

Journal of the House

FIFTY-SECOND DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, March 24, 2005, 10:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 123 members present.
Rep. Showalter was excused on verified illness.
Rep. Edmonds was excused on excused absence by the Speaker.
Present later: Rep. Edmonds.

Prayer by Chaplain Chamberlain:

Dear Lord, we thank you for the rain that continues to fall upon us. We know that all that sustains life comes from you and that there is nothing that we can do to add a minute to it. You give us each day as a new opportunity to live in your will and to be overcome with the joy that life offers us.

In this Holy Week, we are especially mindful that love sometimes demands sacrifice. We are reminded that when we want what you want—when we want the very best—the status quo fails us. For you are a God who desires us to change, to grow, and to become aware of the new life that you offer and that only you can give.

Lord, in this Holy Week, and in your sight, find in us the places where we have become rigid, the places where we have staked out positions that do not allow for conversation, learning, or growth. Help us to cast aside the pride that refuses to admit that there may be another way — even on the other side of the aisle. You have given us the example that reveals your desire for us and your expectation of us. Now, O God, give us the will to do as you have asked. Amen.

The Pledge of Allegiance was led by Rep. Treaster.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **SB 84, SB 275, SB 288.**
Commerce and Labor: **SB 269, SB 276.**
Economic Development: **Sub. SB 260.**
Federal and State Affairs: **SB 267, SB 274.**
Taxation: **Sub. SB 257.**
Select Committee on Healthcare: **HB 2531.**

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Knox, **HR 6027**, A resolution in memory of Sheriff Matthew H. “Matt” Samuels, was adopted.

There being no objection, the following remarks of Rep. Knox are spread upon the Journal:

Mr. Speaker, I would like to introduce to the House, some of the family of the late sheriff, Matt Samuels: his wife, Tammy, his daughter, Sharlee, and his sister, Wendy Linsey. Also, in the gallery, I would like to recognize those from Greenwood County and Marilyn Good-

heart, who is with CAPS, Concerns of Police Survivors. Greenwood County has formed a "Meth" Task Force and is leading the state in dealing with this epidemic. Mr. Speaker, in honor of Sheriff Samuels, his family and Greenwood County, I move this resolution.

INTRODUCTION OF ORIGINAL MOTIONS

In accordance with House Rule 1503, Rep. Aurand moved to change the order of the bills on General Orders for the purpose of considering **SB 27** as the first order of business. The motion prevailed.

SPECIAL REMARKS

There being no objection, the following remarks of Rep. Swenson are spread upon the Journal:

Wendy Sue McFarland passed away February 24, 2005, at the age of 50 after losing consciousness from an undiagnosed diabetic condition. Like her mother, Betty Smith McFarland, Wendy was an exceptionally warm, kind and caring person. No one remained a stranger to her. Clinical depression stole much of life's joy from her, but did not stop her from bringing joy to the lives of others. She was absolutely committed in her personal and professional life to equal rights for all, regardless of race, culture, age, sexual identity or disability. Whether she was working as a wait person at the family restaurant, legislative lobbyist for the American Civil Liberties Union of Kansas and western Missouri, general manager of Gage Park train and carousel, special events coordinator to Governor Finney, or in customer service for the Topeka Water Department, Wendy was respectful and caring of those she served. She touched many lives. Wendy was preceded in death by her parents, Carl and Betty. It was Wendy's wish that there be no memorial service. Given her lifelong love of animals, remembrances may be made to the Helping Hands Humane Society, 2625 NW Rochester Road, Topeka, KS 66617-1201 (Published in the Topeka Capital-Journal on 3/1/2005.)

Red is the color of a lot of lollipops,
 Orange is any orange on a tree.
 Yellow's the color of a bag of lemon drops,
 Green is a piece of seaweed in the sea.
 Blue is the color of the sky in summertime
 Indigo is a siamese cat's eyes.
 Violet's the color of a flow'r in wintertime.
 These are the colors of the rainbow skies.
 There is a beautiful land
 Where all your dreams come true;
 It's all tied up in a rainbow,
 All shiny and new;
 But it's not easy to find
 No matter what you do.
 It's not on top of a mountain
 Or beneath the deep blue sea
 Or in London zoo or in timbuktoo,
 Or in timbuckthree.
 And if you traveled the world
 From China to Peru,
 There's no beautiful land on the chart.
 An explorer could not begin
 To discover it's origin
 For the beautiful land is in your heart.

