

# Journal of the House

## FIFTY-FIRST DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Wednesday, March 24, 2004, 10:30 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.  
The roll was called with 125 members present.

Prayer by guest chaplain, Dr. David Pendleton, pastor, Christ Community Church, Olathe, and guest of Rep. Boyer:

Father, we give you thanks today for your gift of life and pray that we would prove our gratefulness by the way we go about living our life everyday. Help us to be a people who are thankful.

So we do give you thanks today for freedom in our hearts and in our home — these United States. And we give you thanks in this place for the great state of Kansas and these men and women who have been chosen to serve as its public servants. Lord, don't let them forget that they are here to serve, to represent a people fairly and faithfully.

I pray, that you in your divine sovereignty will grant them the gift of wisdom that exceeds them and clarity of thought and speech that the "stuff" of our own personal lives tends to take from us. I pray that you will save us from ourselves — from our personal agendas, from our personal preferences and keep us focused on your purpose that is at times beyond us. Help us as servants to seek the greater good, indeed, God's greater good.

Lord, we pray for our nation and our world both of which are in turmoil. We pray for speedy and equitable resolutions, what the Bible refers to as — reconciliation, in Iraq, Afghanistan and Haiti. These issues seem so distant from us in Kansas, yet many of our citizens are being called away in support of these conflicts. Lord in your mercy hear our prayer for the people of our state and our nation who are fighting wars so far from here, far from family, far from all that is familiar to them. Father, be with them and may your will be done on earth as it is in heaven.

And guide us through the process of this day, that this session will be a profitable one where our focus will not be on our professional political position, but on those who graciously sent us to this honorable place of humble service.

Now, may the Lord bless, preserve, and keep you; the Lord mercifully with his favor look upon you, and fill you with all spiritual blessings and give you peace. In his holy name we pray, Amen.

The Pledge of Allegiance was led by Rep. Reitz.

### MESSAGE FROM THE SENATE

Announcing passage of **SB 537**, **SB 558**.

Announcing passage of **HB 2670**.

Announcing passage of **HB 2545**, as amended; **HB 2563**, as amended; **HB 2573**, as amended; **HB 2633**, as amended; **Sub. HB 2698**, as amended.

The Senate concurs in House amendments to **Sub. SB 380**.

#### INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were thereupon introduced and read by title:

**SB 537, SB 558.**

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**HB 2749**, An act concerning the state capitol and surrounding areas; relating to memorials; amending K.S.A. 75-2266 and K.S.A. 2003 Supp. 75-36,104 and 75-36,105 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

The bill passed, as amended.

**HB 2937**, An act relating to school finance; authorizing school districts to eliminate a certain property tax exemption; concerning a cost of living weighting; amending K.S.A. 72-6413, 72-6414 and 72-8801 and K.S.A. 2003 Supp. 72-6407, 79-201x and 79-5040 and repealing the existing sections, was considered on final action.

Call of the House was demanded.

On roll call, the vote was: Yeas 35; Nays 90; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Barbieri-Lightner, Carter, Hayzlett, Hill, Holmes, Huff, Humerickhouse, Huntington, E. Johnson, Light, Long-Mast, Mason, Mays, McLeland, Merrick, Jim Morrison, Judy Morrison, Neighbor, Neufeld, Newton, Novascone, O'Malley, Osborne, Ostmeyer, Owens, Patterson, Powell, Schwab, S. Sharp, Siegfried, Wilk, D. Williams, Yoder, Yonally.

Nays: Ballard, Ballou, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Henderson, Henry, Holland, Horst, Howell, Huebert, Hutchins, Huy, Jack, D. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Loganbill, M. Long, Loyd, McCreary, McKinney, F. Miller, J. Miller, Minor, Myers, O'Neal, Pauls, Phelps, Pottorff, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwartz, Scoggins-Waite, B. Sharp, Showalter, Shriver, Shultz, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: None.

The bill did not pass.

## EXPLANATIONS OF VOTE

MR. SPEAKER: **HB 2937** is disequalizing because some communities can raise more money through the homestead property tax exemption than others. It will force my local Board of Education to attempt an increase on local property taxes. Funding schools should be a state issue.

My district is not a wealthy district, and will be at a disadvantage to raise teacher's salaries, placing a further burden on my district to be competitive in hiring quality teachers. I vote "no" on **HB 2937**.—HAROLD LANE, ROGER TOELKES, VAUGHN L. FLORA, NANCY KIRK

MR. SPEAKER: I vote no on **HB 2937**. This bill could result in one of the biggest and most dis-equalizing tax increases in Kansas history. Doing away with the Homestead Property Tax Exemption hits the elderly, single parent and low income families hardest. It is hypocritical for legislators to refuse to raise taxes at the state level while at the same time encouraging local boards to do just the opposite.

It is a state responsibility to provide funding for education. While **HB 2937** admits that there is a need and duty to increase funding now for Kansas schools, those who support this bill are refusing to do the job we were elected to do. I vote no.—MARTI CROW, EBER PHELPS, JUDY SHOWALTER, ANNIE KUETHER, JUDITH LOGANBILL, JAMES F. MILLER, GERALDINE FLAHARTY

MR. SPEAKER: This bill *DOUBLES* property taxes for schools on a \$40,000 home.

For the \$60,000 home, it increases property taxes 50%.

A \$100,000 home has a 25% increase and a \$200,000 home increases 11%.

This bill funds schools on the backs of .....

- widows, senior citizens living on a fixed income
- working families living paycheck to paycheck
- single parents trying to raise a family

This bill also allows 16 rich districts to spend more money.

It literally takes from the poor and allows the rich to get richer.

**OPPOSITE** of what equalization is supposed to do.

**OPPOSITE** of what the court requires. I vote no on **HB 2937**.—TOM SAWYER, RUBY GILBERT, JIM WARD

**SB 309**, An act relating to the state corporation commission; concerning certain penalties; amending K.S.A. 66-138 and 66-177; and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Carter, Huebert, Long-Mast.

Present but not voting: Krehbiel.

Absent or not voting: None.

The bill passed, as amended.

**SB 382**, An act relating to public utilities; concerning the recovery of certain costs of security measures; amending K.S.A. 66-1233 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 100; Nays 25; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Campbell, Carlin, Carter, Compton, Cox, Craft, Dahl, Davis, DeCastro, Decker, Dreher, Faber, Freeborn, Goering, Goico, Gordon, Grant, Hayzlett, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Klein, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McLeland, Merrick, F. Miller, J. Miller, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Phelps, Pottorff, Powell, Powers, Reitz, Ruff, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Tafanelli, Thimesch, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Yoder, Yonally.

Nays: Burroughs, Crow, Dillmore, Edmonds, Faust-Goudeau, Feuerborn, Flaharty, Flora, Gatewood, Gilbert, Henderson, Kauffman, Kirk, Lane, McKinney, Minor, Pauls, Reardon, Rehorn, Sawyer, Svaty, Swenson, Thull, Wilson, Winn.

Present but not voting: None.

Absent or not voting: None.

The bill passed, as amended.

**SB 446**, An act relating to roads and highways; concerning duties and liabilities during repairs or improvements; amending K.S.A. 68-2101, 68-2102, 68-2103 and 68-2107 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 119; Nays 6; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kirk, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Freeborn, Hutchins, Kauffman, Klein, Rehorn, Ward.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

**SB 447**, An act relating to roads and highways; concerning culverts or new entrances; amending K.S.A. 68-543 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp,

Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

**SB 448**, An act repealing K.S.A. 68-507, 68-515a, 68-528, 68-533, 68-578, 68-579, 68-901 through 68-908, 68-1123, 68-1131, 68-1132, 68-1134 and 68-1231; concerning roads and highways, was considered on final action.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

**SB 449**, An act relating to roads and highways; concerning bids; amending K.S.A. 68-704, 68-705, 68-1113, 68-1114, 68-1115, 68-1117, 68-1118, 68-1119, 68-1120, 68-1121 and 68-1125 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Klein, Ward.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

**SB 472**, An act concerning motor carriers; relating to the regulation thereof; amending K.S.A. 66-1,142b and K.S.A. 2003 Supp. 66-1,109 and 66-1,129; and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

The bill passed, as amended.

On motion of Rep. Aurand, the House went into Committee of the Whole, with Rep. Dahl in the chair.

#### COMMITTEE OF THE WHOLE

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

Recommended that **HB 2748** be passed.

On motion of Rep. Dillmore to amend **HB 2752**, Rep. Pottorff requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. The question then reverted back to the motion of Rep. Dillmore to amend on page 4, after line 34, by inserting the following:

“New Sec. 4. As used in sections 4 through 8, and amendments thereto:

(a) “Employer” means any person, including any partnership, firm, subcontractor, vendor, corporation or association, or agent thereof, who engages or utilizes the personal services of one or more individuals for a salary or wage;

(b) “illegal alien” means any person not a citizen of the United States who has entered the United States in violation of the federal immigration and naturalization act or regulations issued thereunder, who has legally entered but without the right to be employed in the country, or who has legally entered subject to a time limit but has remained illegally after the expiration of such time limit, except that the term “illegal alien” shall not mean any person who currently has the legal right to remain in the United States and to be employed in the United States even though such person originally entered the United States in violation of the federal immigration and naturalization act or regulations issued thereunder and is not a citizen of the United States;

(c) “secretary” means the secretary of human resources;

(d) “state agency” means any state office or officer, department, board, commission, institution, bureau or any agency, division or unit within any office, department, board, commission or other state authority of this state or any person requesting a state appropriation;

(e) “state benefit” means any state-administered or subsidized tax credit, tax abatement, tax exemption, loan or loan guarantee; and

(f) “unit of government” means any school board, city or county council or commission of this state, including, but not limited to, any governmental entity which is wholly or partially taxpayer funded or any entity which is the beneficiary of any state benefit.

New Sec. 5. (a) A person or entity is considered to have complied with a requirement of sections 4 through 8, and amendments thereto, notwithstanding a technical or procedural failure to meet such requirement, if there was a good faith attempt to comply with the federal requirements found in title 8 of the United States code, section 1324a.

(b) A person or entity which establishes that it has complied in good faith with respect to the hiring, recruiting or referral for employment of an alien in the United States has established an affirmative defense under sections 4 through 8, and amendments thereto.

New Sec. 6. (a) No state agency or unit of government shall award a public works or purchase contract to a bidder, contractor or employer, nor shall a bidder, contractor or employer be eligible to bid for or receive a public works contract, who has, in the preceding five years: (1) Been convicted of violating a law of this state or federal law respecting the employment of illegal aliens, or (2) been a party to a state agency proceeding in this state in which a penalty or sanction was ordered, either by hearing or final order, or through stipulation and agreement, for violation of a law of this state or federal law respecting the employment of illegal aliens.

(b) Any employer found to be in violation of this section shall, in addition to all available administrative penalties and sanctions, forfeit and be liable for an amount equal to the total value of the state benefit such employer has received or been the beneficiary of for the period of five years leading up to the date of the finding of guilt, not to exceed the federally prescribed civil penalty in title 8 of the United States code, section 1324a.

New Sec. 7. The secretary of the department of human resources shall be responsible for administering the provisions of sections 4 through 8, and amendments thereto.

New Sec. 8. The provisions of the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, shall govern all proceedings initiated under sections 4 through 8, and amendments thereto.”;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 9, after “concerning” by inserting “employment; relating to the employment of illegal aliens; concerning”;

Roll call was demanded.

On roll call, the vote was: Yeas 110; Nays 14; Present but not voting: 0; Absent or not voting: 1.

Yeas: Ballard, Ballou, Barbieri-Lightner, Beggs, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Jim Morrison, Judy Morrison, Myers, Neighbor, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, B. Sharp, S. Sharp, Showalter, Siegfried, Sloan, Storm, Svaty, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Aurand, Bethell, Carter, Edmonds, Gilbert, Mason, Minor, Neufeld, Pottorff, Schwartz, Scoggins-Waite, Shriver, Shultz, D. Williams.

Present but not voting: None.

Absent or not voting: Swenson.

The motion of Rep. Dillmore prevailed.

Also, on motion of Rep. Holland **HB 2752** be amended on page 4, after line 34, by inserting the following:

“New Sec. 4. (a) Subject to the provisions of appropriation acts, the attorney general shall establish a toll free number to receive telephone calls concerning information on persons and business entities employing illegal aliens in violation of K.S.A. 21-4409, and amendments thereto.

(b) Upon receipt of such information, the attorney general shall forward such information to the local law enforcement agency for investigation.

(c) The attorney general may apply for, receive and accept moneys from any source for the purposes of establishing the hotline.

(d) The attorney general shall publicize, distribute and disseminate information on the availability of the hotline to employment agencies, law enforcement agencies and other interested parties.

(e) The attorney general is hereby authorized to adopt rules and regulations concerning the implementation of this section.

Sec. 5. K.S.A. 21-4409 is hereby amended to read as follows: 21-4409. (a) Knowingly employing an alien illegally within the territory of the United States is the employment of such alien within the state of Kansas by an employer who knows such person to be illegally within the territory of the United States. The provisions of this section shall not apply to aliens who have entered the United States illegally and thereafter are permitted to remain within the United States, temporarily or permanently, pursuant to federal law.

(b) Knowingly employing an alien illegally within the territory of the United States is a class ~~C~~A nonperson misdemeanor. *On the second or subsequent conviction of a violation of this section, in addition to any other sentence imposed, a person shall be fined \$10,000.*

(c) *As used in this section, "employment" shall include subcontractors' employees if the employer of the subcontractor has knowledge that the subcontractor is employing persons or subcontracting with persons who are illegally within the territory of the United States.*

Sec. 6. K.S.A. 2003 Supp. 21-4503a is hereby amended to read as follows: 21-4503a. (a) A person who has been convicted of a felony may, in addition to the sentence authorized by law, be ordered to pay a fine which shall be fixed by the court as follows:

(1) For any off-grid felony crime or any felony ranked in severity level 1 of the drug grid as provided in K.S.A. 21-4705 and amendments thereto, a sum not exceeding \$500,000.

(2) For any felony ranked in severity levels 1 through 5 of the nondrug grid as provided in K.S.A. 21-4704 and amendments thereto or in severity levels 2 or 3 of the drug grid as provided in K.S.A. 21-4705 and amendments thereto, a sum not exceeding \$300,000.

(3) For any felony ranked in severity levels 6 through 10 of the nondrug grid as provided in K.S.A. 21-4704 and amendments thereto or in severity level 4 of the drug grid as provided in K.S.A. 21-4705 and amendments thereto, a sum not exceeding \$100,000.

(b) *Except as otherwise provided in statute*, a person who has been convicted of a misdemeanor, in addition to or instead of the imprisonment authorized by law, may be sentenced to pay a fine which shall be fixed by the court as follows:

(1) For a class A misdemeanor, a sum not exceeding \$2,500.

(2) For a class B misdemeanor, a sum not exceeding \$1,000.

(3) For a class C misdemeanor, a sum not exceeding \$500.

(4) For an unclassified misdemeanor, any sum authorized by the statute that defines the crime. If no penalty is provided in such law, the fine shall not exceed the fine provided herein for a class C misdemeanor.

(c) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

(d) A person who has been convicted of a traffic infraction may be sentenced to pay a fine which shall be fixed by the court, not exceeding \$500.

(e) A person who has been convicted of a cigarette or tobacco infraction shall be sentenced to pay a fine of \$25.

(f) The provisions of this section shall apply to crimes committed on or after July 1, 1993.;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 35, following "K.S.A." by inserting "21-4409,"; also in line 35, following "75-5804" by inserting "and K.S.A. 2003 Supp. 21-4503a";

On page 1, in the title, in line 9, after "concerning" by inserting "employment; relating to the employment of illegal aliens; concerning"; in line 10, after "K.S.A." by inserting "21-4409,"; in line 11, following "75-5804" by inserting "and K.S.A. 2003 Supp. 21-4503a"; and **HB 2752** be passed as amended.

#### REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **SB 528** be passed.

Committee on **Environment** recommends **HB 2919** be passed.

Committee on **Federal and State Affairs** recommends **SB 280** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL No. 280," as follows:

“HOUSE Substitute for SENATE BILL No. 280  
By Committee on Federal and State Affairs

“AN ACT enacting the unborn victims of violence act.”; and the substitute bill be passed.

(**H. Sub. for SB 280** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **SB 28** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 28,” as follows:

“HOUSE Substitute for SENATE BILL No. 28  
By Committee on Judiciary

“AN ACT concerning professional corporations; amending K.S.A. 2003 Supp. 17-2707 and 17-2710 and repealing the existing sections.”; and the substitute bill be passed.

(**H. Sub. for SB 28** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **SB 48** be amended by substituting a new bill to be designated as “House Substitute for SENATE BILL No. 48,” as follows:

“House Substitute for SENATE BILL No. 48  
By Committee on Judiciary

“AN ACT concerning the Kansas self-service storage act; relating to late fees; amending K.S.A. 58-814 and repealing the existing section.”; and the substitute bill be passed.

(**H. Sub. for SB 48** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **SB 315** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 315,” as follows:

“HOUSE Substitute for SENATE BILL NO. 315  
By Committee on Judiciary

“AN ACT concerning real property; relating to home inspections.”; and the substitute bill be passed.

(**H. Sub. for SB 315** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **SB 388** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 388,” as follows:

“HOUSE Substitute for SENATE BILL No. 388  
By Committee on Judiciary

“AN ACT concerning crimes and punishment; relating to identity theft; amending K.S.A. 2003 Supp. 21-4018 and repealing the existing section.”; and the substitute bill be passed.

(**H. Sub. for SB 388** was thereupon introduced and read by title.)

Committee on **Local Government** recommends **SB 523** be passed.

Committee on **Taxation** recommends **HB 2891**, **HB 2897** be passed.

Committee on **Transportation** recommends **SB 329** be amended on page 2, in line 19, following “violating” by inserting “paragraph (1) or (2) of”; also in line 19, by striking “or (b)”; and the bill be passed as amended.

Committee on **Transportation** recommends **Substitute for SB 500** be amended on page 2, in line 3, by striking “at retail is 80%” and inserting “is 75%”; in line 5, following “damaged” by inserting “and such condition was not merely exterior cosmetic damage to such vehicle as a result of windstorm or hail”; in line 24, by striking all following “estimated”; by striking all in lines 25 through 30; in line 31, by striking all preceding the period and inserting “or actual retail cost of parts needed to repair a vehicle plus the cost of labor computed by using the hourly labor rate and time allocations for automobile repairs that are customary and reasonable. Retail costs of parts and labor rates may be used upon collision estimating manuals or electronic computer estimating systems customarily used in the automobile repair industry”; following line 31, by inserting the following:

“Sec. 2. K.S.A. 2003 Supp. 8-198 is hereby amended to read as follows: 8-198. (a) A nonhighway or salvage vehicle shall not be required to be registered in this state, as provided in K.S.A. 8-135, and amendments thereto, but nothing in this section shall be construed as abrogating, limiting or otherwise affecting the provisions of K.S.A. 8-142, and amendments

thereto, which make it unlawful for any person to operate or knowingly permit the operation in this state of a vehicle required to be registered in this state.

(b) Upon the sale or transfer of any nonhighway vehicle or salvage vehicle, the purchaser thereof shall obtain a nonhighway certificate of title or salvage title, whichever is applicable, in the following manner:

(1) If the transferor is a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for such vehicle under this section or under the provisions of K.S.A. 8-135, and amendments thereto, such transferor shall make application for and assign a nonhighway certificate of title or a salvage title, whichever is applicable, to the purchaser of such nonhighway vehicle or salvage vehicle in the same manner and under the same conditions prescribed by K.S.A. 8-135, and amendments thereto, for the application for and assignment of a certificate of title thereunder. Upon the assignment thereof, the purchaser shall make application for a new nonhighway certificate of title or salvage title, as provided in subsection (c) or (d).

(2) Except as provided in subsection (b) of K.S.A. 8-199, and amendments thereto, if a certificate of title has been issued for any such vehicle under the provisions of K.S.A. 8-135, and amendments thereto, the owner of such nonhighway vehicle or salvage vehicle may surrender such certificate of title to the division of vehicles and make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, or the owner may obtain from the county treasurer's office a form prescribed by the division of vehicles and, upon proper execution thereof, may assign the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached to the purchaser of the nonhighway vehicle or salvage vehicle. Upon receipt of the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached, the purchaser shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(3) If the transferor is not a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for the vehicle under this section or a certificate of title was not required under K.S.A. 8-135, and amendments thereto, the transferor shall make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, as provided in this section, except that in addition thereto, the division shall require a bill of sale or such transferor's affidavit, with at least one other corroborating affidavit, that such transferor is the owner of such nonhighway vehicle or salvage vehicle. If the division is satisfied that the transferor is the owner, the division shall issue a nonhighway certificate of title or salvage title, whichever is applicable, for such vehicle, and the transferor shall assign the same to the purchaser, who shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(c) Every purchaser of a nonhighway vehicle ~~or salvage vehicle~~, whether assigned a nonhighway certificate of title, ~~salvage title~~ or a regular certificate of title with the form specified in paragraph (2) of subsection (b) attached, shall make application to the county treasurer of the county in which such person resides for a new nonhighway certificate of title ~~or salvage title~~, whichever is applicable, in the same manner and under the same conditions as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under subsection (c)(1) of K.S.A. 8-135, and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for a nonhighway certificate of title ~~or salvage title~~ is made is a nonhighway vehicle ~~or salvage vehicle~~, whichever is applicable, and other provisions the director deems necessary. Each application for a nonhighway certificate of title ~~or salvage title~~ shall be accompanied by a fee of \$10, and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of \$2.

(d) (1) *Except as otherwise provided by this section, the owner of a vehicle that meets the definition of a salvage vehicle shall apply for a salvage title before the ownership of the motor*

vehicle is transferred. In no event shall such application be made more than 30 days after the vehicle is determined to be a salvage vehicle.

(2) Every insurance company, which pursuant to a damage settlement, acquires ownership of a vehicle that has incurred damage requiring the vehicle to be designated a salvage vehicle, shall apply for a salvage title within 30 days after the title is assigned and delivered by the owner to the insurance company, with all liens released.

(3) Every insurance company which makes a damage settlement for a vehicle that has incurred damage requiring such vehicle to be designated a salvage vehicle, but does not acquire ownership of the vehicle, shall notify the vehicle owner of the owner's obligation to apply for a salvage title for the motor vehicle, and shall notify the division of this fact in accordance with procedures established by the division. The vehicle owner shall apply for a salvage title within 30 days after being notified by the insurance company.

(4) The lessee of any vehicle which incurs damage requiring the vehicle to be designated a salvage vehicle shall notify the lessor of this fact within 30 days of the determination that the vehicle is a salvage vehicle.

(5) The lessor of any motor vehicle which has incurred damage requiring the vehicle to be titled as a salvage vehicle, shall apply for a salvage title within 30 days after being notified of this fact by the lessee.

(6) Every person acquiring ownership of a motor vehicle that meets the definition of a salvage vehicle, for which a salvage title has not been issued, shall apply for the required document prior to any further transfer of such vehicle, but in no event, more than 30 days after ownership is acquired.

(7) Every purchaser of a salvage vehicle, whether assigned a salvage title or a regular certificate of title with the form specified in paragraph (2) of subsection (b) attached, shall make application to the county treasurer of the county in which such person resides for a new salvage title, in the same manner and under the same condition as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under subsection (c)(1) of K.S.A. 8-135, and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for salvage title is made is a salvage vehicle, and other provisions the director deems necessary. Each application for a salvage title shall be accompanied by a fee of \$10 and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of \$2.

(8) Failure to apply for a salvage title as provided by this subsection shall be a class C nonperson misdemeanor.

(e) A nonhighway certificate of title or salvage title shall be in form and color as prescribed by the director of vehicles. A nonhighway certificate of title or salvage title shall indicate clearly and distinctly on its face that it is issued for a nonhighway vehicle or salvage vehicle, whichever is applicable. A nonhighway certificate of title or salvage title shall contain substantially the same information as required on a certificate of title issued under K.S.A. 8-135, and amendments thereto, and other information the director deems necessary.

(f) (1) A nonhighway certificate of title or salvage title may be transferred in the same manner and under the same conditions as prescribed by K.S.A. 8-135, and amendments thereto, for the transfer of a certificate of title, except as otherwise provided in this section. A nonhighway certificate of title or salvage title may be assigned and transferred only while the vehicle remains a nonhighway vehicle or salvage vehicle.

(2) Upon transfer or sale of a nonhighway vehicle in a condition which will allow the registration of such vehicle, the owner shall assign the nonhighway certificate of title to the purchaser, and the purchaser shall obtain a certificate of title and register such vehicle as provided in K.S.A. 8-135, and amendments thereto. No regular certificate of title shall be issued for a vehicle for which there has been issued a nonhighway certificate of title until there has been compliance with K.S.A. 8-116a, and amendments thereto.

(3) Upon transfer or sale of a salvage vehicle which has been rebuilt or restored or is otherwise in a condition which will allow the registration of such vehicle, the owner shall assign the salvage title to the purchaser, and the purchaser shall obtain a rebuilt salvage title

and register such vehicle as provided in K.S.A. 8-135, and amendments thereto. No rebuilt salvage title shall be issued for a vehicle for which there has been issued a salvage title until there has been compliance with K.S.A. 8-116a, and amendments thereto. *Failure to apply for a rebuilt salvage title as provided by this subsection shall be a class C nonperson misdemeanor.*

~~(f)~~ (g) The owner of a salvage vehicle which has been issued a salvage title and has been assembled, reconstructed, reconstituted or restored or otherwise placed in an operable condition may make application to the county treasurer for a permit to operate such vehicle on the highways of this state over the most direct route from the place such salvage vehicle is located to a specified location named on the permit and to return to the original location. No such permit shall be issued for any vehicle unless the owner has motor vehicle liability insurance coverage or an approved self-insurance plan under K.S.A. 40-3104, and amendments thereto. Such permit shall be on a form furnished by the director of vehicles and shall state the date the vehicle is to be taken to the other location, the name of the insurer, as defined in K.S.A. 40-3103, and amendments thereto, and the policy number or a statement that the vehicle is included in a self-insurance plan approved by the commissioner of insurance, a statement attesting to the correctness of the information concerning financial security, the vehicle identification number and a description of the vehicle. Such permit shall be signed by the owner of the vehicle. Permits issued under this subsection ~~(f)~~ (g) shall be prepared in triplicate. One copy shall be carried in the vehicle for which it is issued and shall be displayed so that it is visible from the rear of the vehicle. The second copy shall be retained by the county treasurer, and the third copy shall be forwarded by the county treasurer to the division of vehicles. The fee for such permit shall be \$1 which shall be retained by the county treasurer, who shall annually forward 25% of all such fees collected to the division of vehicles to reimburse the division for administrative expenses, and shall deposit the remainder in a special fund for expenses of issuing such permits.

~~(g)~~ (h) A nonhighway vehicle or salvage vehicle for which a nonhighway certificate of title or salvage title has been issued pursuant to this section shall not be deemed a motor vehicle for the purposes of K.S.A. 40-3101 to 40-3121, inclusive, and amendments thereto, except when such vehicle is being operated pursuant to subsection ~~(f)~~ (g). Any person who knowingly makes a false statement concerning financial security in obtaining a permit pursuant to subsection ~~(f)~~ (g), or who fails to obtain a permit when required by law to do so is guilty of a class C misdemeanor.

~~(h)~~ (i) Any person who, on July 1, 1996, is the owner of an all-terrain vehicle, as defined in K.S.A. 8-126, and amendments thereto, shall not be required to file an application for a nonhighway certificate of title under the provisions of this section for such all-terrain vehicle, unless the person transfers an interest in such all-terrain vehicle.

New Sec. 3. Any person who is the owner of a vehicle which is a rebuilt salvage vehicle as defined under K.S.A. 8-197, and amendments thereto, shall cause a notice to be attached permanently to the left door frame of the vehicle which shall be attached by the Kansas highway patrol and specify the vehicle identification number of the vehicle and that it is a rebuilt salvage vehicle. The notice shall be attached prior to transfer of such vehicle to the next owner after such vehicle has become a rebuilt salvage vehicle. It shall be unlawful for any person to remove, obliterate or alter any notice affixed to a vehicle pursuant to the provisions of this section or for any person to fail to cause the notice to required to be affixed. A violation of this section shall be a class A nonperson misdemeanor.

New Sec. 4. (a) Any person licensed as a salvage vehicle dealer under K.S.A. 8-2401 *et seq.*, and amendments thereto, who wishes to purchase nonrepairable vehicles, as defined in K.S.A. 8-135c, and amendments thereto, or salvage vehicles, as defined in K.S.A. 8-197, and amendments thereto, at an auction or salvage vehicle pool, shall make application to the division for a buyer's identification card. The application shall be on a form prescribed by the director and shall contain the applicant's name, principal business address, the license number under which the applicant will be making purchases and such other information as the director may require. In lieu of directly obtaining a buyer's identification card or in addition thereto, any person licensed as a salvage vehicle dealer, may designate up to two employees to act as buyers for the licensee. The licensee shall make application for a buyer's identification card for each employee in the same manner as for a card for the licensee.

(b) Sales of nonrepairable vehicles or salvage vehicles at auctions or salvage vehicle pools, shall be opened only to persons possessing a Kansas buyers identification card as provided in subsection (a).

(c) An annual \$10 fee shall be charged for each identification card issued.

(d) A buyer's identification card is nontransferable. If the holder of a card no longer possesses a valid salvage dealer license or if an employee of the licensee leaves the employment of the licensee, the buyer's identification card of that person is invalid and the holder shall return the card to the division.

(e) Any person who holds a valid salvage vehicle dealer's license from another state that imposes qualifications and requirements with respect to the license that are equivalent to those required by K.S.A. 8-2401, *et seq.*, and amendments thereto, may make application to the director who shall, based upon the director's investigation, issue a buyer's identification card to those applicants who the director determines are qualified.

(f) A buyer's identification card may be denied, suspended or revoked or a renewal may be refused by the director on any of the applicable grounds listed in K.S.A. 8-2410, and amendments thereto. In addition, the director may revoke or suspend the license of a salvage vehicle dealer who allows such dealer's buyer's identification card or the buyer's identification card of an employee to be used by any unauthorized person.

(g) This section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.”;

By renumbering sections accordingly;

Also on page 2, in line 32, by striking “is” and inserting “and K.S.A. 2003 Supp. 8-198 are”;

In the title, in line 10, after “8-197” by inserting “and K.S.A. 2003 Supp. 8-198”; also in line 10, by striking “section” and inserting “sections”; and the substitute bill be passed as amended.

Committee on **Transportation** recommends **SB 501** be amended on page 6, following line 41, by inserting:

“New Sec. 3. To assist the secretary of administration in making policy decisions relating to the vanpool program, a vanpool program review committee composed of the secretary of administration, the director of the Kansas energy office, the secretary of the Kansas department of transportation, or their designees, and a vanpool rider, shall be convened at the discretion of the chairperson. The chairperson of the committee shall be the secretary of administration or the secretary's designee. The committee shall review instances of mishap or misconduct relating to the vanpool program operations and, if necessary, recommended remedial action.

Sec. 4. K.S.A. 75-46a02 is hereby amended to read as follows: 75-46a02. The purpose of K.S.A. 75-46a02 to 75-46a09, inclusive, *and amendments thereto*, is to promote conservation of petroleum resources, reduce traffic and parking congestion, and diminish air pollution by ~~providing~~ *facilitating the creation of self-supporting* commuter vanpools in which state employees living and working in similar locations may ride to and from their places of employment.

