

Journal of the Senate

FORTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 13, 2002—2:30 p.m.

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

Heavenly Father,

You have given us a tool to use
Besides intelligence.
It's not easy to define,
But we call it common sense.

When sophisticated thinking
Seems to make the fog more dense,
It's amazing how the fog's dispersed
With a little common sense.

There are times when all we need
To make a difference
Is to apply a healthy portion
Of good old common sense.

Sometimes when we find ourselves
Left straddling the fence,
The only thing that moves us off
Is a dose of common sense.

When looking for the breakthrough
Which will boost our confidence,
That's when we could really use
Your gift of common sense.

So when we're all frustrated
And the situation's tense,
It should not be uncommon
To try some common sense!

I pray in Jesus' Name,
Amen

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 644, An act concerning social welfare; relating to medicaid reimbursement; amending K.S.A. 39-708c and repealing the existing section, by Committee on Ways and Means.

SB 645, An act concerning the issuance or renewal of licenses to practice a profession; requiring applicants for licensure to be current in payment of state taxes, by Committee on Federal and State Affairs.

SB 646, An act relating to highways; concerning demonstration projects; amending K.S.A. 2001 Supp. 68-2314a and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2377**.

Elections and Local Government: **HB 2996**.

Judiciary: **Sub HB 2487**.

REMOVE FROM CONSENT CALENDAR

An objection having been made to **HB 2623** appearing on the Consent Calendar, the President directed the bill be removed and placed on the calendar under the heading of General Orders.

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT OF ADMINISTRATION

Division of Accounts and Reports

March 11, 2002

Dale Brunton, Director, Division of Accounts and Reports, submitted a copy of the State of Kansas *Monthly Financial Perspective* for the month of February, 2002.

Enhanced monthly financial information is available on the internet under *Monthly Financial Perspective*. There is also a web-site available.

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

MESSAGE FROM THE HOUSE

Announcing passage of **Substitute HB 2488; HB 2867**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Substitute HB 2488; HB 2867 were thereupon introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Elections and Local Government** recommends **HB 2607**, as amended by House Committee of the Whole, be passed.

Also, **HB 2670** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

HB 2781 be amended On page 2, following line 8, by inserting new material to read as follows:

“Sec. 2. K.S.A. 20-3126 is hereby amended to read as follows: 20-3126. (a) Any county of this state may establish a county law library, under the provisions of and subject to the qualifications of this act. Any law library in existence on the effective date of this act which was established under previously existing statutes or previous versions of this statute shall be governed by this statute, and amendments thereto, on and after the effective date of this act.

(b) No county law library shall be established under the provisions of this act until a majority of the attorneys required to register in such county and admitted to practice before the bar in Kansas elect to do so, except that, where a county law library has already been established pursuant to other statutory provisions, such library shall come under the provisions of this act.

(c) All attorneys required to register in such county shall register annually with the clerk of the district court in a register kept for that purpose. The clerk shall enter the name, place of residence, employment, location of office and firm connection, if any, of each such attorney. All such attorneys shall register within 30 days after an election has been made to provide for a county law library, and on or before January 15 of each year thereafter. All attorneys required to register, except those employed solely as public defenders by the state

board of indigents' defense services, shall pay to the clerk at the time of registering an annual registration fee of not less than \$10 nor more than \$75, as determined by the trustees of the law library, except that in Sedgwick ~~county~~ and Johnson counties, each attorney shall pay to such clerk at the time of registering an annual registration fee of not less than \$25 nor more than \$125, as determined by the trustees of the law library. Public defenders are exempt from the registration fee during their employment with the state board of indigents' defense services. A registration fee in excess of the amount prescribed in this subsection annually may be fixed by a majority of the attorneys registered under the provisions of this act. A schedule of current registration fees shall be filed with the clerk of the district court.

(d) Whenever a law library has been established in any county, the clerk of the district court, or the clerk of any inferior court within such county, shall not file in the clerk's office in any matter or action, any pleading or other papers signed by an attorney required to register under this act who has not so registered and paid to the clerk of the district court the required registration fee.

(e) For the purposes of this section, an attorney shall be required to be registered in the county: (1) Where the attorney's principal office is located, if such attorney is a resident of Kansas or a resident of another state; or (2) where the attorney resides, if such attorney's principal office is located in another state. The principal office shall be the principal office of the attorney and not the principal office of such attorney's firm.

