

Journal of the House

SIXTY-SECOND DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, April 11, 2002, 9:30 a.m.

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

The roll was called with 123 members present.

Rep. O'Brien was excused on verified illness.

Rep. Tanner was excused on excused absence by the Speaker.

Prayer by guest chaplain, Father Jose Machado, Our Lady of Perpetual Help, Wichita, and guest of Rep. McLeland:

Lord Jesus Christ, bring peace into the world by bringing your love into the hearts of all men and women.

Lord, I ask that You bless those who represent our state and our country.

May they understand that those who work for peace will be called your sons and daughters.

Help them work without ceasing for that justice which brings true and everlasting peace.

Heavenly Father, I ask that you may send the Holy Spirit upon their thoughts and actions, inspiring them to do the common good.

Glory and honor be yours for ever and ever. Amen.

The Pledge of Allegiance was led by Rep. Miller.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and resolution were referred to committees as indicated:

Appropriations: **SB 641**.

Federal and State Affairs: **HR 6017**.

MESSAGE FROM THE SENATE

Announcing passage of **SB 652**.

Announcing passage of **HB 2337**, as amended; **Sub. HB 2872**, as amended; **HB 2933**, as amended.

The Senate nonconcur in House amendments to **Sub. SB 508**, requests a conference and has appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 553**, requests a conference and has appointed Senators Corbin, Jenkins and Lee as conferees on the part of the Senate.

The Senate adopts conference committee report on **HB 2818**.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bill was thereupon introduced and read by title:

SB 652.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **Sub. SB 508**.

Speaker pro tem Aurand thereupon appointed Reps. Wilk, Neufeld and Shriver as conferees on the part of the House.

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SB 553**.

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

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Johnson, **HR 6014**, A resolution commemorating the life and accomplishments of Kansan George Washington Carver, was adopted.

INTRODUCTION OF GUESTS

Rep. Freeborn introduced Jettie Condray, Director of the Ottawa County Historical Museum, Minneapolis, Kansas, which houses a display about George Washington Carver. Rep. Freeborn presented him with a copy of the resolution.

Rep. Johnson introduced William Jackson, Superintendent of the George Washington Carver National Monument in Diamond, Missouri, and presented him with a copy of the resolution. Mr. Jackson addressed a few remarks to the members of the House.

CHANGE OF REFERENCE

Speaker pro tem Aurand announced the withdrawal of **SB 648** from Committee on Appropriations and referral to Committee on Judiciary.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2396, An act relating to property taxation; limiting annual increases in property valuation, was considered on final action.

On roll call, the vote was: Yeas 102; Nays 21; Present but not voting: 0; Absent or not voting: 2.

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

Nays: Aurand, Beggs, Benlon, Bethell, Campbell, Cox, Dreher, Flora, Hermes, Krehbiel, Lane, Merrick, Minor, Owens, Ray, Rehorn, Sharp, Sloan, Storm, Tomlinson, Welshimer.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: I vote no on **HB 2396**. While I agree that the appraisal process must be reviewed in the future, it must include agricultural land. With the deletion of the section dealing with agricultural land and valuations based on agricultural income or productivity attributable to the inherent capabilities of such land—I cannot vote for **HB 2396**. We cannot and should not ignore the backbone of the Kansas economy and our heritage.—**CINDY HERMES**

HB 2782, An act enacting the religious freedom restoration act, was considered on final action.

On roll call, the vote was: Yeas 89; Nays 34; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Bethell, Boston, Campbell, Compton, Cook, Dahl, DeCastro, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Freeborn, Gamer, Gatewood, Glasscock, Grant, Hayzlett, Henderson, Henry, Holmes, Horst, Howell, Huebert, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Landwehr, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Pauls, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Reardon, Ruff, Shriver, Shultz, Storm, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, D. Williams, J. Williams, Wilson, Winn.

Nays: Benlon, Burroughs, Cox, Crow, Dillmore, Flaharty, Flora, Gilbert, Goering, Gordon, Hermes, Huff, Kirk, Klein, Krehbiel, Kuether, Lane, Loyd, Minor, Newton, Patterson, E. Peterson, J. Peterson, Ray, Rehorn, Schwartz, Sharp, Showalter, Sloan, Spangler, Stone, Tomlinson, Welshimer, Wilk.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: For well over 200 years the Constitution and Bill of Rights have preserved our right to worship as we choose. These documents are the greatest documents for the preservation of freedom in the history of the world. They guarantee the religious preferences of some cannot be imposed on others.

This bill gives religious zealots a key to the courthouse doors with a guarantee that if they prevail, the State of Kansas will pay their attorney fees. This bill could cost the state millions of dollars in a vain attempt to improve on the perfection of our constitution. I vote no on **HB 2782**.—ALAN C. GOERING, BONNIE SHARP

MR. SPEAKER: Our federal and state constitutions already make religious freedom clear. Our courts have consistently upheld this freedom. There is no problem of loss of religious freedom. We do have a problem with our budget and state services. I want to spend our time and resources on our real problems. Therefore, I vote NO on **HB 2782**.—GERALDINE FLAHARTY, JUDY SHOWALTER, ANNIE KUETHER, NILE DILLMORE, ETHEL M. PETERSON, MARTI CROW, GWEN WELSHIMER, RUBY GILBERT

MR. SPEAKER: We vote no on **HB 2782**. Our U.S. and Kansas Constitutions already provide freedom of religion and we find this an unnecessary piece of legislation.

We have a dream that some day we might be able to come here and use a session to eliminate laws that no longer apply rather than more laws to burden our systems.

The 2002 legislative session is confronted with a financial shortfall of more than \$700 million. We cannot vote for unnecessary expenditures at this time. We need to be working on our constitutional charge of appropriating state funds and funding state agencies.—LANA GORDON, CINDY HERMES

MR. SPEAKER: **HB 2782** is good for freedom. If the American flag stands for anything, it stands for the right of American citizens to be free. To suggest that religious freedom is not important is to ignore American heritage, our founding fathers, and the First Amendment to the U.S. Constitution. This is why 532 out of 535 members of the U.S. Congress supported this bill. I vote yes on **HB 2782**.—PEGGY LONG

MR. SPEAKER: Remember

It is the soldier and the sailor

Not the reporter

Who has given us freedom of the press.

It is the soldier and the sailor

Not the poet

Who has given us freedom of speech.

It is the soldier and the sailor

Not the campus organizer

Who has given us the freedom to demonstrate.

It is the soldier and the sailor
 Who salutes the flag
 Who serves beneath the flag
 Whose coffin is draped by the flag
 Who allows the protester to burn the flag or not fly the flag.