— Anthony Newley, Leslie Bricusse

CONSENT CALENDAR

No objection was made to **SB 26**, **SB 110** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2300. An act enacting the unborn victims of violence act, was considered on final action.

On roll call, the vote was: Yeas 85; Nays 38; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlson, Carter, Craft, Dahl, DeCastro, Decker, Dillmore, Faber, Feuerborn, Flower, Freeborn, Gatewood, George, Goico, Grange, Grant, Hayzlett, Henry, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Hutchins, Huy, Jack, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Landwehr, Larkin, Light, Long, Mast, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Phelps, Pilcher-Cook, Powell, Powers, Roth, Ruff, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Svaty, Swenson, Vickrey, Watkins, Weber, Wilk, Williams, Yoder.

Nays: Ballard, Carlin, Colloton, Cox, Crow, Davis, Faust-Goudeau, Flaharty, Flora, Garcia, Gordon, Hawk, Henderson, Hill, Holland, Huff, Huntington, D. Johnson, Kirk, Krehbiel, Kuether, Lane, Loganbill, Loyd, Mah, Menghini, M. Miller, Peterson, Pottorff, Ruiz, Sawyer, Sloan, Storm, Thull, Treaster, Ward, Winn, Yonally.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed.

EXPLANATION OF VOTE

MR. SPEAKER: One of the positions on which I have always run for office is one of less government. This bill creates a law which is already on the books.

K.S.A. 21-3440 and K.S.A. 21-3441 recognize the heinous nature of crimes committed against a mother and her unborn child and provides for judgments. These laws prescribe punishment greater and nearly doubled when committed against a pregnant woman. This law does nothing to significantly alter these statutes. Therefore, I vote No on **HB 2300**.—

LANA GORDON

HB 2338. An act concerning the state historical society; authorizing a competitive grant program for recording experiences of state veterans of World War II; concerning appropriations for the fiscal years ending June 30, 2006, and June 30, 2007, for the state historical society, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed.

HB 2374. An act concerning adoption; creating a task force to promote adoption, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

HB 2406, An act concerning public improvement districts; relating to procedure; financing; property and sales tax authority, was considered on final action.

On roll call, the vote was: Yeas 96; Nays 27; Present but not voting: 0; Absent or not voting: 2.

Yeas: Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Carlin, Colloton, Cox, Craft, Crow, Davis, DeCastro, Decker, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flower, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kelsey, Kiegerl, Kirk, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mays, McCreary, McKinney, McLeland, Menghini, M. Miller, Jim Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Phelps, Pottorff, Powell, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Siegfried, Sloan, Storm, Swenson, Thull, Treaster, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Aurand, Burroughs, Carlson, Carter, Dahl, Dillmore, Flora, Freeborn, M. Holmes, Huebert, Huy, Kelley, Kilpatrick, Kinzer, Knox, Mast, Merrick, F. Miller, Judy Morrison, Peck, Peterson, Pilcher-Cook, Powers, Shultz, Svaty, Vickrey, Ward.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 4, An act concerning the Kansas manufactured housing act; prescribing installation standards; providing for manufactured home installers' licenses; providing for apprentice installers' licenses; authorizing certain fees and civil penalties; amending K.S.A. 58-4205 and K.S.A. 2004 Supp. 58-4202, 74-8904 and 74-8959 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 13, An act concerning taxation; relating to confidentiality of information; disclosure; penalties; amending K.S.A. 75-702, 79-1119, 79-3392, 79-3614 and 79-4105 and K.S.A. 2004 Supp. 12-189, 75-5133, 79-3234 and 79-3657 and repealing the existing sections; also repealing K.S.A. 2004 Supp. 74-S017, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Burgess, Burroughs, Carlin, Carter, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flower, Garcia, Gatewood, George, Goico, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huff, Humerickhouse, Hutchins, Jack, D. Johnson, E. Johnson, Kelsey, Kilpatrick, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Powell, Roth, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Brunk, Carlson, Colloton, Flora, Freeborn, Gordon, Huebert, Huntington, Huy, Kelley, Kiegerl, Kinzer, Mast, F. Miller, Newton, Pilcher-Cook, Pottorff, Powers, Schwab, Schwartz, Ward.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: **SB 13** potentially puts out into the open sensitive information of Kansas companies. Some of this information could be used by their competitors against them. We stopped this measure last year, we should do so again. Mr. Speaker, I vote no on

SB 13.—SCOTT SCHWAB, LANA GORDON

SB 30, An act concerning public assistance; relating to persons convicted of a controlled substance related felony, was considered on final action.