New Sec. 3. When used in this act and unless otherwise specifically provided therein:

(a) "Board of education" means the board of education of unified school district no. 446;

(b) "county" means Montgomery county;

(c) "city" means the city of Independence, Kansas;

(d) "library district" means all territory located within the boundaries of unified school district no. 446 and within Montgomery County, Kansas;

(e) "board" means the library board of trustees appointed pursuant to the provisions of this act;

(f) "library" means a library which serves the general public and is supported in whole or in part with tax money and shall be called the Independence area public library;

(g) "governing body" means the governing body of the city of Independence, Kansas or the board of county commissioners of Montgomery county, Kansas; and

(h) "maintenance and support" means the general and usual cost and expense of operating a library.

New Sec. 4. (a) The board of trustees of the Independence public library may adopt a resolution proposing to create a library district. A copy of such resolution shall be filed with the county election officer who shall call and hold an election thereon. Such election shall be called and held in the manner provided by the general bond law.

(b) If a majority of the qualified electors of the proposed library district on the proposition vote in favor thereof:

(1) A library shall be established and maintained and a library board shall be appointed as provided in this act;

(2) all contracts entered into by the board of directors of the Independence public library shall be binding on the library board appointed pursuant to this act; and

(3) all outstanding bonds, debts and other obligations of the Independence public library shall become an obligation of the Independence area public library except that all bonds and debts relating to the ownership or improvement of the real property in which the Independence public library operates shall remain an obligation of the city of Independence, Kansas.

New Sec. 5. (a) Any library district created pursuant to the provisions of section 4, and amendments thereto, shall be governed by a board of trustees. Such board shall consist of seven members. Four members shall be appointed by the governing body of the city of Independence, Kansas and shall be residents of the city. Two members shall be appointed by the board of education. Members appointed by the board of education shall be residents of the library district, who reside outside the corporate limits of the city of Independence but within the boundaries of unified school district no. 446. One member shall be appointed by the governing body of the city of Elk City, Kansas.

(b) Members of the board of directors of the Independence public library serving prior to the election creating the library district shall continue on the board until the expiration of the term for which originally appointed. Such members shall be eligible for reappointment. The board of education shall appoint two members to the library board within 60 days following the election approving the creation of the district. Such members appointed by the board of education and the member appointed by the governing body of the city of Elk City, Kansas shall serve for terms expiring the second April 30 following the date of appointment. Upon expiration of the terms of such members, succeeding members shall be appointed for terms of four years.

(c) Except as provided by this section, members of the library board shall be appointed for terms of four years and until their successors are appointed and qualified. Vacancies on the library board shall be filled by appointment for the unexpired term.

(d) Members of the library board shall receive no compensation but shall be paid their actual and necessary expenses in attending meetings and in carrying out their duties as members of the board.

New Sec. 6. The board shall constitute a body corporate and politic, possessing the usual powers of a corporation for public purposes, under the name and style of "the board of trustees of the Independence area public library" and under such name may contract, sue and be sued and acquire, hold and convey personal property in accordance with law.

New Sec. 7. (a) Each year the members of a library board shall meet and organize by the election of a chairperson, a secretary and a treasurer and such other officers as they may deem necessary. The board shall fix the date and place of its regular meetings and special meetings may be called by the chairperson or upon written request of a majority of the members. Written notice, stating the time and place of any special meeting and the purpose for which called, unless waived, shall be given to each member of the board at least two days in advance of such meeting, and no business other than that stated in the notice shall be transacted at such meeting.

(b) The treasurer of the library board shall give bond, in an amount fixed by the board and approved by the governing body of the city and the board of education, for the safe-keeping and due disbursement of all funds that may come into the treasurer's hands. The bond shall be filed with the county clerk. Except where otherwise provided by law, the county treasurer shall pay over to the treasurer of the library board all funds collected for the maintenance of the library, and the treasurer of the library board shall pay out the funds on orders of the board signed by the secretary and chairperson thereof. Such treasurer shall keep an accurate record of all moneys received and disbursed thereby and make a report thereof to the library board monthly, or as often as the board requires.

New Sec. 8. The library shall be free for the use of the residents of the library district, subject always to such reasonable rules and regulations as the library board may adopt. The library board may exclude from the use of the library any and all persons who shall willfully violate such rules. The library board may extend the use and privilege of such library to nonresidents of the district, charge nonresidents a reasonable fee therefor and make exchanges of books with any other library upon such terms and conditions as the library board may from time to time by its regulations prescribe.