We respectfully vote yes on **HB 2782**.—LEE TAFANELLI, DOUG PATTERSON, VERN OSBORNE, GARRY BOSTON, MARY COMPTON, MARY PILCHER COOK, CLARK SHULTZ, TONY POWELL, BECKY HUTCHINS, JOE HUMERICKHOUSE, TODD NOVASCONE, JIM MORRISON, MICHAEL O'NEAL, JENE VICKREY, DAN JOHNSON, DON MYERS, LARRY POWELL, BILL MASON, RALPH OSTMEYER BOB BETHELL, STANLEY DREHER, TIM OWENS, CAROL BEGGS, DOUG MAYS, JOHN FABER, MELVIN NEUFELD, BRENDA K. LANDWEHR, CARLOS MAYANS, STEVE HUEBERT, L. CANDY RUFF, DEENA HORST, CLAY AURAND, JOHN EDMONDS, JOE MCLELAND

MR. SPEAKER: I cannot vote to have my constituents pay with their tax dollars the legal fees of those whose rights are violated by either indifferent or overzealous bureaucrats or by unintended legislative action. I fully support requiring the state to be held to a standard of showing compelling state interest, rather than a rational basis, on issues restricting the exercise of religious freedom. I wish the provision for legal fees were not included so I could vote yes. It is not, so I vote no on **HB 2782**.—WARD LOYD, DEAN NEWTON

HB 3034, An act concerning the legislature; restricting the creation of legislative study committees; and repealing K.S.A. 46-3101, relating to the legislative compensation commission, was considered on final action.

On roll call, the vote was: Yeas 106; Nays 17; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Feuerborn, Findley, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McCreary, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, Osborne, Ostmeyer, Palmer, Patterson, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Tafanelli, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Burroughs, Campbell, Faber, Garner, Henderson, Howell, Klein, Lightner, McClure, McKinney, O'Neal, Owens, Pauls, Reardon, Rehorn, Spangler, Swenson.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The bill passed, as amended.

HR 6013, A resolution urging the Congress of the United States to provide ultrasound equipment, operated by qualified personnel, for crisis pregnancy centers and not-for-profit health centers providing services to pregnant women and to adopt legislation requiring the Medicare program to pay for all oral cancer drugs, was considered on final action.

On roll call, the vote was: Yeas 117; Nays 6; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter,

Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Benlon, Cox, Freeborn, Lane, Tomlinson, Welshimer.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The resolution was adopted, as amended.

H. Sub. for SB 364. An act relating to motor vehicles; concerning certificate of title fees; amending K.S.A. 8-135, 8-135a, 8-139, 8-145, 8-170, 8-171, 8-198 and 8-1556 and K.S.A. 2001 Supp. 74-2013 and repealing the existing sections, was considered on final action.

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

Yeas: Aday, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cox, Crow, Dahl, DeCastro, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Huff, Humerickhouse, Hutchins, Johnson, Kauffman, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, Loyd, Mason, McClure, McCreary, McKinney, Merrick, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, O'Neal, Osborne, Owens, Patterson, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, Ray, Reardon, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Thimesch, R. Toelkes, Tomlinson, Weber, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Ballou, Burroughs, Cook, Dillmore, Edmonds, Garner, Goering, Henderson, Howell, Huebert, Huy, Kirk, Klein, Landwehr, P. Long, Mayans, Mays, McLeland, Miller, Nichols, Novascone, Ostmeyer, Palmer, Pauls, T. Powell, Powers, Pyle, Rehorn, Spangler, Tafanelli, Toplikar, Vickrey, Wells.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The substitute bill passed, as amended.

SB 372. An act relating to sales taxation; concerning the sourcing of mobile telecommunications services; amending K.S.A. 2001 Supp. 79-3603 and repealing the existing section; also repealing K.S.A. 2001 Supp. 79-3603b, was considered on final action.

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

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

Nays: Spangler.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The bill passed.

SB 429. An act relating to state employees; establishing an employee award and recognition program; state employee suggestion program; prohibiting certain reimbursement; amending K.S.A. 75-37,115 and repealing the existing section; also repealing K.S.A. 75-37,106 through 75-37,110, inclusive, was considered on final action.

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

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

Nays: Spangler.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The bill passed, as amended.

SB 489, An act concerning fertilizers; relating to civil actions and civil penalties; owners of anhydrous ammonia, immunity from liability; civil penalty for certain persons or custom blenders of fertilizer; mobile containers; amending K.S.A. 2-1201b and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 89; Nays 34; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Dahl, DeCastro, Dreher, Edmonds, Faber, Feuerborn, Freeborn, Garner, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Krehbiel, Lane, Larkin, Levinson, Light, Lloyd, P. Long, Loyd, Mason, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Pauls, E. Peterson, J. Peterson, Phelps, L. Powell, Pyle, Ray, Ruff, Schwartz, Showalter, Shriver, Shultz, Sloan, Stone, Tafanelli, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Wilk, D. Williams, J. Williams, Wilson.

Nays: Barnes, Burroughs, Crow, Dillmore, DiVita, Findley, Flaharty, Flora, Gilbert, Goering, Henderson, Henry, Kirk, Klein, Kuether, Landwehr, Lightner, Loganbill, M. Long, Mayans, Nichols, Palmer, Patterson, Pottorff, T. Powell, Powers, Reardon, Rehorn, Sharp, Spangler, Storm, Swenson, Welshimer, Winn.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The bill passed, as amended.

SB 509, An act relating to state officers and employees; relating to retirement benefits and periods of reduced or suspended compensation; amending K.S.A. 74-49,115 and repealing the existing section, was considered on final action.

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

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

Tafanelli, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Spangler.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The bill passed, as amended.

SB 541, An act relating to the division of emergency management; developing a program for terrorism preparedness; establishing a plan for emergency medical response teams; concerning workers compensation; Kansas tort claims act; amending K.S.A. 44-510h, 44-577, 48-915 and 48-928 and K.S.A. 2001 Supp. 44-511, 48-904, 65-5722 and 75-6102 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 75-6102a, was considered on final action.

On roll call, the vote was: Yeas 109; Nays 14; Present but not voting: 0; Absent or not voting: 2.

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

Nays: Cook, Howell, Huebert, Huy, Kauffman, P. Long, Mayans, McLeland, Miller, Powers, Pyle, Spangler, Welshimer, J. Williams.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: I vote no on **SB 541** because the training that is being proposed under this legislation has been ongoing for many years by the counties at very little cost and now in the aftermath of 9-11 we are going to take monies from education and social services to fund unnecessary programs.—CARLOS MAYANS

MR. SPEAKER: I vote no on **SB 541**. I am opposed to **SB 541** because it is an over-reaction to the 9-11 terrorist atrocity. I have checked with my county and found that Montgomery County already has in place an Emergency Preparedness Coordinator. He indicated little interest in setting up yet another layer of Government to do about the same thing. In this day of tight budgets, we don't need this program or the ensuing costs it will bring.—FRANK MILLER

MR. SPEAKER: I vote no on **SB 541** for one simple reason, the people who currently do this job are ready and able to deal with the needs of our state.—STEVE HUEBERT

SB 629, An act concerning the adjutant general and the division of emergency management; relating to the powers and duties thereof; amending K.S.A. 48-928 and K.S.A. 2001 Supp. 48-904 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 107; Nays 16; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Crow, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huff, Humerickhouse, Hutchins, Johnson, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McClure,

McCreary, McKinney, Merrick, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, Wilson, Winn.