Sec. 5. K.S.A. 75-46a03 is hereby amended to read as follows: 75-46a03. ~~The department~~ *Subject to the availability of sufficient revenues from passenger fees under K.S.A. 75-46a06, and amendments thereto, the secretary* of administration shall purchase such motor vehicles necessary to accomplish the purposes set forth in K.S.A. 75-46a02 to 75-46a09, inclusive, *and amendments thereto.* ~~Said department~~ *The secretary* is authorized to obtain and disburse any federal funds made available to accomplish ~~said~~ *such* purposes.

Sec. 6. K.S.A. 75-46a04 is hereby amended to read as follows: 75-46a04. (a) ~~The department~~ *secretary* of administration shall select and assign a driver and an alternate driver for each motor vehicle designated for use in accomplishing the purposes of K.S.A. 75-46a02 to 75-46a09, inclusive, *and amendments thereto.* Each ~~said~~ driver shall be an employee of the state and shall possess a valid driver's license issued by the state.

(b) All state employees participating in the vanpool program shall be considered to be in the scope or course of their employment for worker's compensation purposes only.

(c) Every motor vehicle designated for use in the state vanpool program shall be owned and registered in the name of the state, ~~and~~ *In accordance with K.S.A. 75-4101 et seq., and*

*amendments thereto*, the state shall purchase for each ~~said~~ vehicle in the state vanpool program such liability, property damage and ~~such~~ other insurance as deemed necessary by the committee on surety bonds and insurance, *except that a minimum of \$500,000 of liability coverage shall be purchased for each vehicle in the state vanpool program.*

Sec. 7. K.S.A. 2003 Supp. 75-46a05 is hereby amended to read as follows: 75-46a05. ~~(a)~~ The driver of every motor vehicle designated for use in the state vanpool program shall *not* be authorized to use the same for personal nonbusiness purposes ~~but shall reimburse the state for such personal use at the prevailing state motor pool mileage rate as determined by the secretary of administration. The reimbursement for the private use is due and payable each month to the department of administration at the time of the monthly log review.~~ Each driver shall keep a log of all miles driven in the vehicle ~~assigned to such driver as being for commuter or personal use.~~ The log shall be reviewed every month by the department of administration.

~~(b) The secretary of administration shall remit all moneys received under this section and K.S.A. 75-46a06, and amendments thereto, 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 motor pool service fund.~~

Sec. 8. K.S.A. 75-46a06 is hereby amended to read as follows: 75-46a06. *(a)* The driver of each motor vehicle designated for use in the state vanpool program shall charge each passenger a ~~monthly rate~~ *passenger fee in an amount to be determined for each vanpool by the department secretary of administration. The secretary of administration shall set the passenger fee for each vanpool at an amount that enables each vanpool to be self-supporting, including, but not limited to, all operating, servicing, repair, insurance, vehicle replacement and administrative costs.* Within six ~~(6) days of the first of each month said,~~ *such funds shall be remitted by the driver to the department of administration.*

*(b)* The provision of maintenance and repair services shall be the responsibility of the state motor pool. All drivers shall be responsible for arranging for necessary maintenance services with the motor pool. All drivers shall be provided with state credit cards for the purchase of fuel.

*(c) The secretary of administration shall remit all moneys received under this section 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 motor pool service fund.*

Sec. 9. K.S.A. 75-46a09 is hereby amended to read as follows: 75-46a09. ~~The department secretary of administration may bring to the legislature a proposal to terminate the vanpool program at any time that it is no longer felt to be in the best interests of the state if the secretary of administration determines that it is no longer feasible to operate the program in a manner consistent with the provisions of K.S.A. 75-46a02 through 75-46a08, and amendments thereto.”;~~

By renumbering sections accordingly;

Also on page 6, in line 42, by striking “is” and inserting “, 75-46a02, 75-46a03, 75-46a04, 75-46a06 and 75-46a09 and K.S.A. 2003 Supp. 75-46a05 are”;

In the title, in line 9, by striking “regulating traffic” and inserting “relating to motor vehicles”; in line 10, following the semicolon, by inserting “relating to the state vanpool program;”; also in line 10, following “8-2118” by inserting “, 75-46a02, 75-46a03, 75-46a04, 75-46a06 and 75-46a09 and K.S.A. 2003 Supp. 75-46a05”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

On motion of Rep. Aurand, the House recessed until 2:36 p.m.

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## AFTERNOON SESSION

The House met pursuant to recess with Speaker Mays in the chair.

**INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were introduced and read by title:

**HB 2944**, An act concerning agriculture; relating to duty of care of livestock producers, by Committee on Appropriations.

**HB 2945**, An act relating to technical colleges; amending K.S.A. 2003 Supp. 72-4470a and repealing the existing section, by Committee on Appropriations.

**MESSAGES FROM THE SENATE**

The Senate nonconcur in House amendments to **H. Sub. for SB 166**, requests a conference and has appointed Senators Allen, O'Connor and Betts as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 197**, requests a conference and has appointed Senators Vratil, O'Connor and Goodwin as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **H. Sub. for SB 272**, requests a conference and has appointed Senators Brungardt, Clark and Gilstrap as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 292**, requests a conference and has appointed Senators Allen, O'Connor and Betts as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 393**, requests a conference and has appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 394**, requests a conference and has appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 417**, requests a conference and has appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 480**, requests a conference and has appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 520**, requests a conference and has appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

Also, announcing passage of **SB 381, SB 512, SB 556**.

Announcing passage of **HB 2685, HB 2725, HB 2781**.

Announcing passage of **HB 2347**, as amended; **Sub. HB 2516**, as amended; **Sub. HB 2558**, as amended; **HB 2597**, as amended; **HB 2695**, as amended; **HB 2760**, as amended; **HB 2795**, as amended.

The Senate concurs in House amendments to **SB 418**.

**INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS**

The following Senate bills were thereupon introduced and read by title:

**SB 381, SB 512, SB 556**.

**INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 166**.

Speaker Mays thereupon appointed Reps. Myers, McLeland and Sawyer as conferees on the part of the House.

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 197**.

Speaker Mays thereupon appointed Reps. Loyd, Owens and Ward as conferees on the part of the House.

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 272**.

Speaker Mays thereupon appointed Reps. Neufeld, Bethell and Feuerborn as conferees on the part of the House.

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 292**.

Speaker Mays thereupon appointed Reps. Vickrey, Ostmeyer and Toelkes as conferees on the part of the House.

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 393**.

Speaker Mays thereupon appointed Reps. Wilk, Gordon and Burroughs as conferees on the part of the House.

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 394**.

Speaker Mays thereupon appointed Reps. Wilk, Gordon and Burroughs as conferees on the part of the House.

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 417**.

Speaker Mays thereupon appointed Reps. Wilk, Gordon and Burroughs as conferees on the part of the House.

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 480**.

Speaker Mays thereupon appointed Reps. Wilk, Gordon and Burroughs as conferees on the part of the House.

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 520**.

Speaker Mays thereupon appointed Reps. Wilk, Gordon and Burroughs as conferees on the part of the House.

#### **INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS**

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6030—

By Committee on Federal and State Affairs

A RESOLUTION concerning persecution by the People's Republic of China.

WHEREAS, Falun Dafa, which is also known as Falun Gong, has earned distinction as a self-improvement practice with deep roots in the culture of ancient China; and

WHEREAS, Falun Dafa consists of meditation and gentle exercises, emphasizing the principles of Truthfulness, Compassion and Forbearance, which help practitioners to become healthier and better people; and

WHEREAS, Falun Dafa is a peaceful and nonviolent practice with millions of people in the People's Republic of China and some sixty other countries and regions; and

WHEREAS, Truthfulness, Compassion and Forbearance are consistent with a peaceful world; and

WHEREAS, The foundation of the United States and Kansas Constitutions are freedom and justice; and

WHEREAS, Persecution of Falun Dafa violates the Constitution of the People's Republic of China as well as the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights; and

WHEREAS, The number of known deaths of Falun Dafa practitioners from torture by Jiang Zemin's followers has reached 901, with hundreds of thousands tortured or being tortured in the People's Republic of China; and

WHEREAS, Dozens of United State citizens and permanent residents have been subjected to arbitrary detention, imprisonment and torture in the People's Republic of China: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That Jiang Zemin's followers should immediately cease its persecution of Falun Dafa practitioners and other persecuted groups in the People's Republic of China, and the People's Republic of China and its representatives in the United States should cease their harassment of Falun Dafa practitioners in the United States; and

*Be it further resolved:* That the House of Representatives supports Falun Dafa practitioners' right to practice their beliefs and urges the Jiang Zemin's followers to abide by the Constitution of the People's Republic of China, the International Covenant on Civil and Political Rights and Universal Declaration of Human Rights by lifting the ban on Falun Dafa and other persecuted groups; and

*Be it further resolved:* That the United States government should send a clear message to Jiang Zemin and his followers that the persecution of Falun Dafa and other persecuted groups is a crime against humanity.

#### INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, pursuant to House Rule 2303, Rep. Decker moved that the House reconsider its adverse action in not passing **HB 2937** on Final Action on Bills and Concurrent Resolutions (see Final Action, morning session). The motion prevailed.

Also, having voted on the prevailing side, pursuant to House Rule 2303, Rep. Aurand moved that the House reconsider its action in adopting the Committee of the Whole report advancing **HB 2937** to final action (see House Journal, pp. 1448-1449). The motion prevailed and the House was then in Committee of the Whole with Rep. O'Neal in the chair.

#### COMMITTEE OF THE WHOLE

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

Recommended that on motion of Rep. Aurand, **HB 2937** (see previous action, Committee of the Whole, pp.1448-1449) be further amended, as amended by House Committee of the Whole, on page 8, by striking all in lines 15 through 42;

On page 9, by striking all in lines 1 through 34;

And by renumbering the remaining sections accordingly;

On page 12, in line 18, by striking "79-201x and";

On page 1, in the title, in line 12, by striking all after the semicolon; in line 13, by striking all before "concerning"; in line 15, by striking "79-201x and";

Also, roll call was demanded on motion of Rep. Kassebaum to amend **HB 2937**, as amended by House Committee of the Whole, on page 1, by striking all in lines 19 through 43;

By striking all on pages 2 through 11;

On page 12, by striking all in lines 1 through 16 and inserting the following:

"New Section 1. (a) It is the purpose of this act to provide revenues to fund facilities, programs or services authorized or required by article 6 of the constitution of the state of Kansas, the school district finance and quality performance act and other laws enacted to fulfill the state's obligations to (1) provide for the intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools and (2) make suitable provisions for the finance of the educational interests of the state.

(b) Nothing in this section shall be construed as limiting the use of revenues derived pursuant to the provisions of this act for the purposes specified in subsection (a).

Sec. 2. K.S.A. 2003 Supp. 72-978 is hereby amended to read as follows: 72-978. (a) (†) In each school year, ~~in accordance with appropriations for special education and related services provided under this act, each school district which has~~ *school districts which have* provided special education and related services in compliance with the provisions of this act shall be entitled to receive *state aid in an amount which shall be computed by the state board as provided in this section. The state board shall:*

(1) *Determine the total amount of general fund and local option budgets of all school districts for the preceding school year;*

(2) *subtract from the amount determined in provision (1) the total amount attributable in the preceding school year to assignment of transportation weighting, program weighting and at-risk pupil weighting to enrollment of all school districts in such school year;*

(3) *divide the remainder obtained in provision (2) by the total number of pupils enrolled in all school districts on September 20 of the preceding school year;*

(4) *determine the total full-time equivalent enrollment of exceptional children in special education services provided by all school districts in the preceding school year;*

(5) *multiply the amount of the quotient obtained in provision (3) by the full-time equivalent enrollment determined in provision (4);*

(6) *determine the amount of federal funds received by all school districts for the provision of special education services in the preceding school year;*

(7) determine the amount of revenue received by all school districts in the preceding school year for services rendered under contracts with the state institutions for the provisions of special education services by the state institution;

(8) add the amounts determined under (6) and (7) to the amount of the product obtained under (5);

(9) determine the total amount of expenditures of all school districts for the provision of special education services in the preceding school year;

(10) subtract the amount of the sum obtained under (8) from the amount determined under (9);

(11) The amount compute under paragraph (10) is the amount of state special education aid school districts are entitled to receive for the provision of special education services.

(b) Each school district shall be entitled to receive:

~~(A)~~ (1) Reimbursement for actual travel allowances paid to special teachers at not to exceed the rate specified under K.S.A. 75-3203, and amendments thereto, for each mile actually traveled during the school year in connection with duties in providing special education or related services for exceptional children; such reimbursement shall be computed by the state board by ascertaining the actual travel allowances paid to special teachers by the school district for the school year and shall be in an amount equal to 80% of such actual travel allowances;

~~(B)~~ (2) reimbursement in an amount equal to 80% of the actual travel expenses incurred for providing transportation for exceptional children to special education or related services; such reimbursement shall not be paid if such child has been counted in determining the transportation weighting of the district under the provisions of the school district finance and quality performance act;

~~(C)~~ (3) reimbursement in an amount equal to 80% of the actual expenses incurred for the maintenance of an exceptional child at some place other than the residence of such child for the purpose of providing special education or related services; such reimbursement shall not exceed \$600 per exceptional child per school year; and

~~(D)~~ (4) except for those school districts entitled to receive reimbursement under subsection (b) or (c), after subtracting the amounts of reimbursement under paragraphs ~~(A)~~, ~~(B)~~ and ~~(C)~~ (1), (2) and (3) of this subsection (a) from the total amount appropriated of state aid for special education and related services under ~~this act~~ subsection (a), an amount which bears the same proportion to the remaining amount appropriated as the number of full-time equivalent special teachers who are qualified to provide special education or related services to exceptional children and are employed by the school district for approved special education or related services bears to the total number of such qualified full-time equivalent special teachers employed by all school districts for approved special education or related services.

~~(E)~~ Each special teacher who is qualified to assist in the provision of special education or related services to exceptional children shall be counted as  $\frac{2}{3}$  full-time equivalent special teacher who is qualified to provide special education or related services to exceptional children.

(b) Each school district which has paid amounts for the provision of special education and related services under an interlocal agreement shall be entitled to receive reimbursement under subsection (a) ~~(1)-(D)~~ (4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services under the interlocal agreement, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all school districts in the current school year who have entered into such interlocal agreement for provision of such special education and related services.

(c) Each contracting school district which has paid amounts for the provision of special education and related services as a member of a cooperative shall be entitled to receive reimbursement under subsection (a) ~~(1)-(D)~~ (4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services by the cooperative, as the amount paid by such district in the current school year for provision of such

special education and related services bears to the aggregate of all amounts paid by all contracting school districts in the current school year by such cooperative for provision of such special education and related services.

(d) No time spent by a special teacher in connection with duties performed under a contract entered into by the Kansas juvenile correctional complex, the Atchison juvenile correctional facility, the Beloit juvenile correctional facility, the Lamed juvenile correctional facility, or the Topeka juvenile correctional facility and a school district for the provision of special education services by such state institution shall be counted in making computations under this section.

Sec. 3. K.S.A. 72-979 is hereby amended to read as follows: 72-979. (a) Payments under this act shall be made in the manner and at such times during each school year as are determined by the state board. All amounts received by a district under this section shall be deposited in the general fund of the district and transferred to its special education fund. If any district is paid more than it is entitled to receive under ~~any distribution made as state aid for the provision of special education services~~ under this act, the state board shall notify the district of the amount of such overpayment, and such district shall remit the same to the state board. The state board shall remit any moneys so received 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 general fund. If any such district fails so to remit, the state board shall deduct the excess amounts so paid from future payments becoming due to such district. If any district is paid less than the amount to which it is entitled under any distribution made under this act, the state board shall pay the additional amount due at any time within the school year in which the underpayment was made or within 60 days after the end of such school year. *If the amount of appropriations for special education services is insufficient to pay in full the amount of state aid each school district is entitled to receive for the school year, the state board shall prorate the amount appropriated among all school districts.*

(b) The state board shall prescribe all forms necessary for reporting under this act.