New Sec. 9. The library board shall have the power:

- (a) To make and adopt rules and regulations for the administration of the library;
- (b) to lease a site or sites and to lease a building or buildings for the use of the library;
- (c) to acquire by purchase, gift or exchange, books, magazines, papers, printed materials, slides, pictures, films, projection equipment, phonograph records and other material and equipment deemed necessary by the board for the maintenance and extension of modern library service;
- (d) to employ a librarian and such other employees as the board deems necessary and to remove such employees and to fix their compensation;
- (e) to establish and maintain a library or libraries and traveling library service within the district or within any other municipality with which service contract arrangements have been made;
- (f) to contract with other libraries or with the governing body of a municipality for the furnishing of library service to the inhabitants of such municipality to the extent and upon

such terms as may be agreed upon, and to contract with any school board to furnish library service to any school library or to use the library facilities of the public school to supplement the facilities of the public library;

(g) to receive, accept and administer any money appropriated or granted to it by the state or the federal government or any agency or subdivision thereof for the purpose of aiding or providing library service;

(h) to receive and accept any gift or donation to the library and administer the same in accordance with any provisions thereof. If no provisions are specified, the board shall have the power to hold, invest or reinvest the gift and any dividends, interest, rent or income derived from the gift in the manner the board deems will best serve the interests of the library;

(i) to receive and accept any grant, gift, donation or appropriated or other funds from the United States government, or its agencies, or any other source whatsoever for the purposes of the library district established under this act;

(j) to make annual reports to the state librarian and the governing body of the city of Independence and board of education on or before January 31 of each year for the preceding calendar year, showing receipts and disbursements from all funds under its control, and showing such statistical information relating to library materials acquired and on hand, number of library users, library services available, and other information of general interest as the governing body requires; and

(k) to place money received from sources other than a tax levy for library purposes in a separate fund or funds or in the fund to which the tax levy money is credited unless the grantor or donor directs how and for what purpose the money shall be handled and spent.

New Sec. 10. (a) The library board shall prepare an annual budget for the maintenance, support and operation of the library. Prior to the certification of its budget to the board of education, the library board shall meet for the purpose of answering and hearing objections of taxpayers relating to the proposed budget and for the purpose of considering amendments to such proposed budget. The library board shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper having a general circulation in the taxing district. Such notice shall include the proposed budget and shall set out all essential items in the budget except such groupings as designated by the director of accounts and reports on a special publication form prescribed by the director of accounts and reports and furnished with the regular budget form. The public hearing required to be held herein shall be held not less than 10 days prior to the date on which the library board is required to certify its budget to the board of education. After such hearing the budget shall be adopted or amended and adopted by the library board. In order to provide funds to carry out the provisions of this act, the library board shall annually, not later than August 1 of any year, certify its budget to the board of education which shall levy a tax at a rate of not to exceed 1.2 mills on all the taxable tangible property within the taxing district. Each year a copy of the budget adopted by the library board shall be filed with the clerk of the board of education. A copy of such budget also shall be filed with the county clerk of Montgomery County, Kansas. The board of education shall not be required to levy a tax in excess of the maximum tax levy set by the board of education by current resolution. Whenever the library board determines that the tax currently being levied for the library, as previously established by the board of education, is insufficient to operate the library and the library board desires to increase the mill levy above the current levy, the library board may request that the board of education authorize an increase by adopting a resolution declaring it necessary to increase the annual levy. The board of education may authorize the increase by resolution, but such increase shall not exceed .25 mill per year.

(b) Any resolution adopted under subsection (a) shall state the total amount of the tax to be levied for the library board and shall be published once each week for two consecutive weeks in the official newspaper of the taxing district. Whereupon, such annual levy in an amount not to exceed the amount stated in the resolution may be made for the ensuing budget year and each successive budget year unless a petition requesting an election upon the proposition to increase the tax levy in excess of the current tax levy, signed by at least 5% of the qualified voters of the taxing district, is filed with the county election officer within 30 days following the date of the last publication of the resolution. In the event a

valid petition is filed, no such increased levy shall be made without such proposition having been submitted to and having been approved by a majority of the voters of the taxing district voting at an election called and held thereon. All such elections shall be called and held in the manner provided by the general bond law, and the cost of the election shall be borne by the library board. Such taxes shall be levied and collected in like manner as other taxes, which levy the board of education shall certify, on or before August 25 of each year, to the county clerk who is hereby authorized and required to place the same on the tax roll of the county to be collected by the county treasurer and paid over by the county treasurer to the treasurer of the library board.