Nays: Cook, Dahl, Faber, Howell, Huebert, Huy, Kauffman, Mayans, McLeland, Miller, Novascone, Powers, Pyle, Spangler, Tomlinson, J. Williams.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The bill passed.

EXPLANATIONS OF VOTE

MR. SPEAKER: I vote no on **SB 629** because instead of supporting our county and local Emergency Directors to be responsible for their areas we are instead appointing supervisors making \$70,000 a year to oversee them. We don't have the money!—CARLOS MAYANS

MR. SPEAKER: I vote no on **SB 629**. I am opposed to **SB 629** because it is an over-reaction to the 9-11 terrorist atrocity. I have checked with my county and found that Montgomery County already has in place an Emergency Preparedness Coordinator. He indicated little interest in setting up yet another layer of Government to do about the same thing. In this day of tight budgets, we don't need this program or the ensuing costs it will bring.—FRANK MILLER

SCR 1623, A concurrent resolution requesting the Kansas commissioner of insurance to study the use of insurance scoring reports within the insurance industry and the need for additional regulation, if any, was considered on final action.

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

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

Nays: Howell, Wilk.

Present but not voting: None.

Absent or not voting: O'Brien, Tanner.

The resolution was adopted, as amended.

INTRODUCTION OF GUESTS

Rep. Osborne introduced Deb Patterson, head coach of the Kansas State University Lady Cats, who finished the 2001-2002 season with a 26-8 record overall and a 11-5 mark in the Big XII. The Wildcats reached the Sweet Sixteen for the first time in 19 years. Coach Patterson introduced the players and other coaches as they were presented certificates.

Remarks were also made by Reps. Schwartz, Glasscock, Lloyd, Krehbiel, Larkin, and J. Peterson.

MOTIONS TO CONCUR AND CONCONCUR

On motion of Rep. Hayzlett, the House nonconcurred in Senate amendments to **Sub. HB 2653** and asked for a conference.

Speaker pro tem Aurand thereupon appointed Reps. Hayzlett, Bethell and M. Long as conferees on the part of the House.

On motion of Rep. Ray, the House nonconcurred in Senate amendments to **HB 2949** and asked for a conference.

Speaker pro tem Aurand thereupon appointed Reps. Ray, Campbell and Gilbert as conferees on the part of the House.

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

COMMITTEE OF THE WHOLE

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

Recommended that **HB 3003** be passed.

On motion of Rep. D. Williams **SB 472** be amended on page 6, following line 37, by inserting:

“Sec. 2. K.S.A. 2001 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, and dry-cleaning and laundry services taxed pursuant to K.S.A. 2001 Supp. 65-34,150, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is paid from funds of such political subdivision or district and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or

in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school or educational institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose

of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft, sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft sold to persons using directly or through an authorized agent such aircraft and aircraft repair, modification and replacement parts as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, aircraft parts, replacement parts and services employed in the remanufacture, modification and repair of aircraft for use outside of the United States;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603 and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs, as defined by K.S.A. 65-1626 and amendments thereto, dispensed pursuant to a prescription order, as defined by K.S.A. 65-1626 and amendments thereto, by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used to alleviate the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person's mobility; such term shall include accessories attached or to be attached to motor vehicles, but such term shall not include motor vehicles or personal property which when installed becomes a fixture to real property;

(s) except as provided in K.S.A. 2001 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 *et seq.* and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of food products for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

~~(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;~~

~~(ff) (ee)~~ on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto;

~~(gg) (ff)~~ all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

~~(hh) (gg)~~ all sales of medical supplies and equipment purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

~~(ii) (hh)~~ all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and

activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

~~(j)~~ (ii) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

~~(k)~~ (j) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) "production line" means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, nonin-

dustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from offsite, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations,

including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

~~(kk)~~ (kk) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

~~(ll)~~ (ll) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

~~(mm)~~ (mm) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

~~(nn)~~ (nn) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

~~(oo)~~ (oo) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

~~(pp)~~ (pp) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

~~(qq)~~ (qq) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

~~(rr)~~ (rr) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

~~(ss)~~ (ss) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

~~(tt)~~ (tt) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

~~(uu)~~ (uu) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and to education, research and support for them and their families;

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease; and

(8) the National Kidney Foundation of Kansas and Western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

~~(vv)~~ (vv) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

~~(ww)~~ (ww) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit

zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

~~(yy)~~ (xx) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

~~(yy)~~ (yy) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

~~(zz)~~ (zz) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization

concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

~~(bbb)~~ (aaa) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

~~(ccc)~~ (bbb) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not

be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

~~(ccc)~~ (ccc) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

~~(eee)~~ (ddd) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

~~(fff)~~ (eee) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation; and

~~(ggg)~~ (fff) all sales of tangible personal property and services purchased by or on behalf of the Kansas Academy of Science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials.”;

By renumbering sections accordingly;

Also on page 6, in line 38, following “79-3603” by inserting “, 79-3606”;

In the title, in line 9, by striking all following the first semicolon; in line 10, following “and” by inserting “79-3606 and”; also in line 10, by striking “sec-”; in line 11, by striking “tion” and inserting “sections”;

Also, on motion of Rep. Edmonds to amend **SB 472**, the motion did not prevail and the bill be passed as amended.

On motion of Rep. Stone **HB 3009** be amended on page 1, in line 23, by striking “deduct or”; in line 24, by striking “contribute” and inserting “transfer or rollover”;

On page 2, in line 30, by striking “deducted”; in line 31, by striking “or contributed” and inserting “transferred or rolled-over”; in line 33, by striking “shall remain assets of”; in line 34, by striking “the state,”; in line 38, by striking all after the period; by striking all in lines 39 through 42 and inserting “No part of the assets of the plan may be used for, or diverted to, purposes other than for the exclusive benefit of participants and the participant’s beneficiaries and for defraying reasonable expenses of the plan.”;

Also, on motion of Rep. Wilk **HB 3009** be amended on page 1, after line 14, by inserting the following:

“Section 1. K.S.A. 2001 Supp. 74-4925 is hereby amended to read as follows: 74-4925.

