at the inception of the research experiment and at the conclusion of each school year in which the research experiment is maintained; (2) evaluate and compare the results

obtained from administration of the tests; and (3) monitor the academic performance of scholarship children and the control group of pupils.

(c) In order to ensure the validity of the research experiment results and to ensure a fair comparison of the performance of the control group of pupils with the performance of the scholarship children on the standardized assessment tests, the researcher or team of researchers shall make whatever adjustments are necessary in the research experiment results to account for the effect of federal and state laws, rules and regulations which apply to public opportunity scholarship schools and do not apply to nonpublic opportunity scholarship schools.

New Sec. 42. Upon completion of the 2005-06 school year, the researcher or team of researchers shall evaluate the research experiment conducted under the Kansas opportunity scholarship research experiment act, collect data on the academic achievement of scholarship children and the control group of pupils, assess the impact the research experiment has had on academic learning by scholarship children in comparison with academic learning by the control group of pupils, and make a final report to the governor, the legislature and the state board with regard to the positive, negative or neutral correlation between vouchers and successful pupil learning.”;

By renumbering sections 36 through 39 as sections 43 through 46, respectively;

In the title, in line 14, after the semicolon, by inserting “providing for an opportunity research experiment;”

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

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

Yeas: Emler, Harrington, Huelskamp, Jackson, Lyon, O’Connor, Oleen, Salmans, Taddiken, Vratil, Wagle.

Nays: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Jenkins, Jordan, Kerr, Lee, Morris, Praeger, Pugh, Schmidt, Schodorf, Steineger, Teichman, Tyson, Umbarger.

The motion failed and the amendment was rejected.

Senator Lyon moved to amend **S Sub for HB 2051 HB 2051**, on page 39, following line 8, by inserting seven new sections as follows:

“New Sec. 36. The state board of education shall adopt rules and regulations for administration and effectuation of the alternate teacher preparation program and, in accordance therewith, may issue an initial license to teach in this state to any person who successfully completes the alternate teacher preparation program.

New Sec. 37. As used in this act:

(a) “Alternate teacher preparation program” means a program which is provided for by the state board of education and designed to ensure that a teacher licensure applicant has the basic knowledge and qualifications necessary to engage in the profession of teaching at an accredited school in this state.

(b) “Teacher licensure applicant” means a person who applies under authority of this act for an initial license to teach in this state.

New Sec. 38. (a) The alternate teacher preparation program will require a teacher licensure applicant to complete:

(1) A 10 contact hour preservice orientation conducted by an employing accredited school prior to a classroom assignment. Orientation shall include familiarization with school policies, procedures, curriculum, instructional model, community characteristics, and resources; and

(2) an internship of two school years (four semesters) prescribed by the state board of education. At the successful completion of internship, student teaching requirements will be waived.

(b) During internship, a teacher licensure applicant will be supervised by a team of two persons consisting of a mentor teacher or national board certified teacher and the building principal from the accredited school employing the applicant. Guidelines for supervision will be provided by the state board of education. The supervisory team will meet no fewer than three times per school year to evaluate, consult with, and provide advice to the applicant. The last meeting of the first year of internship will result in a recommendation for

discontinuation of the program or continuation for the second year of internship. Successful completion of the program will result in a recommendation for licensure.

New Sec. 39. A teacher licensure applicant shall:

(a) Be the holder of a baccalaureate or higher degree, earned with a minimum cumulative grade point average of 2.75 on a 4.0 scale, and granted by an accredited college or university;

(b) have earned academic credits appropriate to meeting subject and field requirements for licensure with an endorsement at the secondary level for such subject or field or for licensure with an endorsement at the elementary, middle or junior high level. The state board of education will assure attainment by the applicant of the minimum semester hour requirements for general education and subjects or fields of specialization. Minor deficiencies in the subject or field of specialization requirements may be satisfied through additional course work approved by the state board of education;

(c) take and pass the national teacher examination core battery with a composite score at or higher than the national mean score;

(d) apply for and receive from the state board of education a license valid for one year and renewable for a second year upon successful completion of the first year of participation in the program and recommendation by the supervisory team; and

(e) receive and document an offer of a teaching position at an accredited Kansas school.

New Sec. 40. Upon successful completion of the alternate teacher preparation program as verified by the employing accredited school, a teacher licensure applicant may apply for licensure on a form provided by the state board of education. The state board shall review the application and the recommendation of the employing accredited school and shall grant licensure, grant provisional licensure, or deny licensure. Successful completion of the alternate teacher preparation program will not entitle a teacher licensure applicant to licensure with an endorsement in special education subject areas or licensure at the elementary level other than in the subjects or fields of specialization for which the applicant has met the standards for endorsement.