(c) The tax levy provided in this section shall not be considered to be a levy of the board of education, the city or county school district under any of the statutes of this state, but shall be in addition to all other levies authorized or limited by law.

(d) At any time after the making of the first tax levy pursuant to this act, the amount of such tax levy may be reduced by a majority of the voters of the taxing district voting at an election called pursuant to a petition signed by at least 10% of the qualified voters residing in the taxing district and conducted in the same manner as that prescribed by subsection (b). If the petition submitted is for the purpose of reducing the mill levy, it shall state the mill levy reduction desired. Upon revocation, all property and money belonging to the library board shall become the property of the city of Independence, Kansas, and the library district shall be dissolved.

(e) All financial records of the library board shall be audited as provided in K.S.A. 75-1122, and amendments thereto, and a copy of such annual audit report shall be filed with the board of education. A copy of such audit also shall be filed with the county clerk of the county in which the library is located. The cost of each audit shall be borne by the library board.

(f) Notwithstanding any other provision of law, upon the date the tax levy provided for in this act takes effect, no tax levy on land within the library district created by this act shall be imposed, required or collected to support a regional system of cooperating libraries.

New Sec. 11. Sections 3 through 11 shall be known and may be cited as the Independence area library district act.”;

By renumbering the remaining sections accordingly;

Also on page 2, in line 9, by striking “is” and inserting “and 20-3126 are”;

On page 1, in the title, in line 9, following “funds”, by inserting “and law library fees; establishing the Independence area library district”; in line 10, following “12-1226” by inserting “and 20-3126”; also in line 10, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SCR 1620** be adopted.

Committee on **Judiciary** recommends **SB 520** be passed.

Also, **HB 2630**, as amended by House Committee, be amended on page 1, in line 25, after “state” by inserting “adopting the provisions of K.S.A. 19-4424 *et seq.*, and amendments thereto”; in line 31, by striking “jail”; after line 40, by inserting the following:

“New Sec. 3. On and after July 1, 2002:

(a) All individual and group health insurance policies providing coverage on an expense incurred basis, individual and group service or indemnity type contracts issued by a profit or nonprofit corporation and all contracts issued by health maintenance organizations organized or authorized to transact business in this state shall provide that the health insurance benefits applicable for covered persons shall also be payable with respect to such covered persons who are in the custody of any county held as a prisoner within such county.

(b) The contract issued by a health maintenance organization may provide that the benefits required pursuant to this subsection shall be covered benefits only if the services are rendered by a provider who is designated by and affiliated with the health maintenance organization.”;

And by renumbering sections accordingly;

On page 1, in the title, in line 10, after “prisoners” by inserting “; health insurance coverage.”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2809**, as amended by House Committee, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Also, **SB 642** be amended on page 6, by striking all in lines 2 through 43;

On page 7, by striking all in lines 1 through 31;

And by renumbering accordingly;

On page 8, in line 42, following the second comma, by striking "76-3311,";

On page 1, in the title, in line 10, following the second comma, by striking "76-3311,,"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2658** be amended on page 1, in line 18, following "highway" where it appears for the second time, by inserting ", except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs"; following line 21, by inserting the following:

"Sec. 2. From the junction of interstate highway 135 with interstate highway 70, south on interstate highway 135 to the southern boundary of Saline county is hereby designated the Ben E. Vidricksen highway. The secretary of transportation shall place signs along the highway right-of-way at proper intervals to indicate that the highway is the Ben E. Vidricksen highway, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs."

By renumbering sections accordingly;

In the title, in line 9, following "ACT" by inserting "concerning highways,,"; in line 10, following "highway" by inserting "; designating a part of interstate highway 135 as the Ben E. Vidricksen highway"; and the bill be passed as amended.