(1) The state board of regents shall:

(a) Assist all those members of the faculty and other persons who are employed by the state board of regents or by educational institutions under its management and who are in the unclassified service under the Kansas civil service act as provided in subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, except health care employees, as defined by subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, in the purchase of retirement annuities for their service rendered after December 31, 1961. Effective on the first day of the first payroll period commencing with or following July 1, 1994, county extension agents employed by Kansas state university under K.S.A. 2-615 and amendments thereto shall be eligible for assistance by the state board of regents in the purchase of retirement annuities under this section. The state board of regents shall not assist any such person who is employed after December 31, 1961, until such person has been employed for a waiting period of at least one year except that (i) the state board of regents may assist any newly employed person immediately if at the time of the commencement of employment the person is covered by a valid retirement annuity contract issued by a company described in subsection (2) which was entered into pursuant to a retirement pension plan adopted for faculty members or other persons, or both, employed by an institution of higher education and to which such person or such person's employer on such person's behalf has been making contributions for at least one year, and (ii) all periods of employment with (A) participating employers under the Kansas public employees retirement system, for which employment participating service credit accrued, or (B) institutions of higher education in other states for which employment retirement benefits accrued under a retirement system or plan provided for such employment, shall be credited toward satisfaction of such one-year waiting period if served, in either case, during the five years immediately preceding employment with the state board of regents or with an educational institution under its management in the unclassified service under the Kansas civil service act as provided in subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, in addition to such employment with the state board of regents or with an educational institution under its management; no period of employment as a student employee, as a seasonal or temporary employee or as a part-time employee, whose employment requires less than 1,000 hours of work per year, shall be credited toward the one-year waiting period under subsection (1)(a); this act shall not apply to persons employed in such temporary and part-time positions designated by the state board of regents as exceptions hereto;

(b) require such members of the faculty and others described in subsection (1)(a) who are so assisted by the state board of regents to contribute an amount toward the purchase of such retirement annuities of 5.5% of their salaries, such contributions to be made through payroll deductions and on a pretax basis;

(c) contribute an amount toward the purchase of such retirement annuities equal to the percentage amount, as prescribed by K.S.A. 74-4925e and amendments thereto, of the total amount of the salaries on which such members of the faculty and others described in subsection (1)(a) contribute during such period for which the contribution of the state board of regents is made;

(d) provide, under such rules and regulations as the state board of regents may adopt, for the retirement of any such member of the faculty or other person described in subsection (1)(a) on account of age or condition of health, retirement of such member of the faculty or other person described in subsection (1)(a) on account of age to be not earlier than the 55th birthday and prior to January 1, 1994, not later than the end of the academic year following the 70th year. On and after January 1, 1994, there shall be no mandatory retirement on account of age. Any person who retires under this section and who receives benefits from the Kansas public employees retirement system for prior service credit shall have such benefits calculated in accordance with the applicable provisions of K.S.A. 74-4914 and 74-4915 and amendments thereto.

(2) For the purposes of this section the state board of regents may contract with:

(a) Any life insurance company authorized to do business in this state; or

(b) any life insurance company organized and operated without profit to any private shareholder or individual exclusively for the purpose of aiding and strengthening educational institutions by issuing insurance and annuity contracts only to or for the benefit of such institution and individuals engaged in the services of such institutions, whether or not such

company is authorized to do business in Kansas. No premium tax or income tax shall be due or payable on such annuity contract or contracts for such retirement programs issued by a company described in this subsection (2)(b), except that neither the purchase nor the issuance of such retirement annuities from or by a company described in this subsection (2)(b) shall constitute the effecting of a contract of insurance.

(3) (a) Such member of the faculty or other person described in subsection (1)(a) shall also be a member of the Kansas public employees retirement system, but only for the purpose of granting retirement benefits based on prior service only which was rendered prior to January 1, 1962, which shall be credited to the member as provided in subsection (1) of K.S.A. 74-4913 and amendments thereto, except that such member of the faculty or other person described in subsection (1)(a) who was employed prior to July 1, 1962, who has not yet retired and who is employed on July 1, 1988, on an academic year contract, shall receive credit for 12 months of prior service for each nine months of prior service for which such member or person was employed on an academic year contract prior to July 1, 1962. For the purpose of determining eligibility for a vested benefit, service by such a member of the faculty or other person after December 31, 1961, shall be construed to be credited service under subsection (2) of K.S.A. 74-4917 and amendments thereto.

(b) Any member of the faculty or other person described in subsection (1)(a) who retires after 10 years of continuous service immediately preceding retirement shall be granted a retirement benefit based on prior service only which was rendered prior to January 1, 1962. Application for such benefit shall be in such form and manner as the board shall prescribe.

(4) For the purpose of establishing a procedure whereby the state board of regents and any member of the faculty or other person described in subsection (1)(a), subject to rules and regulations of the state board of regents, may take advantage of section 403(a) or (b) of the federal internal revenue code of 1986 or any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income, any member of the faculty or any other person described in subsection (1)(a), whether or not such person has satisfied the one-year waiting period requirement under subsection (1)(a), may request in writing that the state board of regents reduce such person's annual salary, as fixed by the board, in an amount equal to not less than 5% nor more than the percentage allowed under section 403(b) of the federal internal revenue code of 1986, as designated by such member of the faculty or other person described in subsection (1)(a), of the gross amount of such annual salary. In the event of such request by a faculty member or other person who is required to make the contribution as provided in subsection (1)(b), such person shall not be required to make such contribution and the state board of regents shall provide a sum equal to the percentage amount, as prescribed by K.S.A. 74-4925e and amendments thereto, of the gross annual salary of the member of the faculty or other person and shall purchase for and on behalf of each such person whose salary has been so reduced a retirement annuity contract or contracts, the annual premiums for which shall be equal to the sum of the amount of the salary reduction of the member of the faculty or other person and the amount paid by the state board of regents. In the event of such request by a faculty member or other person who is serving the one-year waiting period pursuant to subsection (1)(a) who is not required to make the contribution as provided in subsection (1)(b), the state board of regents shall purchase for and on behalf of each such person whose salary has been so reduced a retirement annuity contract or contracts, the annual premiums for which shall be equal to the sum of the amount of the salary reduction of the member of the faculty or other person, but the state board of regents shall not provide the sum equal to the percentage amount, as prescribed by K.S.A. 74-4925e and amendments thereto, of the gross annual salary of such person as provided for such person who is required to make the contribution as provided in subsection (1)(b). Such retirement annuity contracts may be purchased by the state board of regents from companies described in subsection (2)(a) and subsection (2)(b) or from noninsurance companies who offer retirement plans that meet the requirements of section 403(b) of the federal internal revenue code of 1986, except that the state board of regents may require that the first 5% of the gross amount of such person's annual salary which is reduced under this subsection (4) and the amount equal to the percentage amount, as prescribed by K.S.A. 74-4925e and amendments thereto, of the gross amount of such person's annual salary which is provided by the state board of regents for

the purchase of retirement annuity contracts under this subsection (4), if required to be provided under this subsection (4), shall be used to purchase such retirement annuity contracts from such company or companies as may be designated by the state board of regents for such purposes. The director of accounts and reports is authorized to draw warrants on the state treasurer upon the filing with the director of proper vouchers for the amount of the premium on the retirement annuity contract to be paid pursuant to the terms of such contracts and this act.

(5) All employees who are described in subsection (1)(a) and who commence such employment on and after July 1, 1976, shall receive assistance under subsection (1) and shall be covered by a valid retirement annuity contract issued by a company described in subsection (2).