(c) Every board shall make such periodic and special reports of information to the state board as it may request in order to carry out its responsibilities under this act.

Sec. 4. K.S.A. 72-6410 is hereby amended to read as follows: 72-6410. (a) "State financial aid" means an amount equal to the product obtained by multiplying base state aid per pupil by the adjusted enrollment of a district.

(b) "Base state aid per pupil" means an amount of state financial aid per pupil. ~~Subject to the other provisions of this subsection, the amount of base state aid per pupil is \$3,890.~~

(2) *Subject to the provisions of paragraph (3) of this subsection:*

(A) *For school year 2003-2004, the amount of base state aid per pupil shall be \$3,863.*

(B) *For school year 2004-2005, and each school year thereafter, the amount of base state aid per pupil shall be \$3,963.*

(3) The amount of base state aid per pupil is subject to reduction commensurate with any reduction under K.S.A. 75-6704, and amendments thereto, in the amount of the appropriation from the state general fund for general state aid. If the amount of appropriations for general state aid is insufficient to pay in full the amount each district is entitled to receive for any school year, the amount of base state aid per pupil for such school year is subject to reduction commensurate with the amount of the insufficiency.

(c) "Local effort" means the sum of an amount equal to the proceeds from the tax levied under authority of K.S.A. 72-6431, and amendments thereto, and an amount equal to any unexpended and unencumbered balance remaining in the general fund of the district, except amounts received by the district and authorized to be expended for the purposes specified in K.S.A. 72-6430, and amendments thereto, and an amount equal to any unexpended and unencumbered balances remaining in the program weighted funds of the district, except any amount in the vocational education fund of the district if the district is operating an area vocational school, and an amount equal to any remaining proceeds from taxes levied under authority of K.S.A. 72-7056 and 72-7072, and amendments thereto, prior to the repeal of such statutory sections, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district under the

provisions of subsection (a) of K.S.A. 72-1046a, and amendments thereto, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district pursuant to contracts made and entered into under authority of K.S.A. 72-6757, and amendments thereto, and an amount equal to the amount credited to the general fund in the current school year from amounts distributed in such year to the district under the provisions of articles 17 and 34 of chapter 12 of Kansas Statutes Annotated and under the provisions of articles 42 and 51 of chapter 79 of Kansas Statutes Annotated, and an amount equal to the amount of payments received by the district under the provisions of K.S.A. 72-979, and amendments thereto, and an amount equal to the amount of a grant, if any, received by the district under the provisions of K.S.A. 72-983, and amendments thereto, and an amount equal to 75% of the federal impact aid of the district.

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

Sec. 5. K.S.A. 72-6413 is hereby amended to read as follows: 72-6413. The program weighting of each district shall be determined by the state board as follows:

(a) Compute full time equivalent enrollment in programs of bilingual education and multiply the computed enrollment by ~~0.2~~ .22;

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

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

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

Sec. 6. K.S.A. 72-6414 is hereby amended to read as follows: 72-6414. (a) The at-risk pupil weighting of each district shall be determined by the state board ~~by multiplying as follows:~~

(1) multiply the number of at-risk pupils included in enrollment of the district by ~~10~~ .15.

(b) The product obtained under subsection (a) is the at-risk pupil weighting of the district.

~~(c)~~ (c) Except as provided in subsection ~~(c)~~ (e), of the amount a district receives from the at-risk pupil weighting, an amount produced by a pupil weighting of .01 shall be used by the district for achieving mastery of basic reading skills by completion of the third grade in accordance with standards and outcomes of mastery identified by the state board under K.S.A. 72-7534, and amendments thereto.

~~(d)~~ (d) A district shall include such information in its at-risk pupil assistance plan as the state board may require regarding the district's remediation strategies and the results thereof in achieving the third grade reading standards and outcomes of mastery identified by the state board. The reporting requirements shall include information documenting remediation strategies and improvement made by pupils who performed below the expected standard on the second grade diagnostic reading test prescribed by the state board.

~~(e)~~ (e) A district whose pupils substantially achieve the state board standards and outcomes of mastery of reading skills upon completion of third grade may be released, upon request, by the state board from the requirements of subsection (b).

Sec. 7. K.S.A. 72-6433 is hereby amended to read as follows: 72-6433. (a) (1) The board of any district may adopt a local option budget in each school year in an amount not to exceed an amount equal to the district prescribed percentage of the amount of state financial aid determined for the district in the school year. As used in this section, "district prescribed percentage" means:

(A) For any district that was authorized to adopt and that adopted a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments

thereto, do not apply in the current school year, in the 2001-02 school year and in each school year thereafter, a percentage that is equal to 80% of the percentage specified in the resolution under which the district was authorized to adopt a local option budget in the 1996-97 school year;

(B) for any district that was authorized to adopt and that adopted a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, apply in the current school year, a percentage in the 2001-02 school year and each school year thereafter that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and the percentage computed for the district by the state board under the provisions of K.S.A. 72-6444, and amendments thereto;

(C) for any district that was not authorized to adopt a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, apply in the current school year, a percentage in the 2001-02 school year and each school year thereafter that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and the percentage computed for the district by the state board under the provisions of K.S.A. 72-6444, and amendments thereto;

(D) for any district to which the provisions of K.S.A. 72-6444, and amendments thereto, applied in the 1997-98 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, do not apply in the current school year because an increase in the amount budgeted by the district in its local option budget as authorized by a resolution adopted under the provisions of subsection (b) causes the actual amount per pupil budgeted by the district in the preceding school year as determined for the district under provision (1) of subsection (a) of K.S.A. 72-6444, and amendments thereto, to equal or exceed the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 72-6444, and amendments thereto, is applicable to the district's enrollment group, a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year if the resolution authorized the district to increase its local option budget on a continuous and permanent basis. If the resolution that authorized the district to increase its local option budget specified a definite period of time for which the district would retain its authority to increase the local option budget and such authority lapses at the conclusion of such period and is not renewed, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution unless the loss of the percentage of increase that was authorized by the resolution would cause the actual amount per pupil budgeted by the district to be less than the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 72-6444, and amendments thereto, is applicable to the district's enrollment group, in which case, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution plus a percentage which shall be computed for the district by the state board in accordance with the provisions of K.S.A. 72-6444, and amendments thereto, except that, in making the determination of the actual amount per pupil budgeted by the district in the preceding school year, the state board shall exclude the percentage of increase that was authorized by the resolution.

(2) (A) Subject to the provisions of subpart (B), the adoption of a local option budget under authority of this subsection shall require a majority vote of the members of the board and shall require no other procedure, authorization or approval.

(B) In lieu of utilizing the authority granted by subpart (A) for adoption of a local option budget, the board of a district may pass a resolution authorizing adoption of such a budget and publish such resolution once in a newspaper having general circulation in the district. The resolution shall be published in substantial compliance with the following form:

Unified School District No. \_\_\_\_\_.

\_\_\_\_\_ County, Kansas.

## RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year for a period of time not to exceed \_\_\_\_\_ years in an amount not to exceed \_\_\_\_\_% of the amount of state financial aid determined for the current school year. The local option budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. In the event a petition is filed, the county election officer shall submit the question of whether adoption of the local option budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

## CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk of the board of education.

All of the blanks in the resolution shall be appropriately filled. The blank preceding the word "years" shall be filled with a specific number, and the blank preceding the percentage symbol shall be filled with a specific number. No word shall be inserted in either of the blanks. The percentage specified in the resolution shall not exceed the district prescribed percentage. The resolution shall be published once in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board may adopt a local option budget. If a petition is filed as provided in the resolution, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local option budget shall be authorized. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution. If any district is authorized to adopt a local option budget under this subpart, but the board of such district chooses, in any school year, not to adopt such a budget or chooses, in any school year, to adopt such budget in an amount less than the amount of the district prescribed percentage of the amount of state financial aid in any school year, such board of education may so choose. If the board of any district refrains from adopting a local option budget in any one or more school years or refrains from budgeting the total amount authorized for any one or more school years, the authority of such district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget, nor shall the amount authorized to be budgeted in any succeeding school year be increased by such refrainment. Whenever an initial resolution has been adopted under this subpart, and such resolution specified a lesser percentage than the district prescribed percentage, the board of the district may adopt one or more subsequent resolutions under the same procedure as provided for the initial resolution and subject to the same conditions, and shall be authorized to increase the percentage as specified in any such subsequent resolution for the remainder of the period of time specified in the initial resolution. Any percentage specified in a subsequent resolution or in subsequent resolutions shall be limited so that the sum of the percentage authorized in the initial resolution and the percentage authorized in the subsequent resolution or in subsequent resolutions is not in excess of the district prescribed percentage in any school year. The board of any district that has been authorized to adopt a local option budget under this subpart and levied a tax under authority of K.S.A. 72-6435, and amendments thereto, may initiate, at any time after the final levy is certified to the county clerk under any current authorization, procedures to renew its authority to adopt a local option budget in the manner specified in this subpart or may utilize the authority granted by subpart (A). As used in this subpart, the

term "authorized to adopt a local option budget" means that a district has adopted a resolution under this subpart, has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the adoption of a local option budget was approved.

(3) The provisions of this subsection are subject to the provisions of subsections (b) and (c).

(b) The provisions of this subsection (b) shall be subject to the provisions of K.S.A. 72-6433a, and amendments thereto.

(1) The board of any district that adopts a local option budget under subsection (a) may increase the amount of such budget in each school year in an amount which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage of the amount of state financial aid determined for the district in the school year if the board of the district determines that an increase in such budget would be in the best interests of the district.

(2) No district may increase a local option budget under authority of this subsection until: (A) A resolution authorizing such an increase is passed by the board and published once in a newspaper having general circulation in the district; or (B) the question of whether the board shall be authorized to increase the local option budget has been submitted to and approved by the qualified electors of the district at a special election called for the purpose. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-120, and amendments thereto, for the noticing, calling and holding of elections upon the question of issuing bonds under the general bond law. The notice of such election shall state the purpose for and time of the election, and the ballot shall be designed with the question of whether the board of education of the district shall be continuously and permanently authorized to increase the local option budget of the district in each school year by a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage in any school year. If a majority of the qualified electors voting at the election approve authorization of the board to increase the local option budget, the board shall have such authority. If a majority of the qualified electors voting at the election are opposed to authorization of the board to increase the local option budget, the board shall not have such authority and no like question shall be submitted to the qualified electors of the district within the nine months following the election.

(3) (A) Subject to the provisions of subpart (B), a resolution authorizing an increase in the local option budget of a district shall state that the board of education of the district shall be authorized to increase the local option budget of the district in each school year in an amount not to exceed \_\_\_\_\_% of the amount of state financial aid determined for the current school year and that the percentage of increase may be reduced so that the sum of the percentage of the amount of state financial aid budgeted under subsection (a) and the percentage of increase specified in the resolution does not exceed the state prescribed percentage in any school year. The blank preceding the percentage symbol shall be filled with a specific number. No word shall be inserted in the blank. The resolution shall specify a definite period of time for which the board shall be authorized to increase the local option budget and such period of time shall be expressed by the specific number of school years for which the board shall retain its authority to increase the local option budget. No word shall be used to express the number of years for which the board shall be authorized to increase the local option budget.

(B) In lieu of the requirements of subpart (A) and at the discretion of the board, a resolution authorizing an increase in the local option budget of a district may state that the board of education of the district shall be continuously and permanently authorized to increase the local option budget of the district in each school year by a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage in any school year.

(4) A resolution authorizing an increase in the local option budget of a district shall state that the amount of the local option budget may be increased as authorized by the resolution unless a petition in opposition to such increase, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county

of the school district within 30 days after publication. If no petition is filed in accordance with the provisions of the resolution, the board is authorized to increase the local option budget of the district. If a petition is filed as provided in the resolution, the board may notify the county election officer of the date of an election to be held to submit the question of whether the board shall be authorized to increase the local option budget of the district. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(5) The requirements of provision (2) do not apply to any district that is continuously and permanently authorized to increase the local option budget of the district. An increase in the amount of a local option budget by such a district shall require a majority vote of the members of the board and shall require no other procedure, authorization or approval.

(6) If any district is authorized to increase a local option budget, but the board of such district chooses, in any school year, not to adopt or increase such budget or chooses, in any school year, to adopt or increase such budget in an amount less than the amount authorized, such board of education may so choose. If the board of any district refrains from adopting or increasing a local option budget in any one or more school years or refrains from budgeting the total amount authorized for any one or more school years, the amount authorized to be budgeted in any succeeding school year shall not be increased by such refrainment, nor shall the authority of the district to increase its local option budget be extended by such refrainment beyond the period of time specified in the resolution authorizing an increase in the local option budget if the resolution specified such a period of time.

(7) Whenever an initial resolution has been adopted under this subsection, and such resolution specified a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) is less than the state prescribed percentage, the board of the district may adopt one or more subsequent resolutions under the same procedure as provided for the initial resolution and shall be authorized to increase the percentage as specified in any such subsequent resolution. If the initial resolution specified a definite period of time for which the district is authorized to increase its local option budget, the authority to increase such budget by the percentage specified in any subsequent resolution shall be limited to the remainder of the period of time specified in the initial resolution. Any percentage specified in a subsequent resolution or in subsequent resolutions shall be limited so that the sum of the percentage authorized in the initial resolution and the percentage authorized in the subsequent resolution or in subsequent resolutions together with the percentage of the amount of state financial aid budgeted under subsection (a) is not in excess of the state prescribed percentage in any school year.

(8) (A) Subject to the provisions of subpart (B), the board of any district that has adopted a local option budget under subsection (a), has been authorized to increase such budget under a resolution which specified a definite period of time for retention of such authorization, and has levied a tax under authority of K.S.A. 72-6435, and amendments thereto, may initiate, at any time after the final levy is certified to the county clerk under any current authorization, procedures to renew the authority to increase the local option budget subject to the conditions and in the manner specified in provisions (2) and (3) of this subsection.

(B) The provisions of subpart (A) do not apply to the board of any district that is continuously and permanently authorized to increase the local option budget of the district.

(9) As used in this subsection:

(A) "Authorized to increase a local option budget" means either that a district has held a special election under provision (2)(B) by which authority of the board to increase a local option budget was approved, or that a district has adopted a resolution under provision (2) (A), has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the authority of the board to increase a local option budget was approved.

(B) "State prescribed percentage" means ~~25%~~ 30%.

(c) To the extent the provisions of the foregoing subsections conflict with this subsection, this subsection shall control. Any district that is authorized to adopt a local option budget in the 1997-98 school year under a resolution which authorized the adoption of such budget in accordance with the provisions of this section prior to its amendment by this act may

continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

(d) (1) There is hereby established in every district that adopts a local option budget a fund which shall be called the supplemental general fund. The fund shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitation imposed under provision (3), amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to the general fund of the district or to any program weighted fund or categorical fund of the district.

(3) Amounts in the supplemental general fund may not be expended nor transferred to the general fund of the district for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings which is entered into pursuant to the provisions of K.S.A. 72-8225, and amendments thereto.

(4) Any unexpended and unencumbered cash balance remaining in the supplemental general fund of a district at the conclusion of any school year in which a local option budget is adopted shall be disposed of as provided in this subsection. If the district did not receive supplemental general state aid in the school year and the board of the district determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If the board of such a district determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, transferred or expended the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If such a district determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, did not transfer or expend the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, did not transfer or expend the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option budget of the district for the school year and multiply the total amount of the cash balance remaining in the supplemental general fund by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district. The amount remaining in the supplemental general fund may be maintained in such fund or transferred to the general fund of the district.