HB 2794, as amended by House Committee, be amended on page 1, in line 17, by striking "48-hour" and inserting "72-hour"; in line 19, by striking "48" and inserting "72"; also in line 19, by striking "48-hour" and inserting "72-hour"; in line 21, by striking "48-hour" and inserting "72-hour"; also in line 21, by striking "\$2" and inserting "\$3"; in line 23, by striking "48-hour" and inserting "72-hour"; in line 32, by striking "48-hour" and inserting "72-hour"; following line 40, by inserting the following:

"Sec. 2. K.S.A. 8-135 is hereby amended to read as follows: 8-135. (a) Upon the transfer of ownership of any vehicle registered under this act, the registration of the vehicle and the right to use any license plate thereon shall expire and thereafter there shall be no transfer of any registration, and the license plate shall be removed by the owner thereof. Except as provided in K.S.A. 8-172, and amendments thereto, and 8-1,147, and amendments thereto, it shall be unlawful for any person, other than the person to whom the license plate was originally issued, to have possession thereof. When the ownership of a registered vehicle is transferred, the original owner of the license plate may register another vehicle under the same number, upon application and payment of a fee of \$1.50, if such other vehicle does not require a higher license fee. If a higher license fee is required, then the transfer may be made upon the payment of the transfer fee of \$1.50 and the difference between the fee originally paid and that due for the new vehicle.

(b) Subject to the provisions of subsection (a) of K.S.A. 8-198, and amendments thereto, upon the transfer or sale of any vehicle by any person or dealer, or upon any transfer in accordance with K.S.A. 2001 Supp. 59-3511, and amendments thereto, the new owner thereof, within 30 days, inclusive of weekends and holidays, from date of such transfer shall make application to the division for registration or reregistration of the vehicle, but no person shall operate the vehicle on any highway in this state during the thirty-day period without having applied for and obtained temporary registration from the county treasurer or from a dealer. After the expiration of the thirty-day period, it shall be unlawful for the owner or any other person to operate such vehicle upon the highways of this state unless the vehicle has been registered as provided in this act. For failure to make application for registration as provided in this section, a penalty of \$2 shall be added to other fees. When a person has a current motorcycle or passenger vehicle registration and license plate, including any registration decal affixed thereto, for a vehicle and has sold or otherwise disposed of the vehicle

and has acquired another motorcycle or passenger vehicle and intends to transfer the registration and the license plate to the motorcycle or passenger vehicle acquired, but has not yet had the registration transferred in the office of the county treasurer, such person may operate the motorcycle or passenger vehicle acquired for a period of not to exceed 30 days by displaying the license plate on the rear of the vehicle acquired. If the acquired vehicle is a new vehicle such person also must carry the assigned certificate of title or manufacturer's statement of origin when operating the acquired vehicle, except that a dealer may operate such vehicle by displaying such dealer's dealer license plate.

(c) Certificate of title: No vehicle required to be registered shall be registered or any license plate or registration decal issued therefor, unless the applicant for registration shall present satisfactory evidence of ownership and apply for an original certificate of title for such vehicle. The following paragraphs of this subsection shall apply to the issuance of a certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt salvage vehicle, as defined in K.S.A. 8-197, and amendments thereto, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 8-198, and amendments thereto.

(1) An application for certificate of title shall be made by the owner or the owner's agent upon a form furnished by the division and shall state all liens or encumbrances thereon, and such other information as the division may require. Notwithstanding any other provision of this section, no certificate of title, other than a duplicate title, shall be issued for a vehicle having any unreleased lien or encumbrance thereon, unless the transfer of such vehicle has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the division. In the case of members of the armed forces of the United States while the United States is engaged at war with any foreign nation and for a period of six months next following the cessation of hostilities, such application may be signed by the owner's spouse, parents, brother or sister. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of such vehicle, or otherwise entitled to have the same registered in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title. The certificate of title shall be in a form approved by the division, and shall contain a statement of any liens or encumbrances which the application shows, and such other information as the division determines.