On roll call, the vote was: Yeas 69; Nays 54; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Burgess, Burroughs, Carlin, Colloton, Craft, Crow, Decker, Faust-Goudeau, Feuerborn, Flaharty, Flower, Garcia, Gatewood, George, Goico, Grange, Grant, Hawk, Henderson, Henry, Holland, Horst, Huff, Huntington, Jack, D. Johnson, Kelsey, Kirk, Knox, Krehbiel, Kuether, Lane, Larkin, Loganbill, Long, Loyd, Mah, McCreary, McKinney, Menghini, M. Miller, Novascone, O'Malley, O'Neal, Otto, Owens, Pauls, Peterson, Phelps, Roth, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Shultz, Storm, Svaty, Swenson, Thull, Treaster, Ward, Weber, Williams, Winn, Yonally.

Nays: Bethell, Brown, Brunk, Carlson, Carter, Cox, Dahl, Davis, DeCastro, Dillmore, Faber, Flora, Freeborn, Gordon, Hayzlett, Hill, C. Holmes, M. Holmes, Huebert, Humerickhouse, Hutchins, Huy, E. Johnson, Kelley, Kiegerl, Kilpatrick, Kinzer, Landwehr, Light, Mast, Mays, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Oharah, Olson, Peck, Pilcher-Cook, Pottorff, Powell, Powers, Schwab, Schwartz, Siegfried, Sloan, Vickrey, Watkins, Wilk, Yoder.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 36, An act concerning the admission to practice law; requirements; fingerprints and criminal history, was considered on final action.

On roll call, the vote was: Yeas 114; Nays 9; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faust-Goudeau, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mast, Mays, McLeland, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, B. Sharp, S. Sharp, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Faber, Feuerborn, Kirk, Mah, McCreary, McKinney, Menghini, Schwartz, Shultz.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 37, An act concerning business entities; relating to franchise fees and taxes and annual report fees; amending K.S.A. 17-6709 and 17-6806 and K.S.A. 2004 Supp. 17-1513, 17-1618, 17-2036, 17-2037, 17-2718, 17-4634, 17-4677, 17-7002, 17-7503, 17-7504, 17-7505, 17-7507, 17-7509, 17-7510, 17-7512, 17-7514, 17-76, 125, 17-76, 139, 56-1a606, 56-1a607, 56-1a608, 56-1a610, 56a-1201, 56a-1202, 56a-1203, 56a-1204, 75-446 and 79-5401 and repealing the existing sections; also repealing K.S.A. 2004 Supp. 17-2036a, 17-7503a, 17-7504a, 17-7505a, 17-7507a, 17-7508, as amended by section 88 of 2004 Senate Bill No. 29, 17-7510a, 17-7512a, 17-76, 139a, 56-1a606a and 56-1a607a, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Ward.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 39, An act concerning sheriffs; relating to fees for service; amending K.S.A. 2004 Supp. 28-110 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth,

Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 42, An act concerning teachers; relating to licensure thereof; amending K.S.A. 71-201, 72-1381, 72-1383, 72-1387, 72-1388, 72-1389, 72-1390, 72-1392, 72-1393, 72-1394, 72-1395, 72-1396, 72—1397, 72-1398, 72-4526, 72-53,103, 72-5412, 72-5445, 74-32,101, 74-32,102, 74-32, 103 and 74-32,105 and K.S.A. 2004 Supp. 72-4470 and 72-4470a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 64; Nays 58; Present but not voting: 1; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brunk, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Davis, Decker, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, Grange, Grant, Hawk, Henderson, Hill, Holland, Huff, Jack, Kelsey, Kilpatrick, Kirk, Krehbiel, Kuether, Larkin, Light, Loganbill, Long, Loyd, Mah, Mays, Menghini, M. Miller, Jim Morrison, O'Neal, Otto, Owens, Peck, Phelps, Pottorff, Roth, Ruff, Ruiz, Sawyer, Schwab, B. Sharp, Shultz, Sloan, Storm, Swenson, Thull, Wilk, Williams, Winn, Yonally.