(6) Any employee of the state board of regents or of an educational institution under its management, other than an elected official, who is receiving or is eligible for assistance by the state board of regents in the purchase of a retirement annuity under this section and who becomes ineligible for such assistance because such employee's position is reclassified to a position in the classified service under the Kansas civil service act or who becomes ineligible for such assistance because such employee transfers to a position in the classified service under the Kansas civil service act with the state board of regents or an educational institution under its management, shall become a member of the Kansas public employees retirement system in accordance with the provisions of subsection (5) of K.S.A. 74-4911 and amendments thereto, unless such employee files a written election in the office of the Kansas public employees retirement system, in the form and manner prescribed by the board of trustees thereof, to remain eligible for assistance by the state board of regents under this section prior to the first day of the first complete payroll period occurring after the effective date of such reclassification or transfer. Failure to file such written election shall be presumed to be an election not to remain eligible for assistance by the state board of regents under this section and to become a member of the Kansas public employees retirement system under subsection (5) of K.S.A. 74-4911 and amendments thereto. Such election, whether to remain eligible for such assistance or to become a member of such system, shall be effective as of the effective date of such reclassification or transfer and shall be irrevocable.

(7) The state board of regents shall adopt uniform policies applicable to members of the faculty and other persons, who are employed by the state board of regents or by any educational institution under its management and who are in the unclassified service under the Kansas civil service act as provided in subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, except health care employees, as defined by subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, for the purposes of administering the provisions of this section and the provision of retirement annuities and other benefits hereunder. All assistance provided by the state board of regents for such persons, and agreements entered into therefor, pursuant to this section prior to the effective date are hereby authorized, confirmed and validated.

(8) Any employee described in subsection (1)(a) who is on leave of absence and who accepts a position in the executive branch of government may file a written election in the office of the Kansas public employees retirement system, in the form and manner prescribed by the board, to remain eligible for assistance by the state board of regents under this section prior to the first day of the first complete payroll period occurring after the commencement of such service in the executive branch of government. Failure to file such written election shall be presumed to be an election not to remain eligible for assistance by the state board of regents. The state board of regents shall contribute an amount toward the purchase of retirement annuities on behalf of such employee equal to the sum of the amounts provided in subsection (1)(c).

(9) Any employee described in subsection (1)(a) who is on leave of absence and who is elected or appointed as a member of the legislature may file a written election in the office of the ~~Kansas public employees retirement system~~ *state board of regents*, in the form and manner prescribed by the board, to remain eligible for assistance by the state board of regents under this section prior to the first day of the first complete payroll period occurring after the commencement of such service in the legislature or for any employee who is a

member of the legislature on January 8, 2001, prior to the first day of the first complete payroll period occurring after July 1, 2001. Failure to file such written election shall be presumed to be an election not to remain eligible for assistance by the state board of regents. For any employee who files an election as provided in this subsection and who was a member of the legislature on January 8, 2001, such election shall be effective on January 8, 2001. The state board of regents shall contribute an amount toward the purchase of retirement annuities on behalf of such employee equal to the percentage amount, as prescribed by K.S.A. 74-4925e, and amendments thereto, on the biweekly rate of the salary of such employee with the state board of regents in effect on the date preceding such leave of absence and continuing throughout such leave of absence. Any such employee who makes an election as provided by this subsection shall be eligible for the insured death benefit and insured disability benefit in the same manner as provided under the provisions of K.S.A. 74-4927a, and amendments thereto. The provisions of this section are intended to further the public policy of encouraging persons to serve in elective office.

(10) Any employee who filed a written election under subsection (9) prior to July 1, 2001, and who is a member of the legislature after January 14, 2002, may file a written election in the office of the state board of regents, in a form and manner prescribed by the board, to be eligible for an amount to be contributed for any periods prior to January 8, 2001, that an employee was on leave of absence and who was elected or appointed as a member of the legislature. The board of regents shall submit a request to the director of legislative administrative services to calculate an amount to be contributed towards the purchase of the employee's retirement annuities and to include in the request a certification of the dates for leaves of absence taken by the employee prior to January 8, 2001, for the purpose of serving in the legislature during regular sessions. The amount shall be calculated by the director of legislative administrative services for periods during which the legislature was in regular session, first by annualizing the compensation paid to any such legislator during those periods; and second, by applying the annual interest earnings assumed by the board of trustees of the Kansas public employees retirement system for the purpose of anticipating actuarial gains on investments for the same time periods. The amount calculated by the director of legislative administrative services shall be paid by the director from any moneys appropriated to the legislature and shall be remitted as an employer contribution for the purchase of the employee's retirement annuities in the manner directed by the state board of regents.”;

And by renumbering sections accordingly;

On page 4, in line 10, after “Supp.” by inserting “74-4925 and”; in line 12, by striking “statute book” and inserting “Kansas register”;

On page 1, in the title, in line 10, after the semicolon, by inserting “retirement annuities;”; in line 11, after “Supp.” by inserting “74-4925 and”; and **HB 3009** be passed as amended.

Committee report to **HB 3032** be adopted; also, on motion of Rep. Aurand to amend, the motion did not prevail, and the bill be passed as amended.

Committee report recommending a substitute bill to **Sub. HB 3017** be adopted; also, on motion of Rep. Sloan be amended on page 1, in line 17, after “(2)” by inserting ““Renewable attributes” means tradeable renewable energy credits (with or without other features), tradeable emissions credits, emission offsets or other market instruments created or obtained by use of renewable energy resources or technologies.

(3)”;

Also on page 1, in line 23, before “if” by inserting “or from sales of renewable attributes”; in line 24, by striking “is” and inserting “or attributes are”; in line 25, after “electricity” by inserting “or renewable attributes”; in line 29, before the period, by inserting “or from sales of purchased renewable attributes”;

In the title, in line 11, before the period, by inserting “and renewable attributes”; and **Sub. HB 3017** be passed as amended.

On motion of Rep. Weber, the House recessed until 2:30 p.m.

AFTERNOON SESSION

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

INTRODUCTION OF GUESTS

Rep. Holmes introduced Jim Littell, head coach of the Seward County Community College women's basketball team. The team, who won the Women's Community College National Championship, were 38-0 on the season. Coach Littell introduced Dr. Steve Cobble, a trustee of the college, who accompanied the team. He also introduced Scott Hinkle, assistant coach, and the players. Rep. Holmes presented certificates for the team members to Coach Littell.

Rep. Krehbiel introduced Major General Geoffrey Lambert, a native Kansan and graduate of McPherson College, and now Commanding General of the U.S. Army Special Forces Command (Airborne), Fort Bragg, North Carolina, and Captain Mark Nutsch, United States Army Special Forces, Fort Campbell, Kentucky.

Major General Lambert was accompanied by his mother, Naoma Lambert, and his brother, James Lambert. Captain Nutsch was accompanied by his wife, Amy, his daughter, Kaija, and his parents, Larry and Vivian Nutsch.

Captain Nutsch recently returned from Afghanistan where he served deep behind enemy lines and showed great courage in aiding Afghan commanders. Reps. Schwartz and Hermes presented him with a certificate.