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner before a notary public or some other officer authorized to administer an oath. This assignment shall contain a statement of all liens or encumbrances on the vehicle at the time of assignment. The certificate of title shall also contain on the reverse side blank spaces so that an abstract of mileage as to each owner will be available. The seller at the time of each sale shall insert the mileage on the form filed for application or reassignment of title, and the division shall insert such mileage on the certificate of title when issued to purchaser or assignee. The signature of the purchaser or assignee is required on the form filed for application or reassignment of title, acknowledging the odometer certification made by the seller, except that vehicles which are 10 model years or older and trucks with a gross vehicle weight of more than 16,000 pounds shall be exempt from the mileage acknowledgment requirement of the purchaser or assignee. Such title shall indicate whether the vehicle for which it is issued has been titled previously as a nonhighway vehicle or salvage vehicle. In addition, the reverse side shall contain two forms for reassignment by a dealer, stating the liens or encumbrances thereon. The first form of reassignment shall be used only when a dealer sells the vehicle to another dealer. The second form of reassignment shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle. The reassignment by a dealer shall be used only where the dealer resells the vehicle, and during the time that the vehicle remains in the dealer's possession for resale, the certificate of title shall be dormant. When the ownership of any vehicle passes by operation of law, or repossession upon default of a lease, security agreement, or executory sales contract, the person owning such vehicle, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the vehicle. When a vehicle is registered in another state and is repossessed in another state, the owner of such vehicle shall not be entitled to obtain a valid Kansas title or registration, except that when a vehicle is registered in another state, but is financed originally by a financial institution

chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration. In addition to any other fee required for the issuance of a certificate of title, any applicant obtaining a certificate of title for a repossessed vehicle shall pay a fee of \$3.

(3) Dealers shall execute, upon delivery to the purchaser of every new vehicle, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the division. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the division. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new vehicle, sold in this state, a certificate of title shall be issued if there is also an application for registration, except that no application for registration shall be required for a travel trailer used for living quarters and not operated on the highways.

(4) The fee for each original certificate of title shall be \$7 until July 1, 2002, \$6 until July 1, 2004, and \$3.50 thereafter, in addition to the fee for registration of such vehicle, trailer or semitrailer. The certificate of title shall be good for the life of the vehicle, trailer or semitrailer while owned or held by the original holder of the certificate of title.

(5) Upon sale and delivery to the purchaser of every vehicle subject to a purchase money security interest as defined in ~~K.S.A. 84-9-107~~ *provided in article 9 of chapter 84 of the Kansas Statutes Annotated*, and amendments thereto, the dealer or secured party may complete a notice of security interest and when so completed, the purchaser shall execute the notice, in a form prescribed by the division, describing the vehicle and showing the name and address of the secured party and of the debtor and other information the division requires. The dealer or secured party, within 20 days of the sale and delivery, may mail or deliver the notice of security interest, together with a fee of \$2.50, to the division. The notice of security interest shall be retained by the division until it receives an application for a certificate of title to the vehicle and a certificate of title is issued. The certificate of title shall indicate any security interest in the vehicle. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the vehicle described on the date of such mailing or delivery. The county treasurers shall mail a copy of the title application to the Kansas lienholder. Each county treasurer shall charge the Kansas lienholder a \$1.50 service fee for processing and mailing a copy of the title application to the Kansas lienholder.

(6) It shall be unlawful for any person to operate in this state a vehicle required to be registered under this act, or to transfer the title to any such vehicle to any person or dealer, unless a certificate of title has been issued as herein provided. In the event of a sale or transfer of ownership of a vehicle for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the vehicle, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the division and printed thereon and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery. The agreement of the parties shall be executed on a form provided by the division. The requirements of this paragraph concerning delivery of an assigned title are satisfied if the transferor mails to the transferee by restricted mail the assigned certificate of title within the 30 days, and if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title if the transferor has made application therefor to the division. The buyer shall then

present such assigned certificate of title to the division at the time of making application for registration of such vehicle. A new certificate of title shall be issued to the buyer, upon payment of the fee of \$7 until July 1, 2002, \$6 until July 1, 2004, and \$3.50 thereafter. If such vehicle is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. When a person acquires a security agreement on a vehicle subsequent to the issuance of the original title on such vehicle, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in form prescribed by the division. Upon such surrender such person shall immediately deliver the certificate of title, application, and a fee of \$7 until July 1, 2002, \$6 until July 1, 2004, and \$3.50 thereafter, to the division. Upon receipt thereof, the division shall issue a new certificate of title showing the liens or encumbrances so created, but not more than two liens or encumbrances may be shown upon a title. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder within 10 days after written demand by restricted mail, shall furnish to the holder of the title a release of lien or execute such a release in the space provided on the title. For failure to comply with such a demand the lienholder shall be liable to the holder of the title for \$100 and also shall be liable for any loss caused to the holder by such failure. When the indebtedness to a lienholder, whose name is shown upon a title, is collected in full, such lienholder, within 30 days, shall furnish notice to the holder of title that such indebtedness has been paid in full and that such title may be presented to the lienholder at any time for release of lien.