Nays: Brown, Burgess, Carter, Cox, Dahl, DeCastro, Dillmore, Faber, Flower, George, Goico, Gordon, Hayzlett, Henry, C. Holmes, M. Holmes, Huebert, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kiegerl, Kinzer, Knox, Landwehr, Lane, Mast, McCreary, McKinney, McLeland, Merrick, F. Miller, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, Oharah, Olson, Pauls, Peterson, Pilcher-Cook, Powell, Powers, Schwartz, S. Sharp, Siegfried, Svaty, Treaster, Vickrey, Ward, Watkins, Weber, Yoder.

Present but not voting: Horst.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: I vote no on **SB 42**. This is a shell game, a back door approach to help fund a new program implemented by the Department of Education six months ago.

SB 42 will help free up monies *currently* being used for certification purposes so it can be used in "other areas." Monies collected from increased certification fees will be designated specifically for certification purposes and will replace the money that was "shifted."

Are you confused? Make no mistake your teachers won't be. They will know exactly who voted to raise their certification fees.—BECKY HUTCHINS

MR. SPEAKER: **SB 42** is a hidden tax increase on our teachers. I vote no.—JOE MCLELAND

SB 55, An act concerning the employment security laws; relating to breath alcohol test; conclusive evidence of misconduct; amending K.S.A. 2004 Supp. 44-706 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm,

Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 63, An act concerning public utilities; relating to the definition thereof; amending K.S.A. 66-104 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 114; Nays 9; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Faust-Goudeau, Feuerborn, Flaharty, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Larkin, Light, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Williams, Winn, Yoder, Yonally.

Nays: Dillmore, Faber, Flora, Kirk, Kuether, Lane, Loganbill, Sloan, Wilk.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 74, An act relating to state educational institutions; concerning the conversion of positions in the classified service to positions in the unclassified service; amending K.S.A. 2004 Supp. 74-4925 and 75-2935 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Bethell, Brown, Brunk, Carlson, Carter, Colloton, Cox, Dahl, Davis, DeCastro, Decker, Freeborn, George, Goico, Grange, Hayzlett, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Huntington, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McLeland, Menghini, F. Miller, Jim Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Peck, Phelps, Pilcher-Cook, Pottorff, Powell, Roth, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Thull, Watkins, Weber, Wilk, Yoder, Yonally.

Nays: Beamer, Burgess, Burroughs, Carlin, Craft, Crow, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Garcia, Gatewood, Gordon, Grant, Hawk, Henderson, Henry, Holland, Humerickhouse, Hutchins, Huy, Kirk, Kuether, Lane, Larkin, McKinney, Merrick, M. Miller, Judy Morrison, Pauls, Peterson, Powers, Ruff, Ruiz, Sawyer, Svaty, Swenson, Treaster, Vickrey, Ward, Williams, Winn.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 75, An act concerning civil procedure; relating to immunity from liability for claims relating to weight gain or obesity, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Dahl, Davis, DeCastro, Decker, Faber, Feuerborn, Flower, Freeborn, Gatewood, George, Goico, Gordon, Grange, Grant, Hayzlett, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer,

Knox, Krehbiel, Landwehr, Larkin, Light, Long, Loyd, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Phelps, Pilcher-Cook, Pottorff, Powell, Roth, Ruff, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Thull, Treaster, Watkins, Weber, Wilk, Williams, Yoder, Yonally.

Nays: Crow, Dillmore, Faust-Goudeau, Flaharty, Flora, Garcia, Hawk, Henderson, Kirk, Kuether, Lane, Loganbill, Mah, Peterson, Powers, Ruiz, Sawyer, Swenson, Vickrey, Ward, Winn.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 100, An act concerning certain adult care homes; related to certain nursing facilities and assisted living facilities; relating to risk assessment plans and inspection reports; amending K.S.A. 39-935 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 87; Nays 36; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Cox, Craft, Dahl, DeCastro, Decker, Faber, Feuerborn, Flora, Flower, Freeborn, George, Goico, Gordon, Grange, Hayzlett, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Landwehr, Larkin, Light, Long, Mah, Mast, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Oharah, Olson, Otto, Peck, Phelps, Pilcher-Cook, Pottorff, Powell, Roth, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Thull, Vickrey, Watkins, Weber, Wilk, Yoder.