New Sec. 41. Upon completion of each school year, commencing with the 2004-05 school year, the state board of education shall make a report to the legislature on the effectiveness of the alternate teacher preparation program. The report shall include the following information:

(a) The number of accredited schools participating in the program;

(b) the number of persons who applied for employment as teacher licensure applicants and the number of such applicants who actually were employed;

(c) the number of persons who successfully completed the alternate teacher preparation program, who were recommended for licensure, and who were granted licenses;

(d) the quality of teachers granted licenses under this act;

(e) the rate of attrition of teachers granted licenses under this act as compared with teachers who have completed a regular teacher preparation program; and

(f) the costs to the state of providing the alternate teacher preparation program as compared with regular teacher preparation programs.

New Sec. 42. The requirements and procedures contained in the alternate teacher preparation program for initial issuance of licenses to teach shall be deemed alternative to the requirements and procedures therefor that are in effect under any other provision of law and under rules and regulations adopted pursuant thereto by the state board of education.”;

By renumbering sections 36 through 39 as sections 43 through 46, respectively;

In the title, in line 14, after the semicolon, by inserting “providing for initial licensure of teachers upon completion of an alternate preparation program;”

The motion failed and the amendment was rejected.

Senator Vratil moved to rerefer the bill to the Committee on Education.

A substitute motion by Senator Steineger to recommend **S Sub for HB 2051** favorably for passage failed, and **S Sub for HB 2051** was rereferred to the Committee on Education.

On motion of Senator Oleen, the Senate recessed until 4:00 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with President Kerr in the chair.

CHANGE OF REFERENCE

The President withdrew **HB 2573** from the Committee on Commerce, and referred the bill to the Committee on Ways and Means.

MESSAGE FROM THE GOVERNOR

April 4, 2001

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as Governor of the State of Kansas as of April 4, 2001, pursuant to law.

BILL GRAVES
Governor

Member, State Civil Service Board, Thomas J. Corcoran, pursuant to the authority vested in me by K.S.A. 74-2929a, effective upon the date of confirmation by the Senate to serve a four-year term ending March 15, 2005.

Member, State Civil Service Board, James E. Lowther, pursuant to the authority vested in me by K.S.A. 74-2929a, effective upon the date of confirmation by the Senate to serve a four-year term ending March 15, 2005.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2574**.

Also, passage of **SB 146**, as amended.

Announcing, the House adopts the conference committee report on **SB 57**.

Announcing, the House nonconcurrs in Senate amendments to **HB 2221**, requests a conference and has appointed Representatives Edmonds, Huff and Larkin as conferees on the part of the House.

Announcing, the House nonconcurrs in Senate amendments to **Senate Substitute for HB 2034**, requests a conference and has appointed Representatives Holmes, Sloan and McClure as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 69** and has appointed Representatives Edmonds, Huff and Larkin as conferees on the part of the House.

The House announces the appointment of Representative Stone to replace Representative Neufeld as a conferee on **SB 322**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2574 was thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Praeger the Senate nonconcurrred in the House amendments to **SB 19** and requested a conference committee be appointed.

The President appointed Senators Praeger, Teichman and Feleciano as a conference committee on the part of the Senate.

On motion of Senator Corbin the Senate nonconcurrred in the House amendments to **SB 35** and requested a conference committee be appointed.

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

ORIGINAL MOTION

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2178**.

The President appointed Senators Vratil, Schmidt 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 2268**.

The President appointed Senators Corbin, Clark and Lee 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 2505**.

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

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT AND MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2101**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

And your committee on conference recommends the adoption of this report.

DEREK SCHMIDT
CHRISTINE DOWNEY
Conferees on part of Senate

DAN JOHNSON
DONALD L. DAHL
Conferees on part of House

On motion of Senator Schmidt, the Senate adopted the conference committee report on **HB 2101**, and requested a new conference committee be appointed.

The President appointed Senators Schmidt, Huelskamp and Downey and as a second Conference Committee on the part of the Senate on **HB 2101**.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **HB 2067**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL No. 2067," as follows:

"SENATE Substitute for HOUSE BILL No. 2067

By Committee on Judiciary

"AN ACT concerning providers of care services; relating to employment of persons convicted or adjudicated of certain offenses; amending K.S.A. 39-970 and K.S.A. 2000 Supp. 65-5117 and repealing the existing sections."; and the substitute bill be passed.

Also **HB 2508**, as amended by House Committee of the Whole, be amended on page 12, by striking all in lines 24 through 26; in line 27, by striking all before "If";

On page 21, in line 9, after "as" the second time it appears, by inserting "otherwise"; also in line 9, by striking "further"; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SCR 1611 reported correctly engrossed March 30, 2001.