(7) It shall be unlawful for any person to buy or sell in this state any vehicle required to be registered, unless, at the time of delivery thereof or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery, there shall pass between the parties a certificate of title with an assignment thereof. The sale of a vehicle required to be registered under the laws of this state, without assignment of the certificate of title, is fraudulent and void, unless the parties shall agree that the certificate of title with assignment thereof shall pass between them at a time other than the time of delivery, but within 30 days thereof. The requirements of this paragraph concerning delivery of an assigned title shall be satisfied if (i) the seller mails to the purchaser by restricted mail the assigned certificate of title within 30 days, or (ii) if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such seller shall be deemed to have possession of the certificate of title if such seller has made application therefor to the division, or (iii) if the transferor is a dealer and has assigned a title pursuant to paragraph (9) of this subsection (c).

(8) In cases of sales under the order of a court of a vehicle required to be registered under this act, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such motor vehicle and for registering the same. Any such purchaser shall be allowed 30 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title and for the registering of such motor vehicle.

(9) Any dealer who has acquired a vehicle, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to obtain a Kansas certificate of title therefor during the time such vehicle remains in such dealer's possession and at such dealer's place of business for the purpose of sale. The purchaser or transferee shall present the assigned title to the division of vehicles when making application for a certificate of title as provided in subsection (c)(1).

(10) Motor vehicles may be held and titled in transfer-on-death form.

(11) Notwithstanding the provisions of this act with respect to time requirements for delivery of a certificate of title, or manufacturer's statement of origin, as applicable, any person who chooses to reaffirm the sale in writing on a form approved by the division which advises them of their rights pursuant to paragraph (7) of subsection (c) and who has received and accepted assignment of the certificate of title or manufacturer's statement of origin for the vehicle in issue may not thereafter void or set aside the transaction with respect to the

vehicle for the reason that a certificate of title or manufacturer's statement of origin was not timely delivered, and in such instances the sale of a vehicle shall not be deemed to be fraudulent and void for that reason alone.

(12) The owner of any vehicle assigning a certificate of title in accordance with the provisions of this section may file with the division a form indicating that such owner has assigned such certificate of title. Such forms shall be furnished by the division and shall contain such information as the division may require. Any owner filing a form as provided in this paragraph shall pay a fee of \$10. The filing of such form shall be prima facie evidence that such certificate of title was assigned and shall create a rebuttable presumption. If the assignee of a certificate of title fails to make application for registration, an owner assigning such title and filing the form in accordance with the provisions of this paragraph shall not be held liable for damages resulting from the operation of such vehicle.

(13) *In addition to the two forms for reassignment under paragraph (2) of subsection (c), a dealer may attach one additional reassignment form to a certificate of title. The director of vehicles shall prescribe and furnish such reassignment forms. The reassignment form shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle only when the two reassignment forms under paragraph (2) of subsection (c) have already been used. The fee for a reassignment form shall be \$3.50. A dealer may purchase reassignment forms in multiples of five upon making proper application and the payment of required fees.*

Sec. 3. K.S.A. 8-145 is hereby amended to read as follows: 8-145. (a) All registration and certificates of title fees shall be paid to the county treasurer of the county in which the applicant for registration resides or has an office or principal place of business within this state, and the county treasurer shall issue a receipt in triplicate, on blanks furnished by the division of vehicles, one copy of which shall be filed in the county treasurer's office, one copy shall be delivered to the applicant and the original copy shall be forwarded to the director of vehicles.

(b) The county treasurer shall deposit \$.75 of each license application, \$.75 out of each application for transfer of license plate and \$2 out of each application for a certificate of title, collected by such treasurer under this act, in a special fund, which fund is hereby appropriated for the use of the county treasurer in paying for necessary help and expenses incidental to the administration of duties in accordance with the provisions of this law and extra compensation to the county treasurer for the services performed in administering the provisions of this act, which compensation shall be in addition to any other compensation provided by any other law, except that the county treasurer shall receive as additional compensation for administering the motor vehicle title and registration laws and fees, a sum computed as follows: The county treasurer, during the month of December, shall determine the amount to be retained for extra compensation not to exceed the following amounts each year for calendar year 1990 or any calendar year thereafter: The sum of \$60 per hundred registrations for the first 5,000 registrations; the sum of \$45 per hundred registrations for the next 5,000 registrations; and the sum of \$2 per hundred registrations for all registrations thereafter. In no event, however, shall any county treasurer be entitled to receive more than \$9,800 additional annual compensation.