Nays: Ballard, Burroughs, Carlin, Colloton, Crow, Davis, Dillmore, Faust-Goudeau, Flaharty, Garcia, Gatewood, Grant, Hawk, Henderson, Kuether, Lane, Loganbill, Loyd, Menghini, M. Miller, O'Malley, Owens, Pauls, Peterson, Powers, Ruff, Ruiz, Sawyer, Storm, Svaty, Swenson, Treaster, Ward, Williams, Winn, Yonally.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: Everyone wants quality care in adult-care homes. In the long run, encouragement of risk-management will improve the level of care. This worked in hospitals, which have had the protections of risk-management since 1986, and it can work in adult-care facilities. Plaintiffs will still have access to medical records, can still interview witnesses, and due process will still provide them information not otherwise available. Public documents may still be admitted into evidence if relevant, which is the proper standard. I have consistently voted for the rights of the disabled and elderly; this bill will help, not hurt, the elderly and disabled. I vote yes on **SB 100**.—JEFF JACK

SB 107, An act concerning the employment security law; relating to the charging of benefit payments; amending K.S.A. 2004 Supp. 44-710 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson,

Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed.

SB 108, An act concerning employment security law; amending K.S.A. 44-719 and K.S.A. 2004 Supp. 44-703, 44-710a and 44-716a and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 116, An act relating to certain facilities; concerning social and rehabilitation services; providing injunctive authority against unlicensed facilities; amending K.S.A. 75-3307b and K.S.A. 2004 Supp. 65-5603 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 119, An act relating to the division of vehicles; concerning records thereof; amending K.S.A. 2004 Supp. 74-2012 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 105; Nays 18; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Garcia, Gatewood, George, Goico, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kirk, Knox, Krehbiel, Kuether, Larkin, Light, Loganbill, Long, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Malley, O'Neal, Oharah, Olson, Owens, Peck, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Watkins, Weber, Wilk, Williams, Yoder, Yonally.

Nays: Burroughs, Carlin, Dillmore, Freeborn, Gordon, Huntington, Kinzer, Landwehr, Lane, Loyd, Newton, Otto, Pauls, Peterson, Ruiz, Siegfried, Ward, Winn.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 126, An act concerning property taxation; relating to reduction of valuation of real property; amendment of tax rolls; payment of taxes under protest; exemptions; amending K.S.A. 2004 Supp. 79-1460 and 79-2005 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 138, An act concerning mathematics and science teachers; providing a tax credit against the income tax liability of certain business firms; establishing the mathematics and science teacher service scholarship act, was considered on final action.

On roll call, the vote was: Yeas 103; Nays 19; Present but not voting: 1; Absent or not voting: 2.

Yeas: Aurand, Ballard, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Faust-Goudeau, Flower, Freeborn, Garcia, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kirk, Knox, Krehbiel, Landwehr, Larkin, Light, Long, Loyd, Mast, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Owens, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Sawyer, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Yoder, Yonally.

Nays: Beamer, Dillmore, Faber, Feuerborn, Flaharty, Flora, Gatewood, Henderson, Jack, Kuether, Lane, Loganbill, Mah, Menghini, Otto, Pauls, Ruiz, B. Sharp, Winn.

Present but not voting: Kinzer.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 142. An act concerning elections; relating to advance voting ballots; amending K.S.A. 2004 Supp. 25-1124 and 25-1128 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 81; Nays 42; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Craft, Dahl, DeCastro, Decker, Faber, Flower, Freeborn, George, Goico, Gordon, Grange, Hayzlett, Henry, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Loyd, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Peck, Pilcher-Cook, Pottorff, Powell, Roth, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Sloan, Vickrey, Watkins, Weber, Wilk, Yoder, Yonally.

Nays: Ballard, Burroughs, Carlin, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Holland, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Mah, McKinney, Menghini, M. Miller, Pauls, Peterson, Phelps, Powers, Ruff, Ruiz, Sawyer, B. Sharp, Storm, Svaty, Swenson, Thull, Treaster, Ward, Williams, Winn.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 154. An act relating to food and beverages available to students in Kansas school districts; relating to nutrition guidelines, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 5; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Carlson, Faber, Huebert, Neufeld, Watkins.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 158. An act concerning property taxation; relating to hay storage structures; amending K.S.A. 2004 Supp. 79-201d and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison,

Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Yoder, Yonally.

Nays: Henderson, Winn.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed.

SB 161, An act concerning tort claims; relating to the liability of certain entities for services performed by offenders; amending K.S.A. 2004 Supp. 75-6102 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 181, An act concerning civil procedure; relating to actions alleging violations of Article 6 of the Kansas constitution; amending K.S.A. 2004 Supp. 60-2102 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 69; Nays 54; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Dahl, DeCastro, Decker, Flower, Freeborn, George, Goico, Gordon, Hayzlett, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Huntington, Hutchins, Huy, Jack, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Peck, Pilcher-Cook, Powell, Roth, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Watkins, Weber, Yoder, Yonally.