Sec. 8. K.S.A. 2003 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110. (a) *Resident Individuals.* Except as otherwise provided by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

(1) <i>Married individuals filing joint returns.</i>	
If the taxable income is:	The tax is:
Not over \$30,000 .....	3.5% of Kansas taxable income
Over \$30,000 but not over \$60,000 .....	\$1,050 plus 6.25% of excess over \$30,000

Over \$60,000 ..... \$2,925 plus 6.45% of excess over \$60,000

(2) *All other individuals.*

(A) For tax year 1997:

If the taxable income is:

Not over \$20,000 .....	The tax is: 4.1% of Kansas taxable income
Over \$20,000 but not over \$30,000 .....	\$820 plus 7.5% of excess over \$20,000
Over \$30,000 .....	\$1,570 plus 7.75% of excess over \$30,000

(B) For tax year 1998, and all tax years thereafter:

If the taxable income is:

Not over \$15,000 .....	The tax is: 3.5% of Kansas taxable income
Over \$15,000 but not over \$30,000 .....	\$525 plus 6.25% of excess over \$15,000
Over \$30,000 .....	\$1,462.50 plus 6.45% of excess over \$30,000

(b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas taxable income of every nonresident individual, which tax shall be an amount equal to the tax computed under subsection (a) as if the nonresident were a resident multiplied by the ratio of modified Kansas source income to Kansas adjusted gross income.

(c) *Corporations.* A tax is hereby imposed upon the Kansas taxable income of every corporation doing business within this state or deriving income from sources within this state. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(1) The normal tax shall be in an amount equal to 4% of the Kansas taxable income of such corporation; and

(2) the surtax shall be in an amount equal to 3.35% of the Kansas taxable income of such corporation in excess of \$50,000.

(d) *Fiduciaries.* A tax is hereby imposed upon the Kansas taxable income of estates and trusts at the rates provided in paragraph (2) of subsection (a) hereof.

(e) *In addition to the tax imposed pursuant to subsections (a) and (b), for tax years commencing after December 31, 2003, a surcharge shall be imposed on resident individuals and nonresident individuals in the amount of 4.5% of the tax due pursuant to subsections (a) and (b), computed without regard to any applicable income tax credits.*

Sec. 9. K.S.A. 2003 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3% on and after July 1, 2002, and before July 1, 2004, ~~5.2%~~, and 5.5% on and after July 1, 2004, ~~before July 1, 2005, and 5% on and after July 1, 2005~~; and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be

transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001; and (3) the gross receipts from the provision of services taxable under this subsection which are billed on a combined basis with nontaxable services, shall be accounted for and the tax remitted as follows: The taxable portion of the selling price of those combined services shall include only those charges for taxable services if the selling price for the taxable services can be readily distinguishable in the retailer's books and records from the selling price for the nontaxable services. Otherwise, the gross receipts from the sale of both taxable and nontaxable services billed on a combined basis shall be deemed attributable to the taxable services included therein. Within 90 days of billing taxable services on a combined basis with nontaxable services, the retailer shall enter into a written agreement with the secretary identifying the methodology to be used in determining the taxable portion of the selling price of those combined services. The burden of proving that any receipt or charge is not taxable shall be upon the retailer. Upon request from the customer, the retailer shall disclose to the customer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on a combined basis;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for 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, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building or facility damaged or destroyed by fire, flood, tornado, lightning, explosion or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or of any municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility; and

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) the gross receipts received from the sale of computer software, the sale of the service of providing computer software other than prewritten computer software and the sale of the services of modifying, altering, updating or maintaining computer software, whether the computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services, mobile telecommunication services, beeper services and other similar services. On and after August 1, 2002, the provisions of the federal mobile telecommunications sourcing act as in effect on January 1, 2002, shall be applicable to all sales of mobile telecommunication services taxable pursuant to this subsection. The secretary of revenue is hereby authorized and directed to perform any act deemed necessary to properly implement such provisions;

(u) the gross receipts received from the sale of prepaid calling service as defined in K.S.A. 2003 Supp. 79-3673, and amendments thereto; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*, and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*, and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 10. K.S.A. 2003 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be 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, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such

fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) (1) The state treasurer shall credit  $\frac{5}{98}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit  $\frac{5}{106}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) ~~The state treasurer shall credit  $\frac{1}{20}$  of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.~~ *The state treasurer shall credit  $\frac{1}{22}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.5%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce ~~and housing~~ to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

Sec. 11. K.S.A. 2003 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 5.3% on and after July 1, 2002, and before July 1, 2004, and 5.5% on and after July 1, 2004 ~~July 1, 2006, and 5% on and after July 1, 2006~~. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 12. K.S.A. 2003 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be 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, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A revolving fund, designated as "compensating tax refund fund" not to exceed \$10,000 shall be set apart and maintained by the director from compensating tax collections and estimated tax collections and held by the state treasurer for prompt payment of all com-

pensating tax refunds. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) (1) The state treasurer shall credit  $\frac{5}{100}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit  $\frac{5}{100}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) ~~The state treasurer shall credit  $\frac{1}{20}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.~~ *The state treasurer shall credit  $\frac{1}{22}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.5%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce ~~and housing~~ to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund created by subsection (d) of K.S.A. 79-3620, and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3620, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

Sec. 13. K.S.A. 72-979, 72-6410, 72-6413, 72-6414 and 72-6433 and K.S.A. 2003 Supp. 72-978, 79-32,110, 79-3603, 79-3620, 79-3703 and 79-3710 are hereby repealed.”; And by renumbering the remaining section accordingly;

On page 1, in the title, in line 12, by striking all after the semicolon; by striking all in lines 13, 14 and 15 and inserting “relating to sources of revenue therefor; amending K.S.A. 72-979, 72-6410, 72-6413, 72-6414 and 72-6433 and K.S.A. 2003 Supp. 72-978, 79-32,110, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the”;

On roll call, the vote was: Yeas 48; Nays 77; Present but not voting: 0; Absent or not voting: 0.

Yeas: Ballard, Boyer, Burroughs, Campbell, Carlin, Cox, Craft, Crow, Davis, Dillmore, Dreher, Feuerborn, Flaharty, Gatewood, Gilbert, Grant, Henderson, Henry, Hill, Jack, Kassebaum, Kirk, Klein, Kuether, Larkin, Loganbill, M. Long, Loyd, McKinney, J. Miller, Minor, O’Neal, Pauls, Phelps, Reardon, Rehorn, Reitz, Ruff, Sawyer, B. Sharp, Showalter, Shriver, Sloan, Storm, Svaty, Thimesch, Wilson, Winn.

Nays: Aurand, Ballou, Barbieri-Lightner, Beggs, Bethell, Brunk, Burgess, Carter, Compton, Dahl, DeCastro, Decker, Edmonds, Faber, Faust-Goudeau, Flora, Freeborn, Goering, Goico, Gordon, Hayzlett, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kauffman, Krehbiel, Landwehr, Lane, Light, Long-Mast, Mason, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O’Malley, Osborne, Ostmeyer, Owens, Patterson, Pottorff, Powell, Powers, Schwab, Schwartz, Scoggins-Waite, S. Sharp, Shultz, Siegfried, Swenson, Tapanelli, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: None.

The motion of Rep. Kassebaum did not prevail.

Also, roll call was demanded on motion of Rep. Ward to amend **HB 2937** on page 1, in lines 12 and 13, by striking the language “concerning a cost of living weighting”;

Also, on page 2, 3, and 4, by striking in their entirety New Section 4 and New Section 5; and by renumbering the remaining sections accordingly;

On roll call, the vote was: Yeas 45; Nays 78; Present but not voting: 0; Absent or not voting: 2.

Yeas: Burroughs, Carlin, Crow, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Gatewood, Gilbert, Grant, Henderson, Henry, Kassebaum, Kirk, Klein, Kuether, Lane, Larkin, Loganbill, McKinney, J. Miller, Minor, Myers, Pauls, Phelps, Pottorff, Reardon, Rehorn, Ruff, Sawyer, Scoggins-Waite, B. Sharp, Showalter, Shriver, Shultz, Svaty, Swenson, Thimesch, Thull, Toelkes, Ward, J. Williams, Wilson, Wimm.

Nays: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Campbell, Carter, Compton, Cox, Craft, Dahl, Davis, Decker, Dreher, Edmonds, Faber, Freeborn, Goering, Goico, Gordon, Hayzlett, Hill, Holland, Holmes, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kauffman, Krehbiel, Landwehr, Light, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Powell, Powers, Reitz, Schwab, Schwartz, S. Sharp, Siegfried, Sloan, Storm, Tafanelli, Vickrey, Wilk, D. Williams, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: DeCastro, Horst.

The motion of Rep. Ward did not prevail; and **HB 2937** be passed as amended.

Committee report to **HB 2898** be adopted; also, on motion of Rep. Merrick be amended on page 26, by striking all in lines 20 through 29 and inserting:

“(n) During the fiscal year ending June 30, 2005, no moneys appropriated for fiscal year 2005 for the department of wildlife and parks from the state general fund or any special revenue fund by this or other appropriation act of the 2004 regular session of the legislature shall be expended for any purpose associated with planning or constructing any facilities for the Menninger Memorial state park.”; and **HB 2898** be passed as amended.

Committee report to **HB 2899** be adopted; and the bill be passed as amended.

Committee report to **HB 2900** be adopted; also, on motion of Rep. Neufeld be amended, on page 41, in line 14, by striking “July” and inserting “August”;

On page 162, in line 26, by adding 1.0 to the number and by adjusting the number in line 26 accordingly;

Also, on further motion of Rep. Neufeld, **HB 2900** be amended on page 193, following line 22, by inserting the following:

“Sec. 82. On July 1, 2004, K.S.A. 2003 Supp. 75-6702 is hereby amended to read as follows: 75-6702. (a) The last appropriation bill passed in any regular session of the legislature shall be the omnibus reconciliation spending limit bill. Each bill which is passed during a regular session of the legislature and which appropriates or transfers money from the state general fund for the ensuing fiscal year shall contain a provision that such bill shall take effect and be in force from and after the effective date of the omnibus reconciliation spending limit bill for that regular session of the legislature or from and after such effective date and a subsequent date or an event occurring after such effective date.

(b) Except as provided in subsection (c), the maximum amount of expenditures and demand transfers from the state general fund that may be authorized by act of the legislature during the 2004 regular session of the legislature and each regular session of the legislature thereafter, is hereby fixed so that there will be an ending balance in the state general fund for the ensuing fiscal year that is equal to 7½% or more of the total amount authorized to be expended or transferred by demand transfer from the state general fund in such fiscal year.

(c) The provisions of subsection (b) are hereby suspended for the fiscal year ending June 30, ~~2004~~ 2005, and shall not prescribe a maximum amount of expenditures and demand transfers from the state general fund that may be authorized by act of the legislature during the ~~2003~~ 2004 regular session of the legislature.”;

And by renumbering sections accordingly;

Also on page 193, in line 23, after “75-2319,” by inserting “75-6702,”;

In the title, in line 15, after “75-2319,” by inserting “75-6702,”;

Also, on further motion of Rep. Neufeld, **HB 2900** be amended on page 3, in line 4, before the period, by inserting: “: *And provided further*, That no expenditures shall be made from this account for any meeting of the compensation commission established by K.S.A. 46-3101 and amendments thereto during fiscal year 2005”;

On page 4, in line 11, before the period, by inserting: “: *And provided further*, That no expenditures shall be made from this fund for any meeting of the compensation commission established by K.S.A. 46-3101 and amendments thereto during fiscal year 2005”;

Also, on motion of Rep. Siegfried to amend **HB 2900**, the motion did not prevail.

Also, on motion of Rep. Powers, **HB 2900** be amended on page 57, in line 42, by adding \$200,000 to the dollar amount and by adjusting the dollar amount in line 42 accordingly;

On page 80, in line 17, by subtracting \$200,000 from the dollar amount and by adjusting the dollar amount in line 17 accordingly;

Also, on motion of Rep. Campbell to amend **HB 2900**, the motion did not prevail.

Also, on motion of Rep. Owens, **HB 2900** be amended on page 1, in line 20, after “ending” by inserting “June 30, 2004.”; following line 28, by inserting:

“(c) This act shall not be subject to the provisions of subsection (a) of K.S.A. 75-6702 and amendments thereto.”;

On page 36, following line 19, by inserting:

“(p) In addition to the other purposes for which expenditures may be made by the department of administration from the moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2004 and fiscal year 2005 as authorized by chapter 138 or 160 of the 2003 Session Laws of Kansas or by this or other appropriation act of the 2004 regular session of the legislature, expenditures shall be made by the department of administration from moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2004 and fiscal year 2005 to provide for printing of expense and other warrant advises, which are issued and printed by the division of accounts and reports for distribution to state officers and employees, or to other individuals, when the payments are deposited in financial institutions through electronic funds transactions, so that personal identification information and payment transaction information is obscured, redacted or omitted to reduce the risk of identity theft.”;

On page 196, in line 27, by striking “July”; by striking all in lines 28 and 29; in line 30, by striking all before the period and inserting in lieu thereof “its publication in the Kansas register”;

On page 1, in the title, in line 10, after “ending” by inserting “June 30, 2004.”;

Also, on motion of Rep. Long-Mast to amend **HB 2900**, Rep. Shriver requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. The question then reverted back to the motion of Rep. Long-Mast which did not prevail.

Also, on motion of Rep. Schwab to amend **HB 2900**, the motion did not prevail; and the bill be passed as amended.

Committee report recommending a substitute bill to **Sub. HB 2783** be adopted; also, on motion of Rep. O’Neal be amended on page 2, after line 38, by inserting the following:

“New Sec. 2. An appropriation bill shall not transfer, or contain any provision or proviso that authorizes or directs the transfer of, moneys from any special revenue fund, or any account thereof, to the state general fund if existing law does not provide for such moneys in such special revenue fund, or account thereof, to be transferred to the state general fund.”;

And by renumbering sections accordingly;

On page 1, in the title, in line 9, after “concerning” by inserting “state finance; relating to”; also in line 9, after “report” by inserting “and appropriation bills”; and **Sub. HB 2783** be passed as amended.

**HB 2902; SB 399, SB 400; HB 2705, HB 2939; SB 529** be passed.

Committee report to **SB 350** be adopted; and the bill be passed as amended.

Committee report to **SB 317** be adopted; also, on motion of Rep. Vickrey be amended on page 9, following line 6, by inserting:

“Sec. 5. K.S.A. 45-222 is hereby amended to read as follows: 45-222. (a) The district court of any county in which public records are located shall have jurisdiction to enforce the

purposes of this act with respect to such records, by injunction, mandamus or other appropriate order, in an action brought by any person, the attorney general or a county or district attorney.

(b) In any action hereunder, the court shall determine the matter *de novo*. The court on its own motion, or on motion of either party, may view the records in controversy *in camera* before reaching a decision.

(c) In any action hereunder, the court shall award ~~attorney fees~~ *costs and, in any action filed after the effective date of this act, a reasonable sum as an attorney's fee for services rendered in such action, including proceedings on appeal, to be recovered and collected as part of the costs* to the plaintiff if the court finds that the agency's denial of access to the public record was not in good faith ~~and~~ or without a reasonable basis in fact or law. The award shall be assessed against the public agency that the court determines to be responsible for the violation.

(d) In any action hereunder in which the defendant is the prevailing party, the court shall award to the defendant ~~attorney fees~~ *costs and, in any action filed after the effective date of this act, a reasonable sum as an attorney's fee for services rendered in such action, including proceedings on appeal, to be recovered and collected as part of the costs* if the court finds that the plaintiff maintained the action not in good faith ~~and~~ or without a reasonable basis in fact or law.

(e) Except as otherwise provided by law, proceedings arising under this section shall be assigned for hearing and trial at the earliest practicable date.”;

And by renumbering sections accordingly;

Also on page 9, in line 7, before “K.S.A.” by inserting “K.S.A. 45-222 and”;

In the title, in line 14, by striking “amending” and inserting “relating to attorney fees; amending K.S.A. 45-222 and”; and **SB 317** be passed as amended.