Major General Lambert was also presented a certificate in recognition of his exemplary leadership in the service of our country.

MESSAGE FROM THE SENATE

The Senate nonconcur in House amendments to **SB 517**, requests a conference and has appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SB 517**.

Speaker pro tem Aurand thereupon appointed Reps. Wilk, Neufeld and Nichols as conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 564**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 4, in line 31, by striking "15.00" and inserting "5.00"; in line 34, by striking all after "Kansas"; in line 35, by striking "of this act"; also in line 35, following the dot leaders, by inserting "5.00"; in line 37, by striking "15.00" and inserting "5.00";

On page 5, in line 5, by striking "special register of deeds"; in line 6, by striking "records" and inserting "register of deeds technology";

On page 6, in line 11, by striking "spe-"; in line 12, by striking all before "fund" and inserting "register of deeds technology"; in line 14, by striking "special register of deeds records" and inserting "register of deeds technology"; in line 17, by striking "special register of deeds records" and inserting "register of deeds technology"; in line 18, following "and" by inserting "technological"; following line 35, by inserting:

"(g) At the end of any calendar year, if the balance in such fund exceeds \$50,000 and the register of deeds indicates that such amount in excess of \$50,000 shall not be needed and is not designated for technology, the county commission may authorize the transfer and use of such excess moneys by other county offices for equipment or technological services relating to the land or property records filed or maintained by the county.

(h) If a charter form of government is adopted and implemented pursuant to K.S.A. 19-2680 *et seq.*, and amendments thereto, the provisions of this section shall apply to the official, department or office which performs the duties and functions prescribed for the office of the register of deeds.”;

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

GERRY RAY
LARRY CAMPBELL
RUBY GILBERT
Conferees on part of House

BARBARA P. ALLEN
KAY O'CONNOR
MARK GILSTRAP
Conferees on part of Senate

On motion of Rep. Ray, the conference committee report on **SB 564** was adopted.

On roll call, the vote was: Yeas 121; Nays 1; Present but not voting: 0; Absent or not voting: 3.

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

Nays: Spangler.

Present but not voting: None.

Absent or not voting: Barnes, O'Brien, Tanner.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 395**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 1, in line 39, by striking all after “(3)”; by striking all in lines 40 and 41; in line 42, by striking “(4)”;

On page 2, in line 3, by striking “(5)” and inserting “(4)”; in line 32, by striking all after “(d)(1)”; in line 33, by striking “(4, endangering)” and inserting “Endangering”; in line 35, by striking all after “(2)”; in line 36, by striking “ing” and inserting “Endangering”; by striking all in lines 38 through 42 and inserting the following:

“(e) The provisions of this section shall be part of and supplemental to the Kansas criminal code.

New Sec. 2. (a) Aggravated endangering the food supply is endangering the food supply, as provided in section 1, and amendments thereto, when done with the: (1) Intent to cause damage to plants or animals or to cause economic harm or social unrest; or

(2) intent to cause illness or injury or death to a human being or beings.

(b) (1) Aggravated endangering the food supply as provided in subsection (a)(1) is a severity level 3, nonperson felony.

(2) Aggravated endangering the food supply as provided in subsection (a)(2) is a severity level 3, person felony.

(c) The provisions of this section shall be part of and supplemental to the Kansas criminal code.”;

And by renumbering sections accordingly;

On page 7, by striking all in lines 3 through 43;

On page 8, by striking all in lines 1 through 38;

And by renumbering sections accordingly;

On page 1, in the title, in line 16, by striking “agriculture; relating to”; in line 17, before “state” by inserting “relating to”; in line 18, by striking “poultry production contracts.”;

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

DAN JOHNSON
DONALD L. DAHL
DANIEL J. THIMESCH
Conferees on part of House

DEREK SCHMIDT
TIM HUELSKAMP
CHRISTINE DOWNEY
Conferees on part of Senate

On motion of Rep. Johnson, the conference committee report on **SB 395** was adopted.

On roll call, the vote was: Yeas 121; Nays 1; Present but not voting: 0; Absent or not voting: 3.

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

Nays: Garner.

Present but not voting: None.

Absent or not voting: Barnes, O’Brien, Tanner.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2123**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2123, as amended by Senate Committee of the Whole, as follows:

By striking all after the enacting clause and inserting the following:

“Section 1. (a) As used in this section: (1) “Contractor“ means a person who owns poultry that is raised or cared for by a poultry producer;

(2) “poultry“ means posthatched to finished live chickens or turkeys that are raised by a poultry producer for slaughter by another;

(3) “poultry producer“ means any individual or group of individuals that raise or care for live poultry for slaughter by another under terms of a written production contract;

(4) “production contract“ means any written agreement that provides for the raising and care of poultry by a poultry producer for a contractor; and

(5) “production” means to raise and care for poultry under the terms of a poultry production contract.

(b) Poultry production contracts shall: (1) Be written in a readable form and shall be accompanied by a clearly written disclosure statement setting forth the nature of the material

risks faced by the poultry producer if the poultry producer enters into such poultry production contract;

(2) be negotiated and entered into in an environment free from unfair or deceptive trade practices or other violations of law;

(3) not require disclosure of trade secrets and not be contrary to the uniform trade secrets act, K.S.A. 60-3320 *et seq.*, and amendments thereto;

(4) not require poultry producers to reveal intellectual property rights nor disclose personal financial information or production practices;

(5) not prohibit nor discourage poultry producers from associating with other poultry producers to compare contract terms or address concerns or problems;

(6) not prohibit nor discourage poultry producers from seeking professional, legal, financial and agricultural production advice and counsel related to production contract terms, obligations and responsibilities;

(7) not allow a contractor to terminate any poultry production contract with a poultry producer that has complied with the provisions of the poultry production contract; and

(8) not deny poultry producers of the ability to address a dispute in the Kansas courts. The poultry production contract may contain a provision to have the option of submitting any dispute arising under a poultry production contract to arbitration.

(c) Any provision of a poultry production contract which violates the provisions of subsection (b) is void and unenforceable. This subsection shall not affect other provisions of a poultry production contract, including a contract or related document, policy or agreement which can be given effect without the voided provision.

(d) A poultry producer who suffers damages because of a contractor's violation of the provisions of subsection (b) may obtain appropriate legal and equitable relief, including, but not limited to, injunctive relief and punitive damages, as provided in K.S.A. 60-3702, and amendments thereto. In such a civil action against the contractor, the court may award the poultry producer who is the prevailing party, reasonable attorney fees and other litigation expenses.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.;

On page 1, in the title, by striking all after "AN ACT" and inserting "concerning agriculture; relating to poultry production contracts; prohibited acts and relief therefrom.;"

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

DEREK SCHMIDT
TIM HUELSKAMP
CHRISTINE DOWNEY
Conferees on part of House

DAN JOHNSON
DONALD L. DAHL
DANIEL J. THIMESCH
Conferees on part of Senate

On motion of Rep. Johnson, the conference committee report on **S. Sub. for HB 2123** was adopted.