Nays: Ballard, Burroughs, Carlin, Cox, Craft, Crow, Davis, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grange, Grant, Hawk, Henderson, Henry, Holland, Humerickhouse, D. Johnson, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Pauls, Peterson, Phelps, Pottorff, Powers, Ruff, Ruiz, Sawyer, B. Sharp, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Wilk, Williams, Winn.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: We vote yes on **SB 181**. We know many people have expressed concerns about the language in subsection (b) that sets out the factors to be proved by plaintiffs in these lawsuits. It is our understanding that the House conferees will directly tie the burden of proof language to the provisions in **HB 2474** currently in conference, and that this

proposed language is acceptable to the Kansas Association of School Boards, the Kansas NEA and others concerned about the current language in **SB 181**. With this assurance, we vote yes on **SB 181**.—JEFF JACK, PAT COLLOTON, DEENA HORST

SB 192, An act concerning property taxation; relating to exemptions; renewable energy resources or technology; amending K.S.A. 2004 Supp. 79-201 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Flaharty, Flora, Flower, Freeborn, Garcia, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelsey, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Mah, Mays, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Ward, Watkins, Weber, Wilk, Williams, Yoder, Yonally.

Nays: Burroughs, Feuerborn, Gatewood, Henderson, Kelley, Kiegerl, Loyd, Mast, McCreary, McKinney, Peck, B. Sharp, Vickrey, Winn.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 209, An act concerning the transportation development district act; relating to district sales tax; amending K.S.A. 2004 Supp. 12-17,141, 12-17,142, 12-17,144 and 12-17,145 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 99; Nays 24; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Burroughs, Carlin, Carlson, Colloton, Cox, Craft, Crow, Davis, DeCastro, Decker, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Garcia, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, Horst, Huff, Humerickhouse, Huntington, Jack, D. Johnson, E. Johnson, Kelsey, Kilpatrick, Kirk, Knox, Krehbiel, Kuether, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mays, McKinney, McLeland, Menghini, Merrick, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Brown, Brunk, Burgess, Carter, Dahl, Dillmore, Freeborn, Gatewood, M. Holmes, Huebert, Hutchins, Huy, Kelley, Kiegerl, Kinzer, Landwehr, Mast, McCreary, F. Miller, Otto, Powell, Ward, Watkins, Weber.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

SB 256, An act concerning income taxation; relating to exemptions; payments to military personnel; amending K.S.A. 2004 Supp. 79-32,117 and repealing the existing section; also repealing K.S.A. 2004 Supp. 79-32,117j and 79-32,117k, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays,

McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed.

SB 258, An act concerning form of statutory and legal documents; prescribing certain duties on the judicial council; amending K.S.A. 59-2124, 59-2129, 59-2143, 59-2210, 60-258, 60-268, 60-302, 60-307, 60-706 and 61-2705 and K.S.A. 2004 Supp. 58-4301, 59-1507b, 60-201, 60-1102, 60-1103, 60-1103b, 60-2420 and 61-2713 and repealing the existing sections; also repealing K.S.A. 60-269 and the appendix of forms following K.S.A. 60-269, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuetner, Landwehr, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

On motion of Rep. Aurand, the House resolved into Committee of the Whole, with Rep. Huff in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **SB 27** be adopted; also, on motion of Rep. Mast to amend, the motion did not prevail, and the bill be passed as amended.

Committee report to **SB 48** be adopted; also, on motion of Rep. Loyd to amend, the motion did not prevail, and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Governmental Organization and Elections** recommends **SB 34** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL No. 34," as follows:

"HOUSE Substitute for SENATE BILL No. 34

By Committee on Governmental Organization and Elections

"AN ACT concerning open records; relating to exceptions to the requirement of disclosure thereof; amending K.S.A. 45-229 and K.S.A. 2004 Supp. 45-221, 66-1236 and 75-4319 and repealing the existing sections; also repealing K.S.A. 2004 Supp. 45-221g, 45-221h and 75-4319b.";

and the substitute bill be passed.

(**H. Sub. for SB 34** was thereupon introduced and read by title.)