Committee report to **SB 431** be adopted; and the bill be passed as amended.

Committee report to **HB 2571** be adopted; and the bill be passed as amended.

Committee report to **HB 2614** be adopted; and the bill be passed as amended.

Committee report to **HB 2676** be adopted; and the bill be passed as amended.

Committee report to **SB 440** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 376** be adopted; also, on motion of Rep. Mason be amended by striking all of lines 42 and 43 on page 12, and line 1 on page 13;

Also, on motion of Rep. Huff, **H. Sub. for SB 376** be amended on page 11, in line 31, by striking “Individual” and inserting “Except as provided in subparagraph (F) of paragraph (2) of subsection (c), individual”;

On page 12, in line 26, by striking “and”; in line 33, by striking “and”; in line 34, preceding “entertainment” by inserting “any individual meal the cost of which does not exceed \$25; and

(G)”;

Also, roll call was demanded on motion of Rep. Ward to amend **H. Sub. for SB 376** on page 12, in line 27, by striking the language in lines 40 through line 43; and by striking line 1 on page 13;

On roll call, the vote was: Yeas 57; Nays 66; Present but not voting: 0; Absent or not voting: 2.

Yeas: Ballard, Burroughs, Carlin, Craft, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Gatewood, Gilbert, Grant, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huntington, E. Johnson, Kassebaum, Kirk, Klein, Kuether, Lane, Larkin, Loganbill, M. Long, Long-Mast, McKinney, J. Miller, Minor, Pauls, Phelps, Pottorff, Reardon, Rehorn, Ruff, Sawyer, Scoggins-Waite, B. Sharp, Shriver, Shultz, Sloan, Storm, Svaty, Thimesch, Thull, Toelkes, Ward, Wilk, J. Williams, Wilson, Winn.

Nays: Aurand, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Campbell, Carter, Compton, Cox, Dahl, DeCastro, Decker, Dreher, Edmonds, Faber, Freeborn, Goering, Goico, Gordon, Hayzlett, Huebert, Huff, Humerickhouse, Hutchins, Huy, Jack, D. Johnson, Kauffman, Krehbiel, Loyd, Mason, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Powell, Powers, Reitz, Schwab,

Schwartz, S. Sharp, Showalter, Siegfried, Swenson, Tafanelli, Vickrey, D. Williams, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Landwehr, Light.

The motion of Rep. Ward did not prevail.

Also, on motion of Rep. Dillmore to amend **H. Sub. for SB 376**, the motion did not prevail.

Also, on motion of Rep. Yonally, **H. Sub. for SB 376** be amended on page 13, in line 17, following the period, by inserting "Notwithstanding any other provision of the state governmental ethics law, records for food and beverages provided as hospitality at any time on or after January 1, 2000, shall not be required to be itemized as to each recipient of such food and beverages.";

Also, on motion of Rep. Mason to amend **H. Sub. for SB 376**, the motion did not prevail.

Also, roll call was demanded on motion of Rep. Sawyer to amend **H. Sub. for SB 376** on page 8, in line 9, by striking the language "\$750" and re-inserting the language "\$500"; on page 8 in line 12 by striking the language "\$1500" and re-inserting the language "\$1000".

On page 9, in line 13, by striking the language "\$750" and re-inserting the language "\$500".

On page 9, in line 16, by striking the language "\$1500" and re-inserting the language "\$1000".;

On roll call, the vote was: Yeas 95; Nays 30; Present but not voting: 0; Absent or not voting: 0.

Yeas: Ballard, Beggs, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Cox, Craft, Crow, Dahl, Davis, DeCastro, Dillmore, Dreher, Faber, Faust-Goudeau, Feuerborn, Flaherty, Flora, Gatewood, Gilbert, Goico, Gordon, Grant, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Huntington, Hutchins, Huy, Jack, D. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, McKinney, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Pauls, Phelps, Pottorff, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Scoggins-Waite, B. Sharp, Showalter, Shriver, Sloan, Storm, Svaty, Swenson, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, J. Williams, Wilson, Winn.

Nays: Aurand, Ballou, Barbieri-Lightner, Bethell, Boyer, Compton, Decker, Edmonds, Freeborn, Goering, Hayzlett, Humerickhouse, E. Johnson, Loyd, Mason, Mays, McCreary, McLeland, Neufeld, Patterson, Powell, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Tafanelli, D. Williams, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: None.

The motion of Rep. Sawyer prevailed; and **H. Sub. for SB 376** be passed as amended.

**SB 373, SB 304; HB 2734** be passed over and retain a place on the calendar.

Committee report to **SB 524** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 136** be adopted; also, on motion of Rep. Rehorn be amended on page 6, by striking all in lines 21 through 43;

On page 7, by striking all in lines 1 through 19 and inserting:

"(3) University police officers employed by the chief executive officer of any state educational institution or municipal university may exercise their powers as university police officers anywhere:

(a) On property owned or operated by the state educational institution or municipal university, by a board of trustees of the state educational institution, an endowment association, an athletic association, a fraternity, sorority or other student group associated with the state educational institution or municipal university;

(b) on the streets, property and highways immediately adjacent to the campus of the state educational institution or municipal university;

(c) within the city where such property as described in this subsection is located, as necessary to protect the health, safety and welfare of students and faculty of the state educational institution or municipal university, with appropriate agreement by the local law

enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the chief executive officer of the state educational institution or municipal university involved before such agreement may take effect; and

(d) additionally, when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in subsection (3)(a) or (b), such officers with appropriate notification of, and coordination with, local law enforcement agencies or departments, may investigate and arrest persons for such a violation anywhere within the city where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. University police officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located. University police officers at the university of Kansas medical center may provide emergency transportation of medical supplies and transplant organs.”;

On page 8, in line 20, after “(7)(a)” by inserting “or (7)(b)”;

On page 9, after line 26, by inserting:

“(d) Campus police officers shall have the power and authority of law enforcement officers:

(1) On property owned, occupied or operated by the school district or community college or at the site of a function sponsored by the school district or community college;

(2) on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (d)(1);

(3) within the city or county where property described in subsection (d)(1) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved;

(4) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (d)(1) or (d)(2) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation;

(5) when in fresh pursuit of a person; and

(6) when transporting persons in custody to an appropriate facility, wherever it may be located.”;

Also on page 9, by relettering subsections (d) and (e) accordingly;

On page 11, by striking all in lines 23 through 43;

On page 12, by striking all in lines 1 through 26;

By renumbering sections 10 and 11 accordingly;

Also on page 12, in line 28, by striking “, 74-5602 and 76-726” and inserting “and 74-5602”;

In the title, in line 11, by striking “, 74-5602 and 76-726” and inserting “and 74-5602”; and **H. Sub. for SB 136** be passed as amended.

Committee report recommending a substitute bill and committee report to **H. Sub. for SB 9** be adopted; also, on motion of Rep. Hutchins to amend, the motion did not prevail. Also, on further motion of Rep. Hutchins to amend, the motion did not prevail; and **H. Sub. for SB 9** be passed as amended.

Committee report to **HB 2784** be adopted; and the bill be passed as amended.

Committee report to **SB 334** be adopted; also, on motion of Rep. Osborne be amended on page 4, in line 32, by striking the second “and”; in line 33, before “there” by inserting

“December 31, 2005, December 31, 2006, and December 31, 2007,”; in line 38, by striking “2005, December 31, 2006, and December 31, 2007” and inserting “2008, December 31, 2009, and December 31, 2010”;

On page 5, in line 8, by striking “two” and inserting “five”; in line 14, by striking “third, fourth and fifth” and inserting “sixth, seventh and eighth”;

Also, on motion of Rep. Patterson to amend **SB 334**, the motion did not prevail, and the bill be passed as amended.

Committee report to **SB 299** be adopted; and the bill be passed as amended.

Committee report to **SB 256** be adopted; also, on motion of Rep. Davis be amended on page 5, in line 24, by striking “74-7503” and inserting “74-7305”; and the bill be passed as amended.

Committee report to **HB 2901** be adopted; and the bill be passed as amended.

Committee report to **SB 387** be adopted; also, on motion of Rep. Vickrey be amended on page 7, following line 4, by inserting:

“Sec. 4. K.S.A. 75-4320 is hereby amended to read as follows: 75-4320. (a) Any member of a body or agency subject to this act who knowingly violates any of the provisions of this act or who intentionally fails to furnish information as required by subsection (b) of K.S.A. 75-4318, *and amendments thereto*, shall be liable for the payment of a civil penalty in an action brought by the attorney general or county or district attorney, in a sum set by the court of not to exceed ~~five hundred dollars (\$500)~~ \$500 for each violation. In addition, any binding action which is taken at a meeting not in substantial compliance with the provisions of this act shall be voidable in any action brought by the attorney general or county or district attorney in the district court of the county in which the meeting was held within ~~ten (10)~~ 60 days of the meeting, and the court shall have jurisdiction to issue injunctions or writs of mandamus to enforce the provisions of this act.

(b) Civil penalties sued for and recovered hereunder by the attorney general shall be paid into the state general fund. Civil penalties sued for and recovered hereunder by a county or district attorney shall be paid into the general fund of the county where the proceedings were instigated.”;

And by renumbering the remaining sections accordingly;

Also on page 7, in line 5, before “K.S.A.” by inserting “K.S.A. 75-4320 and”;

On page 1, in the title, in line 12, following “ACT” by inserting “concerning public bodies, agencies and committees; relating to meetings thereof;”; in line 15, before “K.S.A.” by inserting “K.S.A. 75-4320 and”; and **SB 387** be passed as amended.

Committee report to **HB 2627** be adopted; and the bill be passed as amended.

Committee report to **SB 396** be adopted; also, on motion of Rep. Schwartz be amended on page 8, in line 1, after “fund” by inserting a period, beginning a new paragraph and inserting “Moneys described in this subsection which are received by the secretary”; in line 5, before “The” by beginning a new paragraph;

On page 9, after line 4, by inserting:

“(f) Any appropriation of state general fund moneys for the fiscal year ending June 30, 2005, to pay costs described in subsection (c) shall be repaid to the state general fund from the radiation control operations fee fund. On and after July 1, 2005, as moneys are available, but not later than June 30, 2007, the director of accounts and reports shall transfer moneys from the radiation control operations fee fund to the state general fund to repay such moneys.”; and **SB 396** be passed as amended.

#### REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **SB 487** be passed.

Committee on **Appropriations** recommends **HR 6027** be adopted.

Committee on **Appropriations** recommends **HB 2938** be amended on page 1, in line 34, by striking “state” and inserting “the hospital’s”; also in line 34, after the period, by inserting: “In the event a hospital does not have a complete twelve-month 2001 fiscal year, the assessment shall be \$200,000.”;

On page 2, in line 6, by striking “quarterly”; in line 7, by striking “, October 19,” and inserting “and”; also in line 7, by striking “and April 19”; in line 18, by striking all after “received”; in line 19 by striking “under this act” and inserting “payments for two quarters

after the effective date of the payment methodology approved by the centers for medicare and medicaid services”;

On page 4, in line 4, by striking “quarterly”; in line 5, by striking “October 19,” and inserting “and”; also in line 5, by striking “and April 19”; in line 9, by striking “hospitals” and inserting “health maintenance organizations”; in line 16, by striking all after “received”; in line 17, by striking all before the period and inserting “payments for two quarters after the effective date of the payment methodology approved by the centers for medicare and medicaid services”;

On page 6, in line 9, after the period by inserting “Notwithstanding the provisions of any other statute, the cash management fee for services provided by the state treasurer for banking services and for processing warrants and direct deposits, or any other fee fixed, charged or collected by the state treasurer for recovery of all or part of the operating expenditures incurred by the state treasurer in providing such services, shall not apply to services or processing provided for warrants payable from the health care access improvement fund.”; by striking all in lines 28 through 30; in line 31, by striking “(3)” and inserting “(2)”; in line 33, by striking “(4)” and inserting “(3)”;

On page 7, in line 15, by striking all after “clinics,”; in line 16, by striking “medical education” and inserting “activities to increase access to dental care, primary care safety net clinics, increased medicaid rates on designated procedures and codes for providers who are persons licensed to practice dentistry, and home and community-based services”; in line 29, after the comma by inserting “one member appointed by the Kansas association for the medically underserved,”; and the bill be passed as amended.

Committee on **Appropriations** recommends **SB 527** be amended on page 2, following line 35, by inserting the following:

“Sec. 3. K.S.A. 2003 Supp. 74-2622 is hereby amended to read as follows: 74-2622. (a) There is hereby established within and as a part of the Kansas water office the Kansas water authority. The authority shall be composed of 23 members of whom 13 shall be appointed as follows: (1) One member shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, *and amendments thereto*, such person shall not exercise any power, duty or function as a member or chairperson of the water authority until confirmed by the senate. Such member shall serve at the pleasure of the governor and shall be the chairperson of the authority; (2) except as provided by subsection (b), 10 members shall be appointed by the governor for terms of four years. Of the members appointed under this provision one shall be a representative of large municipal water users, one shall be representative of small municipal water users, one shall be a board member of a western Kansas groundwater management district, one shall be a board member of a central Kansas groundwater management district, one shall be a member of the Kansas association of conservation districts, one shall be representative of industrial water users, one shall be a member of the state association of watershed districts, one shall have a demonstrated background and interest in water use conservation and environmental issues, and two shall be representative of the general public. The member who is representative of large municipal water users shall be appointed from three nominations submitted by the league of Kansas municipalities. The member who is representative of small municipal water users shall be appointed from three nominations submitted by the Kansas rural water district’s association. The member who is representative of a western Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 1, 3 and 4. The member who is representative of a central Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 2 and 5. The member who is representative of industrial water users shall be appointed from three nominations submitted by the Kansas association of commerce and industry. The member who is representative of the state association of watershed districts shall be appointed from three nominations submitted by the state association of watershed districts. The member who is representative of the Kansas association of conservation districts shall be appointed from three nominations submitted by the state association of conservation districts. If the governor cannot make an appointment from the original nominations, the nominating authority

shall be so advised and, within 30 days thereafter, shall submit three new nominations. Members appointed by the governor shall be selected with special reference to training and experience with respect to the functions of the Kansas water authority, and no more than six of such members shall belong to the same political party; (3) one member shall be appointed by the president of the senate for a term of two years; and (4) one member shall be appointed by the speaker of the house of representatives for a term of two years. The state geologist, the chief engineer of the division of water resources of the state board of agriculture, the director of the division of environment of the department of health and environment, the chairperson of the state corporation commission, the secretary of commerce, the director of the Kansas water office, the secretary of wildlife and parks, the administrative officer of the state conservation commission, the secretary of the state board of agriculture and the director of the agricultural experiment stations of Kansas state university of agriculture and applied science shall be nonvoting members ex officio of the authority. *Nonvoting members ex officio of the Kansas water authority shall not make motions, second motions or cast votes on any motion at any meeting of the authority, at any meeting of any subcommittee of the authority or at any meeting of any select, advisory or other committee appointed or otherwise established by the authority.* The director of the Kansas water office shall serve as the secretary of the authority.

(b) A member appointed pursuant to subsection (a)(2) shall be appointed for a term expiring on January 15 of the fourth calendar year following appointment and until a successor is appointed and qualified.

(c) In the case of a vacancy in the appointed membership of the Kansas water authority, the vacancy shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Appointed members of the authority attending regular or special meetings thereof shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(d) The Kansas water authority shall:

(1) Consult with and be advisory to the governor, the legislature and the director of the Kansas water office.

(2) Review plans for the development, management and use of the water resources of the state by any state or local agency.

(3) Make a study of the laws of this state, other states and the federal government relating to conservation and development of water resources, appropriation of water for beneficial use, flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream and stream pollution for the purpose of determining the necessity or advisability of the enactment of new or amendatory legislation in this state on such subjects.