If more than one person shall hold the office of county treasurer during any one calendar year, such compensation shall be prorated among such persons in proportion to the number of weeks served. The total amount of compensation paid the treasurer together with the amounts expended in paying for other necessary help and expenses incidental to the administration of the duties of the county treasurer in accordance with the provisions of this act, shall not exceed the amount deposited in such special fund. Any balance remaining in such fund at the close of any calendar year shall be withdrawn and credited to the general fund of the county prior to June 1 of the following calendar year.

(c) The county treasurer shall remit the remainder of all such fees collected, together with the original copy of all applications, to the secretary of revenue. The secretary of revenue shall remit all such fees remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund, except as provided in subsection (d).

(d) (1) On July 1, 1997, through June 30, 2004, \$2.50 of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$2.50 to the Kansas highway patrol motor vehicle fund. On July 1, 1999, through June 30, 2002, \$1 of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$1 to the VIPS/CAMA technology hardware fund.

(2) For repossessed vehicles, \$3 of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the repossessed certificates of title fee fund.

(3) *For reassignment forms, \$2.50 of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$2.50 to the Kansas highway patrol motor vehicle fund. One dollar of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$1 to the VIPS/CAMA technology hardware fund.*;

By renumbering sections accordingly;

On page 2, in line 17, by striking "8-145d is" and inserting "8-135, 8-145 and 8-145d are";

In the title, by striking all in lines 10 and 11 and inserting: "AN ACT relating to motor vehicles; concerning the registration thereof; amending K.S.A. 8-135, 8-145 and 8-145d and repealing the existing sections."; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Barnett the following report was adopted:

Recommended **HB 2679** be passed.

SB 483, SB 541, SB 557 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 521 be amended by adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Haley to amend **SB 521** failed and following amendment was rejected:

On page 2, in line 14, by striking all after "(C)"; by striking all in lines 15 through 19; in line 20, by striking "(D)"; in line 22, by striking "(E)" and inserting "(D)"; in line 29, by striking "(F)" and inserting "(E)";

On page 3, in line 14, by striking "(G)" and inserting "(F)";

On page 5, after line 31, by inserting the following:

"New Sec. 3. If the trier of fact in a trial in which the defendant is charged with a felony finds beyond a reasonable doubt that the defendant intentionally selected the person against whom the felony is committed or selected the property that is damaged or otherwise affected by such felony committed by the defendant in whole or in part because of the defendant's belief or perception regarding the race, color, religion, disability, sexual orientation, national origin, ethnicity or ancestry of that person or the owner or occupant of that property, whether or not the defendant's belief or perception was correct, the defendant's sentence shall be presumed imprisonment and such sentence shall be up to double the maximum duration of the presumptive imprisonment term for the underlying felony.";

And by renumbering sections accordingly;

On page 1, in the title, in line 11, after the semicolon by inserting "sentencing for hate crimes;"

SB 517 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 483, SB 521, SB 541, SB 557; HB 2679** were advanced to Final Action and roll call.

SB 483, An act concerning school districts; relating to reimbursements for the provision of special education and related services; amending K.S.A. 2001 Supp. 72-978 and 72-6433 and repealing the existing sections.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Huelskamp, Jackson, Jenkins, Pugh, Tyson.

The bill passed, as amended.

SB 521, An act concerning crimes, criminal procedure and punishment; relating to departure sentencing, procedures; amending K.S.A. 21-4718 and K.S.A. 2001 Supp. 21-4716 and repealing the existing sections.

On roll call, the vote was: Yeas 38, Nays 2, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Huelskamp, Pugh.

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; amending K.S.A. 48-928 and K.S.A. 2001 Supp. 48-904 and 65-5722 and repealing the existing sections.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Huelskamp, O'Connor, Pugh.

The bill passed, as amended.

SB 557, An act concerning community developmental disability services; federal financial participation; amending K.S.A. 2001 Supp. 39-1811 and repealing the existing section.

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

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

The bill passed, as amended.

HB 2679, An act concerning lifetime hunting, fishing and furharvester licenses; amending K.S.A. 32-930 and repealing the existing section.

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

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

The bill passed.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Thursday, March 14, 2002.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