REPORT ON ENROLLED BILLS

SB 1, SB 10, SB 11, SB 98, SB 184, SB 204, SB 209 reported correctly enrolled, properly signed and presented to the Governor on April 4, 2001.

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 Morris in the chair.

On motion of Senator Morris the following report was adopted:

Recommended **HB 2296, HB 2515** be amended by adoption of the committee amendments, and the bills be passed as amended.

HB 2408 be amended by adoption of the committee amendments, be further amended by motion of Senator Vratil as amended by Senate Committee, on page 5, in line 43, by striking all after "(l)";

On page 6, in line 1, by striking "furnish" and inserting "make"

Senator Brownlee moved to amend **HB 2408**, on page 5, line 33, by striking No real property may be purchased, line 34 by the recreation, all of line 35, all of line 36, line 37 school district

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

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

Yeas: Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Emler, Harrington, Huelskamp, Jackson, Jenkins, Jordan, Lyon, O'Connor, Pugh, Salmans, Taddiken, Tyson, Wagle.

Nays: Adkins, Allen, Barnett, Downey, Feleciano, Gilstrap, Goodwin, Hensley, Kerr, Lee, Morris, Oleen, Praeger, Schmidt, Schodorf, Steineger, Teichman, Umbarger, Vratil.

Present and Passing: Haley.

Absent or Not Voting: Gooch.

The motion failed and the amendment was rejected.

The Committee recommended **HB 2408** be passed as further amended.

Sub HB 2532 be amended by adoption of the committee amendments, be further amended by motion of Senator Jordan on page 4, line 7 through 12, by striking subsection (i) lines 7 through 12, and **Sub HB 2532** be passed as further amended.

HB 2094, HB 2480 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **HB 2296, HB 2408, HB 2515, Sub HB 2532** were advanced to Final Action and roll call.

HB 2296, An act concerning written instruments; relating to forgery; worthless checks; amending K.S.A. 21-3710 and K.S.A. 2000 Supp. 21-4704 and 60-2610 and repealing the existing sections, was considered on final action.

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

Yeas: 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.

Absent or Not Voting: Adkins.

The bill passed, as amended.

HB 2408, An act concerning recreational districts; relating to the Blue Valley recreation system established by the Blue Valley unified school district No. 229; amending K.S.A. 2000 Supp. 12-1927 and 12-1928 and repealing the existing sections; also repealing K.S.A. 2000 Supp. 12-1935, was considered on final action.

On roll call, the vote was: Yeas 18, Nays 19, Present and Passing 2, Absent or Not Voting 1.

Yeas: Allen, Barnett, Brungardt, Downey, Emler, Feleciano, Gilstrap, Goodwin, Hensley, Kerr, Lee, Morris, Oleen, Praeger, Schmidt, Teichman, Umbarger, Vratil.

Nays: Barone, Brownlee, Clark, Corbin, Donovan, Harrington, Huelskamp, Jackson, Jenkins, Jordan, Lyon, O'Connor, Pugh, Salmans, Schodorf, Steineger, Taddiken, Tyson, Wagle.

Present and Passing: Gooch, Haley.

Absent or Not Voting: Adkins.

A constitutional majority having failed to vote in favor of the bill, **HB 2408** did not pass.

HB 2515, An act concerning municipalities; relating to convention and tourism committees; concerning franchise agreements between telecommunications providers and

municipalities; relating to access by telecommunications providers to public rights-of-ways; 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 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: 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.

Absent or Not Voting: Adkins.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote aye on **HB 2515** and support the amendment added by the Senate Commerce Committee (New Section 3.). The intent of this section is to put "on hold" new city ordinances which would affect franchise agreements with telecommunications providers. These agreements under current terms in effect with cities can continue both with current telecommunications providers and new entrants.

Section 3 represents a short term resolution to a major policy question regarding franchise agreements. The proponents of and opponents to **S Sub for SB 306** have agreed to a moratorium on enforcing any ordinance passed since January 1, 2001, and a moratorium on enacting any new franchise ordinances with terms different from franchise ordinances in existence on December 31, 2000. This will give those parties time to negotiate a long-term resolution to the situation. If the parties are unable to reach a long-term resolution, I believe **S Sub for SB 306** accurately reflects what the policy position of the Senate should be.—
KARIN BROWNLEE

Senators Emler and Harrington request the record to show they concur with the "Explanation of Vote" offered by Senator Brownlee on **HB 2515**.

Sub HB 2532, An act concerning the state historical society; amending K.S.A. 75-2701, as amended by section 377 of 2001 Senate Bill No. 15, and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Harrington, Jackson.

Absent or Not Voting: Adkins.

The substitute bill passed, as amended.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Thursday, April 5, 2001.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