(4) Make recommendations to other state agencies and political subdivisions of the state for the coordination of their activities relating to flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream, stream pollution and groundwater studies.

(5) Make recommendations to each regular session of the legislature and to the governor at such times as the authority considers advisable concerning necessary or advisable legislation relating to any of the matters or subjects which it is required by this act to study for the purpose of making recommendations to the legislature. All such recommendations to the legislature shall be in drafted bill form together with such explanatory information and data as the authority considers advisable.

(6) Approve, prior to submission to the legislature by the Kansas water office or its director, (A) any contract entered into pursuant to the state water plan storage act, (B) any amendments to the state water plan or the state water planning act and (C) any other legislation concerning water resources of the state.

(7) Approve, before they become effective, any policy changes proposed by the Kansas water office concerning the pricing of water for sale pursuant to the state water plan storage act.

(8) Approve, before it becomes effective, any agreement entered into with the federal government by the Kansas water office.

(9) Request any agency of the state, which shall have the duty upon that request, to submit its budget estimate pertaining to the state's water resources and any plans or programs related thereto and, upon the authority's receipt of such budget estimate, review and evaluate it and furnish recommendations relating thereto to the governor and the legislature.

(10) Approve, prior to adoption by the director of the Kansas water office, rules and regulations authorized by law to be adopted.

(11) Approve, prior to adoption by the director of the Kansas water office, guidelines for conservation plans and practices developed pursuant to subsection (c) of K.S.A. 74-2608, and amendments thereto.

(e) The Kansas water authority may appoint citizens' advisory committees to study and advise on any subjects upon which the authority is required or authorized by this act to study or make recommendations.

(f) The provisions of the Kansas governmental operations accountability law apply to the Kansas water authority, and the authority is subject to audit, review and evaluation under such law.

Sec. 4. K.S.A. 2003 Supp. 74-2622 is hereby repealed.”; And by renumbering the remaining section accordingly;

In the title, in line 11, before the period, by inserting ”; prescribing guidelines for the functions and authority of ex officio members of the Kansas water authority; amending K.S.A. 2003 Supp. 74-2622 and repealing the existing section.”; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 45** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 45,” as follows:

“HOUSE Substitute for SENATE BILL No. 45  
By Committee on Corrections and Juvenile Justice

“AN ACT creating the Kansas criminal justice recodification, rehabilitation and restoration project; duties thereof; establishing a committee to govern the project; providing for the membership thereof.”; and the substitute bill be passed.

(**H. Sub. for SB 45** was thereupon introduced and read by title).

Committee on **Corrections and Juvenile Justice** recommends **SB 469** be amended on page 1, in line 27, by striking “and house judiciary committees” and inserting “judiciary committee and the house corrections and juvenile justice committee”; in line 35, by striking “and house judiciary committees” and inserting “judiciary committee and the house corrections and juvenile justice committee”; by striking all in lines 38 through 43;

On page 2, by striking all in lines 1 through 24 and inserting the following:

“Sec. 3. K.S.A. 2003 Supp. 21-3412a is hereby amended to read as follows: 21-3412a. (a) Domestic battery is:

(1) intentionally or recklessly causing bodily harm by a family or household member against a family or household member; or

(2) intentionally causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner.

(b) (1) Upon a first conviction of a violation of domestic battery, a person shall be guilty of a class B person misdemeanor and sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less than \$200, nor more than \$500 or in the court's discretion the court may enter an order which requires the person enroll in and successfully complete a domestic violence prevention program.

(2) If, within five years immediately preceding commission of the crime, a person is convicted of a violation of domestic battery a second time, such person shall be guilty of a class A person misdemeanor and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted must serve at least five consecutive days' im-

prisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for domestic violence prevention.

(3) If, within five years immediately preceding commission of the crime, a person is convicted of a violation of domestic battery a third or subsequent time, such person shall be guilty of a *severity level 10, person felony* and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$2,500. ~~The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The court may also require as a condition of parole that such person enter into and complete a treatment program for domestic violence. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program.~~

(c) As used in this section:

(1) Family or household member means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(2) for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

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

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

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

(D) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

Sec. 4. K.S.A. 2003 Supp. 21-3438 is hereby amended to read as follows: 21-3438. (a) Stalking is an intentional, malicious and repeated following or harassment of another person and making a credible threat with the intent to place such person in reasonable fear for such person's safety.

Stalking is a severity level 10, person felony.

(b) Any person who violates subsection (a) when there is an order issued pursuant to the protection from stalking act, K.S.A. 2003 Supp. 60-31a01 through 60-31a09, and amendments thereto, a temporary restraining order or an injunction in effect prohibiting the behavior described in subsection (a) against the same person, is guilty of a severity level 9, person felony.

(c) *Any person who violates subsection (b) when in the possession of any firearm or weapon as described in K.S.A. 21-4201, and amendments thereto, is guilty of a severity level 8, person felony.*

~~(d)~~ (d) Any person who has a second or subsequent conviction occurring against such person, within seven years of a prior conviction under subsection (a) involving the same victim, is guilty of a severity level 8, person felony.

~~(e)~~ (e) For the purposes of this section: (1) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose and which would cause a reasonable person to suffer substantial emo-

tional distress, and must actually cause substantial emotional distress to the person. Constitutionally protected activity is not included within the meaning of "course of conduct."

(2) "Harassment" means a knowing and intentional course of conduct directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves no legitimate purpose.

(3) "Credible threat" means a verbal or written threat, including that which is communicated via electronic means, or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for such person's safety. The present incarceration of a person making the threat shall not be a bar to prosecution under this section.

(4) "Electronic means" includes, but is not limited to, telephones, cellular phones, computers, video recorders, fax machines, pagers and computer networks.

Sec. 5. K.S.A. 2003 Supp. 21-4704 is hereby amended to read as follows: 21-4704. (a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

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

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

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

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

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

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

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

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

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

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

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

(g) The sentence for the violation of K.S.A. 21-3411, and amendments thereto, aggravated assault against a law enforcement officer or K.S.A. 21-3415, and amendments thereto, ag-

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

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

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567 ~~and, subsection (b)(3) of K.S.A. 21-3412a~~, and subsections (b)(3) and (b)(4) of K.S.A. 21-3710, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 21-4707, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 21-3710, and amendments thereto. Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567, ~~subsection (b)(3) of K.S.A. 21-3412a~~ and subsections (b)(3) and (b)(4) of K.S.A. 21-3710, and amendments thereto shall not be served in a state facility in the custody of the secretary of corrections.

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

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

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

Sec. 6. K.S.A. 2003 Supp. 74-5602 is hereby amended to read as follows: 74-5602. As used in the Kansas law enforcement training act:

(a) "Training center" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603 and amendments thereto.

(b) "Commission" means the Kansas law enforcement training commission, created by K.S.A. 74-5606 and amendments thereto.

(c) "Dean" means the dean of the division of continuing education of the university of Kansas.

(d) "Director," as created in K.S.A. 74-5603 and amendments thereto, means the director of police training at the law enforcement training center.

(e) "Police officer" or "law enforcement officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff's office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858 and amendments thereto; conservation officers of the Kansas department of wildlife and parks; campus police officers at all state educational institutions or a municipal university; law enforcement agents of the director of alcoholic beverage control; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol area security guards, existing under the authority of K.S.A. 75-4503 and amendments thereto. Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524 and amendments thereto; and school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222 and amendments thereto. Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the commissioner of juvenile justice, the secretary of corrections or the secretary of social and rehabilitation services; any deputy conservation officer of the Kansas department of wildlife and parks; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of such person's office or employment. Such term shall include any officer appointed or elected on a provisional basis.

(f) "Full-time" means employment requiring at least 1,000 hours of work per year.

(g) "Part-time" means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of work per year.

(h) "Misdemeanor crime of domestic violence" means a violation of domestic battery as provided by *subsection (b)(1) or (b)(2) of K.S.A. 2003 Supp. 21-3412a* and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

(i) "Auxiliary personnel" means members of organized nonsalaried groups which operate as an adjunct to a police or sheriff's department, including reserve officers, posses and search and rescue groups.;

And by renumbering sections accordingly;

Also on page 2, in line 25, after "Supp." by inserting "21-3412a, 21-3438, 21-4704.,"; also in line 25, by striking "is" and inserting "and 74-5602 are";

On page 1, in the title, by striking all in lines 13 and 14; in line 15, by striking all before "amending"; in line 16, after "Supp." by inserting "21-3412a, 21-3438, 21-4704,,"; also in line 16, after "22-4909" by inserting "and 74-5602"; also in line 16, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Economic Development** recommends **SB 441** be amended on page 3, in line 24, by striking "written"; in line 26, by striking "in writing"; and the bill be passed as amended.

Committee on **Environment** recommends **SB 463** be amended on page 1, after line 14, by inserting:

"Section 1. K.S.A. 2003 Supp. 74-2622 is hereby amended to read as follows: 74-2622.

(a) There is hereby established within and as a part of the Kansas water office the Kansas water authority. The authority shall be composed of ~~23~~ 24 members of whom 13 shall be appointed as follows: (1) One member shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, such person shall not exercise any power, duty or function as a member or chairperson of the water authority until confirmed by the senate. Such member shall serve at the pleasure of the governor and shall be the chairperson of the authority; (2) except as provided by subsection (b), 10 members shall be appointed by the governor for terms of four years. Of the members appointed under this provision one shall be a representative of large municipal water users, one shall be representative of small municipal water users, one shall be a board member of a western Kansas groundwater management district, one shall be a board member of a central Kansas groundwater management district, one shall be a member of the Kansas association of conservation districts, one shall be representative of industrial water users, one shall be a member of the state association of watershed districts, one shall have a demonstrated background and interest in water use conservation and environmental issues, and two shall be representative of the general public. The member who is representative of large municipal water users shall be appointed from three nominations submitted by the league of Kansas municipalities. The member who is representative of small municipal water users shall be appointed from three nominations submitted by the Kansas rural water district's association. The member who is representative of a western Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 1, 3 and 4. The member who is representative of a central Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 2 and 5. The member who is representative of industrial water users shall be appointed from three nominations submitted by the Kansas association of commerce and industry. The member who is representative of the state association of watershed districts shall be appointed from three nominations submitted by the state association of watershed districts. The member who is representative of the Kansas association of conservation districts shall be appointed from three nominations submitted by the state association of conservation districts. If the governor cannot make an appointment from the original nominations, the nominating authority shall be so advised and, within 30 days thereafter, shall submit three new nominations. Members appointed by the governor shall be selected with special reference to training and experience with respect to the functions of the Kansas water authority, and no more than six of such members shall belong to the same political party; (3) one member shall be appointed by the president of the senate for a term of two years; and (4) one member shall be appointed by the speaker of the house of representatives for a term of two years. The state geologist, *the state biologist*, the chief engineer of the division of water resources of the state board of agriculture, the director of the division of environment of the department of health and environment, the chairperson of the state corporation commission, the secretary of commerce, the director of the Kansas water office, the secretary of wildlife and parks, the administrative officer of the state conservation commission, the secretary of the state board of agriculture and the director of the agricultural experiment stations of Kansas state university of agriculture and applied science shall be ~~nonvoting~~ members ex officio of the authority. *Such members ex officio shall act as a resource and support for the other members of the authority and not be entitled to vote or make or second motions in any*

*meeting of the authority or in any meeting of a select committee or other committee or subcommittee of the authority.* The director of the Kansas water office shall serve as the secretary of the authority.

(b) A member appointed pursuant to subsection (a)(2) shall be appointed for a term expiring on January 15 of the fourth calendar year following appointment and until a successor is appointed and qualified.

(c) In the case of a vacancy in the appointed membership of the Kansas water authority, the vacancy shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Appointed members of the authority attending regular or special meetings thereof shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(d) The Kansas water authority shall:

(1) Consult with and be advisory to the governor, the legislature and the director of the Kansas water office.

(2) Review plans for the development, management and use of the water resources of the state by any state or local agency.

(3) Make a study of the laws of this state, other states and the federal government relating to conservation and development of water resources, appropriation of water for beneficial use, flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream and stream pollution for the purpose of determining the necessity or advisability of the enactment of new or amendatory legislation in this state on such subjects.

(4) Make recommendations to other state agencies and political subdivisions of the state for the coordination of their activities relating to flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream, stream pollution and groundwater studies.

(5) Make recommendations to each regular session of the legislature and to the governor at such times as the authority considers advisable concerning necessary or advisable legislation relating to any of the matters or subjects which it is required by this act to study for the purpose of making recommendations to the legislature. All such recommendations to the legislature shall be in drafted bill form together with such explanatory information and data as the authority considers advisable.

(6) Approve, prior to submission to the legislature by the Kansas water office or its director, (A) any contract entered into pursuant to the state water plan storage act, (B) any amendments to the state water plan or the state water planning act and (C) any other legislation concerning water resources of the state.

(7) Approve, before they become effective, any policy changes proposed by the Kansas water office concerning the pricing of water for sale pursuant to the state water plan storage act.

(8) Approve, before it becomes effective, any agreement entered into with the federal government by the Kansas water office.

(9) Request any agency of the state, which shall have the duty upon that request, to submit its budget estimate pertaining to the state's water resources and any plans or programs related thereto and, upon the authority's receipt of such budget estimate, review and evaluate it and furnish recommendations relating thereto to the governor and the legislature.

(10) Approve, prior to adoption by the director of the Kansas water office, rules and regulations authorized by law to be adopted.

(11) Approve, prior to adoption by the director of the Kansas water office, guidelines for conservation plans and practices developed pursuant to subsection (c) of K.S.A. 74-2608, and amendments thereto.

(e) The Kansas water authority may appoint citizens' advisory committees to study and advise on any subjects upon which the authority is required or authorized by this act to study or make recommendations.