On roll call, the vote was: Yeas 108; Nays 13; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Ballard, Ballou, Beggs, Benlon, Boston, Burroughs, Campbell, Cook, Cox, Crow, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Myers, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Sharp,

Showalter, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Aurand, Bethell, Compton, Dahl, Freeborn, Johnson, Judy Morrison, Neufeld, Newton, L. Powell, Schwartz, Shriver, Tomlinson.

Present but not voting: None.

Absent or not voting: Barnes, O'Brien, Spangler, Tanner.

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

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **SB 501** be adopted; also, on motion of Rep. Larkin be amended on page 8, after line 7, by inserting a new section to read as follows:

"Sec. 8. K.S.A. 79-32,109 is hereby amended to read as follows: 79-32,109. As used in this act, unless the context otherwise requires:

(a) Any term used in this act shall have the same meaning as when used in a comparable context in the federal internal revenue code. Any reference in this act to the "federal internal revenue code" shall mean the provisions of the federal internal revenue code of 1986, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time, or from time to time, for the taxable year.

(b) "Resident individual" means a natural person who is domiciled in this state. A natural person who spends in the aggregate more than six months of the taxable year within this state shall be presumed to be a resident for purposes of this act in absence of proof to the contrary. A nonresident individual means an individual other than a resident individual.

(c) "Resident estate" means the estate of a deceased person whose domicile was in this state at the time of such person's death. "Nonresident estate" means an estate other than a resident estate.

(d) "Resident trust" means ~~a trust which is administered in this state. A trust shall not be deemed to be administered in this state solely because it is subject to the jurisdiction of a district court within this state.~~ *(1) A trust created by will of a decedent who at the time of death was domiciled in this state; (2) a trust created by, or consisting of property of, a person domiciled in this state on the date the trust or portion of the trust became irrevocable; (3) a trust administered in this state; (4) a trust any of the property of which is located in this state; or (5) a trust any one of the beneficiaries of which is domiciled in this state.* "Nonresident trust" means a trust other than a resident trust.

(e) "Resident partner" means a partner who is a resident individual, a resident estate, or a resident trust. "Nonresident partner" means a partner other than a resident partner.

(f) "Resident beneficiary" means a beneficiary of an estate or trust which beneficiary is a resident individual, a resident estate, or a resident trust. "Nonresident beneficiary" means a beneficiary other than a resident beneficiary.

(g) "Director" means the director of taxation.

(h) "Modified Kansas source income" means that part of a nonresident individual's Kansas adjusted gross income as set forth in K.S.A. 79-32,117, and amendments thereto, derived from sources in Kansas. Items of income including unemployment compensation, gain, loss or deduction reflected in Kansas adjusted gross income shall be considered derived from sources in Kansas to the extent that they are attributable to: (1) The ownership of any interest in real or tangible personal property in this state; (2) a business, trade, profession or occupation carried on in this state; (3) a business, trade, profession or occupation carried on partly within and partly without this state as determined by the uniform division of income for tax purposes act as set forth in K.S.A. 79-3271 through K.S.A. 79-3293, and amendments thereto; (4) the distributive share of partnership income, gain, loss and deduction determined under this section as if the partnership were a nonresident individual; (5) the share of estate or trust income, gain, loss and deduction determined under K.S.A. 79-32,137, and amendments thereto; (6) prizes won from lottery games conducted by the Kansas lottery; (7) any winnings from parimutuel wagering derived from the conduct of parimutuel activities

within this state; or (8) income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property to the extent that such income is from property employed in a trade, business, profession or occupation carried on in Kansas. A nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of such dealer's trade or business, shall not be deemed to carry on a business, trade, profession or occupation in Kansas solely by reason of the purchase and sale of property for such nonresident's own account.

"Modified Kansas source income" shall not include: (1) Compensation paid by the United States for service in the armed forces of the United States, performed during an induction period by an individual not domiciled in this state; or (2) such individual's share of distributed or undistributed taxable income or net operating loss of a corporation which is an electing small business corporation unless an agreement is filed as provided in K.S.A. 79-32,139, and amendments thereto, in which event, the "modified Kansas source income" of such nonresident individual shall include such individual's share of such corporation's distributed and undistributed taxable income or net operating loss as such share is determined under the internal revenue code only to the extent, however, that such income, gain or loss is at the corporate level, derived from sources within Kansas.";

Also, on page 8, in line 8, by striking "and 79-3279" and inserting ", 79-3279 and 79-32,109";

By renumbering existing sections accordingly;

In the title, in line 19, by striking "and 79-3279" and inserting ", 79-3279 and 79-32,109";

Also, on motion of Rep. Pyle **SB 501** be amended on page 6, after line 31, by inserting the following:

"(F) In the event that any taxpayer which has elected to apportion its business income pursuant to subsection (b)(5) no longer qualifies as an investment service corporation within 5 years after the year in which such election was made, the tax liability for the first taxable year following the year such taxpayer is disqualified, shall be the amount equal to the sum of such taxpayer's liability determined pursuant to subsection (b)(1) for such taxable year plus an amount equal to the amount of tax liability determined pursuant to subsection (b)(1) less the amount of such tax liability determined pursuant to subsection (b)(5) for all taxable years for which such election was made.";

Also, on motion of Rep. Burroughs to amend **SB 501**, Rep. Owens requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. The question reverted back to the motion of Rep. Burroughs to amend on page 3, in line 38, before "the" by inserting "is";

On page 8, after line 7, by inserting the following:

"New Sec. 8. It is a class A nonperson misdemeanor for a legislator, an officer or employee of the office of the securities commission of Kansas or an officer or employee of the department of commerce and housing, knowingly to:

(a) Participate in the operation of or have a financial interest in any investment company or investment service company which receives any benefit under this act;

(b) accept any compensation, gift, loan, entertainment, favor or service from any investment company or investment service company which receives any benefit under this act;

(c) enter into any business dealing, venture or contract with an owner or lessee of any investment company or investment service company which receives any benefit under this act and has a business location in Kansas; or

(d) engage in any activity described in subsections (a), (b) or (c) within two years from the last day of service as such legislator, an officer or employee of the office of the securities commission of Kansas or an officer or employee of the department of commerce and housing.";

And by renumbering sections accordingly;

On page 1, in the title, in line 14, before "taxation" by inserting "certain investment funds service companies; concerning";

Roll call was demanded.

On roll call, the vote was: Yeas 32; Nays 70; Present but not voting: 4; Absent or not voting: 19.

Yeas: Burroughs, Crow, Edmonds, Feuerborn, Findley, Flaharty, Garner, Gatewood, Gilbert, Goering, Henderson, Henry, Huy, Larkin, Levinson, M. Long, Mason, McCreary, McKinney, Palmer, Pauls, Phelps, Reardon, Ruff, Shriver, Thimesch, Vickrey, Wells, Welshimer, J. Williams, Wilson, Winn.