(f) The provisions of the Kansas governmental operations accountability law apply to the Kansas water authority, and the authority is subject to audit, review and evaluation under such law.“;

Also on page 1, in line 15, by striking “Section 1.” and inserting “Sec. 2.”;

On page 2, by renumbering sections 2 and 3 as sections 3 and 4; in line 33, by striking “82a-714 is” and inserting “74-2622 and 82a-714 are”; in line 35, by striking “statute book” and inserting “Kansas register”;

In the title, in line 10, by striking “appropriation of water for beneficial use” and inserting “water; relating to members of the Kansas water authority”; in line 11, after “Supp.” by inserting “74-2622 and”; in line 12, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 29** be amended on page 1, in line 31, by striking “2002” and inserting “2003”;

On page 4, in line 43, by striking “2002” and inserting “2003”;

On page 9, in line 42, by striking “, in each case having” and inserting “. The resident agent shall have”; in line 43, after “the” by inserting “registered”; also in line 43, by striking “of such registered agent”;

On page 10, in line 2, by striking “registered” and inserting “resident”; in line 13, by striking “2002” and inserting “2003”; in line 35, by striking “2002” and inserting “2003”;

On page 12, in line 15, by striking “2003” and inserting “2004”; in line 19, by striking “2003” and inserting “2004”;

On page 13, after line 34, by inserting the following:

“(4) Unless otherwise provided in the articles of incorporation, the bylaws or the resolution of the board of directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.”;

On page 19, after line 7, by inserting the following:

“New Sec. 11. A corporation may agree to submit a matter to a vote of its stockholders whether or not the board of directors determines at any time subsequent to approving such matter that such matter is no longer advisable and recommends that the stockholders reject or vote against the matter.”;

And by renumbering the remaining sections accordingly;

Also on page 19, in line 8, by striking “2002” and inserting “2003”;

On page 33, in line 27, by striking “2002” and inserting “2003”;

On page 41, in line 8, after “entitled” by inserting “by this section”; also in line 8, by striking “stock ledger, the”; in line 9, by striking “or the books of the corporation,”; in line 12, by striking all after “section”; by striking all in lines 13 through 15; in line 16, by striking all before the period and inserting “: (1) “Stockholder” means a holder of record of stock in a stock corporation, or a person who is the beneficial owner of shares of such stock held either in a voting trust or by a nominee on behalf of such person, and also a member of a nonstock corporation as reflected on the records of the nonstock corporation; (2) “list of stockholders” includes lists of members in a nonstock corporation; (3) “under oath” includes statements the declarant affirms to be true under penalty of perjury under the laws of the United States or any state; (4) “subsidiary” means any entity directly or indirectly owned, in whole or in part, by the corporation of which the stockholder is a stockholder and over the affairs of which the corporation directly or indirectly exercises control, and includes, without limitation, corporations, partnerships, limited partnerships, limited liability partnerships, limited liability companies, statutory trusts and/or joint ventures”; by striking all in line 20; in line 22, by striking “and its other books and records, and to”; in line 23, by striking all before the period and inserting “, and to make copies and extracts from: (1) the corporation’s stock ledger, a list of its stockholders, and its other books and records; and (2) a subsidiary’s books and records, to the extent that (i) the corporation has actual possession and control of such records of such subsidiary; or (ii) the corporation could obtain such records through the exercise of control over such subsidiary, provided that as of the date of the making of the demand (A) stockholder inspection of such books and records of the subsidiary would not constitute a breach of an agreement between the corporation or the subsidiary and a person or persons not affiliated with the corporation, and (B) the subsidiary would not have the right under the law applicable to it to deny the corporation access to such books and records upon demand by the corporation. In every instance where the stockholder is other than a record holder of stock in a stock corporation or a member of a

nonstock corporation, the demand under oath shall state the person's status as a stockholder, be accompanied by documentary evidence of beneficial ownership of the stock and state that such documentary evidence is a true and correct copy of what it purports to be";

On page 42, in line 5, by striking "(1)"; also in line 5, after "that" by inserting ":(1) he, she or it is a stockholder; (2)"; in line 7, by striking "(2) that" and inserting "(3)"; in line 28, after the period by inserting "The burden of proof shall be upon the corporation to establish that the inspection such director seeks is for an improper purpose.";

On page 45, after line 20 by inserting the following:

"Sec. 40. K.S.A. 17-6515 is hereby amended to read as follows: 17-6515. (a) Upon application of any stockholder or director, or any officer whose title to office is contested, or any member of a corporation without capital stock, the district court may hear and determine the validity of any election, *appointment, removal or resignation* of any director, member of the governing body, or officer of any corporation, and the right of any person to hold or *continue to hold* such office, and, in case any such office is claimed by more than one person, may determine the person entitled thereto. In making such determination, the court may make such order or decree in any such case as may be just and proper, with power to enforce the production of any books, papers and records of the corporation relating to the issue. In case it should be determined that no valid election has been held, the court may order an election to be held in accordance with K.S.A. 17-6501 or 17-6505, and amendments thereto. In any such application, service of copies of the application upon the resident agent of the corporation shall be deemed to be service upon the corporation and upon the person whose title to office is contested and upon the person, if any, claiming such office; and the resident agent shall forward immediately a copy of the application to the corporation and to the person whose title to office is contested and to the person, if any, claiming such office, in a postpaid, sealed, registered letter addressed to such corporation and such person at their post-office addresses last known to the resident agent or furnished to the resident agent by the applicant stockholder. The court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(b) Upon application of any stockholder or any member of a corporation without capital stock, the district court may hear and determine the result of any vote of stockholders or members, as the case may be, upon matters other than the election of directors, officers or members of the governing body. Service of the application upon the resident agent of the corporation shall be deemed to be service upon the corporation, and no other party need be joined in order for the court to adjudicate the result of the vote. The court may make such order respecting notice of the application as it deems proper under the circumstances.";

And by renumbering the remaining sections accordingly;

Also on page 45, in line 42, by striking "contents" and inserting "consents";

On page 51, in line 40, by striking "2002" and inserting "2003";

On page 53, in line 15, by striking "2002" and inserting "2003"; in line 32, after "manner" by inserting ", if any,"; in line 35, after the comma where it appears the first time by inserting "or of cancelling some or all of such shares"; in line 36, after "not" by inserting "to remain outstanding,"; in line 37, before the comma where it appears the first time by inserting "or to be cancelled"; in line 40, by striking "certificated shares" and inserting "them";

On page 60, in line 29, by striking "2002" and inserting "2003";

On page 61, in line 8, after "manner" by inserting ", if any,"; in line 10, after "consolidation" by inserting ", or of cancelling some or all of such shares,"; in line 11, after "not" by inserting "to remain outstanding,"; in line 12, before the comma by inserting "or to be cancelled"; in line 16, by striking "certificated shares" and inserting "them";

On page 63, in line 9, by striking "2002" and inserting "2003"; in line 31, before the period by inserting ", or the cancellation of some or all of such shares";

On page 64, in line 43, by striking "2002" and inserting "2003";

On page 65, in line 27, after "manner" by inserting ", if any,"; in line 34, after the comma where it appears the first time by inserting "or of cancelling some or all of such shares, memberships or financial or beneficial interests,"; in line 37, after "not" by inserting "to remain outstanding,"; in line 41, before the comma where it appears the first time by inserting "or to be cancelled";

On page 68, in line 4, by striking "2002" and inserting "2003"; in line 19, after "manner" by inserting ", if any,"; in line 22, before the semicolon by inserting ", or of cancelling some or all of such membership interests";

On page 69, in line 43, by striking "2002" and inserting "2003";

On page 70, in line 22, after "manner" by inserting ", if any,"; in line 24, before the semicolon by inserting ", or of cancelling some or all of such memberships";

On page 71, in line 24, by striking "2002" and inserting "2003";

On page 72, in line 2, after "manner" by inserting ", if any,"; in line 5, after the comma where it appears the first time by inserting "or of cancelling some or all of such shares or interests"; in line 7, after "not" by inserting "to remain outstanding,"; in line 10, before the comma where it appears the first time by inserting "or to be cancelled";

On page 73, in line 31, by striking "2002" and inserting "2003";

On page 77, in line 37, by striking "certificate" and inserting "articles"; in line 40, by striking "certificate" and inserting "articles"; in line 42, by striking "certificate" and inserting "articles";

On page 82, in line 18, by striking "2002" and inserting "2003";

On page 87, in line 32, by striking "2002" and inserting "2003";

On page 90, in line 14, by striking "2002" and inserting "2003";

On page 92, in line 5, by striking "2002" and inserting "2003"; in line 37, by striking "Any" and inserting "In the alternative, any";

On page 94, in line 7, by striking "2002" and inserting "2003"; in line 41, by striking "copy";

On page 96, in line 6, by striking "2002" and inserting "2003";

On page 97, in line 6, by striking all before "county"; in line 39, by striking "2002" and inserting "2003";

On page 98, in line 28, by striking all before "county";

On page 99, in line 15, by striking "2002" and inserting "2003";

On page 100, in line 24, by striking all before "county"; in line 41, by striking "signed";

On page 101, in line 15, by striking "2002" and inserting "2003";

On page 102, in line 39, by striking "2002" and inserting "2003";

On page 103, in line 10, by striking "2002" and inserting "2003";

On page 106, in line 8, after "17-6514," by inserting "17-6515,"; in line 12, by striking "2002" and inserting "2003"; in line 18, before "its" by inserting "January 1, 2005, and";

Also on page 1, in the title, in line 19, after "6514," by inserting "17-6515,"; in line 23, by striking "2002" and inserting "2003"; in line 28, by striking "2002" and inserting "2003"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 432** be amended on page 4, in line 40, after "K.S.A." by inserting "22-2202 or";

On page 6, in line 36, by striking "or"; in line 40, by striking the period where it appears the fifth time and inserting "; or

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto.

Sec. 2. K.S.A. 2003 Supp. 74-5605 is hereby amended to read as follows: 74-5605. (a) Every applicant for admission to a course for police officers or law enforcement officers conducted by the training center shall be an employee of a state, county or city law enforcement agency, a municipal university police officer, a railroad policeman appointed pursuant to K.S.A. 66-524, and amendments thereto; an employee of the tribal law enforcement agency of an Indian nation that has entered into a tribal-state gaming compact with this state; or a school security officer designated as a school law enforcement officer pursuant to K.S.A. 72-8222, and amendments thereto. Prior to admission to a course conducted at the training center or at a certified state or local law enforcement agency, the applicant shall furnish to the director a statement from the applicant's appointing authority or agency head certifying the applicant's fulfillment of the following requirements. The applicant:

(1) Is a United States citizen;

(2) has been fingerprinted and a search of local, state and national fingerprint files has been made to determine whether the applicant has a criminal record;

(3) has not been convicted, does not have an expunged conviction, and on and after July 1, 1995, has not been placed on diversion by any state or the federal government for a crime which is a felony or its equivalent under the uniform code of military justice;

(4) has not been convicted, does not have an expunged conviction, has not been placed on diversion by any state or the federal government for a misdemeanor crime of domestic violence or its equivalent under the uniform code of military justice, when such misdemeanor crime of domestic violence was committed on or after the effective date of this act;

(5) is the holder of a high-school diploma or furnishes evidence of successful completion of an examination indicating an equivalent achievement;

(6) is of good moral character;

(7) has completed a psychological test approved by the commission;

(8) is free of any physical or mental condition which might adversely affect the applicant's performance of a police officer's or law enforcement officer's duties; and

(9) is at least 21 years of age.

(b) The provisions of paragraph (1) of subsection (a) shall not apply to a Canadian citizen with prior law enforcement experience who resides in Stevens county. This subsection shall expire on July 1, 2006.

(c) *The provisions of paragraph (1) of subsection (a) shall not apply to a citizen of the United Kingdom with prior law enforcement experience who resides in Finney county. This subsection shall expire on July 1, 2007.*;

And by renumbering remaining sections accordingly;

Also on page 6, in line 42, after the period by inserting "(a)"; in line 43, after the period by inserting "The purpose of the registry is to be a resource for all agencies who appoint or elect police or law enforcement officers to use when reviewing employment applications of such officers. The registry shall be made available only to those agencies who appoint or elect police or law enforcement officers.

(b)";

On page 7, in line 2, after the period by inserting the following:

"(c)";

Also on page 7, in line 6, after the period by inserting the following:

"(d)";

Also on page 7, in line 11, after the period by inserting "The terminated officer may submit a written statement in response to the termination and any such statement shall be included in the registry file concerning such officer."; after line 12, by inserting the following:

"(e) An agency head who responds in writing to a written request concerning a current or former officer from a prospective law enforcement agency of that officer shall be absolutely immune from civil liability for disclosure of a report made in accordance with subsection (d).";

Also on page 7, in line 13, after "21-4619" by inserting "and 74-5605";

On page 1, in the title, in line 11, after the semicolon where it appears the second time by inserting "qualification of applicants"; in line 12, after "21-4619" by inserting "and 74-5605"; and the bill be passed as amended.

Committee on **Local Government** recommends **SB 408** be passed.

Committee on **Taxation** recommends **HB 2648** be amended on page 1, in line 31, after the comma, by inserting "or the provisions of K.S.A. 79-3294 *et seq.*, and amendments thereto, by the failure to file returns and remit withholding tax as required pursuant to K.S.A. 79-3298, and amendments thereto," and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2703** be amended on page 1, in line 42, by striking "50%" and inserting "25%"; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2893** be amended on page 1, in line 27, by striking "six-year" and inserting "three-year"; after line 28, by inserting the following:

"Sec. 2. (a) The secretary of revenue shall report to the legislature by March 1 of each odd-numbered year on the overall incidence of the income taxes, sales, use and excise taxes, and property taxes. The report shall present information on the distribution of the tax burden: (1) For the overall income distribution, using a systemwide incidence measure such as the suits index or other appropriate measures of equality and inequality; (2) by income

classes, including at a minimum deciles of the income distribution; and (3) by other appropriate taxpayer characteristics.

(b) The incidence analyses shall use the broadest measure of economic income for which reliable data is available.”;

And by renumbering sections accordingly; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2896** be amended on page 1, in line 18, by striking “The” and by inserting “(a) Except as provided in subsection (b), the”; in line 20, by striking “30%” and inserting “3%”; after line 26, by inserting the following:

“(b) The authorized and outstanding bonded indebtedness of Wyandotte county shall not exceed 30% of the assessed value of all tangible taxable property within such county, as certified to the county clerk on the preceding August 25 and the authorized and outstanding bonded indebtedness of Franklin county shall not exceed 30% of the assessed value of all tangible taxable property within such county, as certified to the county clerk on the preceding August 25.”; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2921** be amended on page 2, in line 14, by striking “seven” and inserting “five”; also in line 14, by striking “rooms” and inserting “bedrooms”; and the bill be passed as amended.

Committee on **Tourism and Parks** recommends **SB 364** be amended on page 8, in lines 18 and 19, by striking “in a management unit”; by striking all in lines 20 through 22; in line 23, by striking all before the comma and inserting “be, for the year 2004, not less than 4% nor more than 8.5%; for the year 2005, not less than 4.5% nor more than 9%; for the year 2006, not less than 5% nor more than 10%; and for any year thereafter, not less than 6% nor more than 11%”; in line 24, by striking “archery” and inserting “firearm permits and any deer”; also in line 24, by striking “in such”; in line 25, by striking all before the period and inserting “. Nonresident archery tags shall be allocated equally among the management units”;

On page 9, in line 2, by striking “pursuant”; in line 3, by striking all before “to” where it appears for the second time; in line 9, before “nonresident” by inserting “original”; in line 10, by striking all before “shall” and inserting “, species designation and unit specification, except that firearm permits”; following line 30, by inserting:

“(p) Resident and nonresident archery management units for deer shall be the same as firearm management units for the deer.”;

On page 18, after line 18, by inserting:

“Sec. 11. (a) The secretary of wildlife and parks, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, shall establish a subunit within deer management units 7 and 8 and shall provide for a special season in such subunit which shall extend by seven days the time currently provided for taking antlerless deer.

(b) The provisions of this section shall expire on June 30, 2006.”;

Also on page 18, by renumbering sections 11 through 13 accordingly;

In the title, in line 12, before “amending” by inserting “providing for a special deer season in certain areas.”; and the bill be passed as amended.

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

#### **INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bill was thereupon introduced and read by title:

**HB 2946**, An act concerning tobacco; relating to requirements for sale of cigarettes; concerning payments by certain tobacco product manufacturers under the master settlement agreement; prescribing penalties for certain unlawful acts; amending K.S.A. 2003 Supp. 50-6a01, 50-6a02, 50-6a03, 50-6a04, 79-3301 and 79-3321 and repealing the existing sections, by Committee on Appropriations.

#### **COMMITTEE ASSIGNMENT CHANGE**

Speaker pro tem Ballou announced Rep. Toelkes is appointed as Ranking Minority Member of Committee on Local Government to replace Rep. Gilbert.

**REPORT ON ENGROSSED BILLS**

**HB 2749, HB 2937** reported correctly engrossed March 23, 2004.

Also, **HB 2752** reported correctly engrossed March 24, 2004.

**READING AND CORRECTION OF THE JOURNAL**

In the Journal, on page 1091, the title of **HB 2899** should read as follows:

**HB 2899**, An act making and concerning appropriations for the fiscal years ending June 30, 2004, and June 30, 2005, for certain state agencies; authorizing certain transfers and capital improvement projects, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing, by Committee on Appropriations.

Also, on page 1092, the title of **HB 2900** should read as follows:

**HB 2900**, An act making and concerning appropriations for the fiscal years ending June 30, 2005, and June 30, 2006, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2003 Supp. 2-223, 55-193, 75-2319, 76-775, 79-2959, 79-2964, 79-3425c, 79-3425i, 79-34,147 and 82a-953a and repealing the existing sections, by Committee on Appropriations.

On motion of Rep. Aurand, the House adjourned until 10:00 a.m., Thursday, March 25, 2004.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