Nays: Aday, Aurand, Ballard, Ballou, Beggs, Bethell, Campbell, Compton, Cook, Cox, Dahl, Dreher, Faber, Flora, Freeborn, Glasscock, Gordon, Hayzlett, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Johnson, Kauffman, Klein, Krehbiel, Lane, Light, Lightner, Lloyd, P. Long, Loyd, Mays, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Patterson, J. Peterson, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Schwartz, Sloan, Stone, Storm, Swenson, Tafanelli, R. Toelkes, Tomlinson, Toplikar, Weber, Wilk, D. Williams.

Present but not voting: Benlon, Howell, Landwehr, E. Peterson.

Absent or not voting: Barnes, Boston, DeCastro, Dillmore, DiVita, Grant, Kirk, Kuether, Loganbill, Mayans, McClure, Nichols, O'Brien, Rehorn, Sharp, Showalter, Shultz, Spangler, Tanner.

The motion of Rep. Burroughs did not prevail.

Also, on motion of Rep. Toplikar to amend **SB 501**, Rep. Owens requested a ruling on the amendment begin germane to the bill. The Rules Chair ruled the amendment germane. The question reverted back to the motion of Rep. Toplikar and the bill be amended on page 8, before line 8, by inserting the following:

“New Sec. 8. (a) For all taxable years commencing after December 31, 2002, there shall be allowed as a credit against the tax liability imposed by the Kansas income tax act upon a resident individual who is 65 years of age or older an amount equal to the product of the property tax actually and timely paid upon such individual’s principal dwelling during the appropriate income tax year multiplied by the applicable percentage determined in accordance with the following schedule:

Taxpayers Kansas Adjusted Gross Income	Applicable % of Property tax paid
\$0 to \$10,000	30%
Over \$10,000 but not over \$20,000	20%
Over \$20,000 but not over \$30,000	10%
Over \$30,000	0

(b) As used in this section, “taxpayer’s Kansas adjusted gross income” shall be determined without regard to the modifications specified by subsections (c)(i), (ii) regarding Kansas public employee retirement system retirement benefits, (vii), (ix) and (xii) of K.S.A. 79-32,117, and amendments thereto, and shall not include social security disability payments.

(c) If the amount of the tax credit determined pursuant to this section exceeds the individual’s tax liability for any taxable year, such excess amount shall be refunded to the individual.

(d) Any individual who claims the credit allowable pursuant to this section shall not be eligible to make a claim pursuant to the homestead property tax refund act.”;

By renumbering sections accordingly

In the title, in line 19, before “amending” by inserting “allowing credits for property tax paid by certain individuals;” and **SB 501** be passed as amended.

Pursuant to House Rule 1903, **SB 654** be passed over and retain a placed on the calendar.

Committee report recommending a substitute bill to **H. Sub. for SB 643** be adopted; and the substitute bill be passed.

Committee report to **SB 396** be adopted; also, on motion of Rep. Nichols be amended on page 1, by striking all of lines 17 through 28; in line 29, by striking “Sec. 2.” and inserting “Section 1.”; after line 35, by inserting the following:

“Sec. 2. The director of accounts and reports shall accept for payment under the Kansas savings incentive program or other salary bonus payments pursuant to vouchers approved by the chairperson of the ways and means committee of the senate, the chairperson of the committee on appropriations of the house of representatives, the vice-chairperson of the

committee on ways and means of the senate, the vice-chairperson of the committee on appropriations of the house of representatives, the ranking minority member of the committee on ways and means of the senate and the ranking minority member of the committee on appropriations of the house of representatives for members of the fiscal staff of the Kansas legislative research department and members of the staff of the revisor of statutes office who staff the committee on appropriations of the house of representatives or the committee on ways and means of the senate, or both. On and after the effective date of this act, agencies in the legislative branch of government shall participate in the Kansas savings incentive program.”;

In the title, in line 13, by striking “the sec-”; in line 14, by striking all before “state”; and **SB 396** be passed as amended.

Committee report to **HB 2948** be adopted; and the bill be passed as amended.

Committee report to **HB 3023** be adopted; also, on motion of Rep. Larkin to refer the bill to Committee on Taxation, the motion did not prevail, and the bill be passed as amended.

INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, Rep. Aurand moved, pursuant to House Rule 2303, that the House reconsider its action in not recommending **SB 559** favorably for passage (see HJ, p. 2063). Roll call was demanded.

On roll call, the vote was: Yeas 56; Nays 63; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aday, Aurand, Ballard, Beggs, Burroughs, Campbell, Cox, Crow, Dillmore, DiVita, Dreher, Findley, Flaharty, Flora, Garner, Gilbert, Glasscock, Grant, Hayzlett, Henderson, Horst, Humerickhouse, Johnson, Klein, Krehbiel, Kuether, Lloyd, Loganbill, M. Long, Loyd, Mayans, McKinney, McLeland, Minor, Neufeld, Newton, Nichols, O’Neal, Patterson, E. Peterson, Phelps, L. Powell, Reardon, Rehorn, Ruff, Schwartz, Shriver, Spangler, Stone, Swenson, Thimesch, Tomlinson, Weber, Wells, Wilson, Winn.

Nays: Ballou, Bethell, Boston, Compton, Cook, Dahl, DeCastro, Edmonds, Faber, Feuerborn, Freeborn, Gatewood, Goering, Gordon, Henry, Hermes, Holmes, Howell, Huebert, Huff, Hutchins, Huy, Kauffman, Kirk, Landwehr, Lane, Larkin, Levinson, Light, Lightner, P. Long, Mason, Mays, McClure, McCreary, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Novascone, Osborne, Ostmeyer, Owens, Palmer, Pauls, J. Peterson, Pottorff, T. Powell, Powers, Pyle, Ray, Showalter, Shultz, Sloan, Storm, Tafanelli, Toplikar, Vickrey, Welshimer, Wilk, D. Williams, J. Williams.

Present but not voting: None.

Absent or not voting: Barnes, Benlon, O’Brien, Sharp, Tanner, R. Toelkes.

The motion to reconsider **SB 559** did not prevail.

REPORTS OF STANDING COMMITTEES

The Committee on **Judiciary** recommends **SB 297** be passed.

The House stood at ease until the sound of the gavel.

Speaker pro tem Aurand called the House to order.

CHANGE OF CONFEREES

Speaker pro tem Aurand announced the appointment of Rep. Kuether as a member of the conference committee on **HB 2831** to replace Rep. Storm.

Also, the appointment of Rep. Kuether as a member of the conference committee on **SB 403** to replace Rep. Storm.

REPORT ON ENGROSSED BILLS

HB 2396; HB 2782, HB 3009; Sub. HB 3017; HB 3032, HB 3034 reported correctly engrossed April 11, 2002.

REPORT ON ENGROSSED RESOLUTIONS

HR 6013 reported correctly engrossed April 11, 2002.

REPORT ON ENROLLED RESOLUTIONS

HR 6014 reported correctly enrolled and properly signed on April 11, 2002.

On motion of Rep. Weber, the House adjourned until 9:30 a.m., Friday, April 12, 2002.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