MESSAGE FROM THE SENATE

Announcing passage of **SB 270, SB 272, SB 273, SB 295.**

Announcing passage of **HB 2014; Sub. HB 2142; HB 2280, HB 2364.**

Announcing passage of **Sub. HB 2003**, as amended; **Sub. HB 2087**, as amended; **HB 2103**, as amended; **HB 2128**, as amended; **HB 2232**, as amended; **HB 2253**, as amended; **Sub. HB 2261**, as amended; **Sub. HB 2276**, as amended; **HB 2341**, as amended; **HB 2386**, as amended; **HB 2448**, as amended; **HB 2466**, as amended.

Announcing rejection of **HB 2304.**

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

SB 270, SB 272, SB 273, SB 295.

On motion of Rep. Aurand, the House recessed until 1:30 p.m.

AFTERNOON SESSION

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

On motion of Rep. Aurand, the House resolved into Committee of the Whole, with Rep. Huff in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that, having voted on the prevailing side, Rep. E. Johnson moved, pursuant to House Rule 2302, that the Committee of the Whole reconsider its action in not recommending **SB 139** favorably for passage. Roll call was demanded.

On roll call, the vote was: Yeas 53; Nays 63; Present but not voting: 0; Absent or not voting: 9.

Yeas: Aurand, Ballard, Bethell, Brunk, Burgess, Carter, Cox, Craft, Dahl, Davis, Flower, Freeborn, George, Goico, Grange, Hill, Huebert, Huff, Huntington, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Krehbiel, Loyd, Mast, Mays, McLeland, Merrick, Jim Morrison, Judy Morrison, Newton, Novascone, O'Malley, Owens, Pilcher-Cook, Pottorff, Roth, Schwab, S. Sharp, Siegfried, Sloan, Vickrey, Weber, Wilk, Yoder, Yonally.

Nays: Beamer, Brown, Burroughs, Carlin, Carlson, Crow, DeCastro, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Gordon, Grant, Hawk, Hayzlett, Henderson, Henry, Holland, C. Holmes, M. Holmes, Humerickhouse, Hutchins, Knox, Kuether, Landwehr, Lane, Loganbill, Long, Mah, McCreary, McKinney, Menghini, F. Miller, M. Miller, Myers, Neufeld, Oharah, Olson, Otto, Pauls, Peck, Phelps, Powell, Powers, Ruff, Ruiz, Sawyer, Schwartz, B. Sharp, Shultz, Storm, Svaty, Swenson, Thull, Treaster, Ward, Watkins, Williams, Winn.

Present but not voting: None.

Absent or not voting: Colloton, Decker, Edmonds, Horst, Larkin, Light, O'Neal, Peterson, Showalter.

The motion of Rep. E. Johnson did not prevail.

SB 124, SB 183, SB 5, SB 194, SB 112, SB 175, SB 268; HB 2529, HB 2398, HB 2399; SB 60 be passed.

SB 132; Sub. HB 2245; SB 98; HR 6021; Sub. HB 2470 be passed over and retain a place on the calendar.

On motion of Rep. Mast to amend **SB 252**, the motion did not prevail, and the bill be passed.

Committee report recommending a substitute bill to **Sub. HB 2012** be adopted; also, on motion of Rep. Huntington be amended on page 17, in line 28, after "developer" by inserting "only"; in line 30, before the period by inserting ", subject to approval by the secretary of commerce";

On page 26, in line 36, by striking “statute book” and inserting “Kansas register”;

Also, on motion of Rep. Brown, **Sub. HB 2012** be amended on page 17, in line 30, before the period by inserting “, except that, for projects applying for approval after July 1, 2005, if a city uses eminent domain to acquire real property a developer to which the city sells or gives such real property shall be prohibited from reselling such real property at a profit to the developer. Such resale shall be void and ownership of the real property shall revert back to the city”;

Also, on further motion of Rep. Brown to amend **Sub. HB 2012**, the motion was withdrawn.

Also, on further motion of Rep. Brown, **Sub. HB 2012** be amended on page 19, in line 5, after the period by inserting “With respect to such redevelopment project applying for approval after January 1, 2006, that is intended to improve, update or renovate existing facilities, only the increased portion of state sales taxes collected due to the improvement, update or renovation, based upon revenues collected in the year prior to the year the special obligation bonds were issued for the improvement, update or renovation, shall be used to pay the principal and interest on the special obligation bonds issued for the project.”;

Also, roll call was demanded on motion of Rep. Grant to amend **Sub. HB 2012** on page 16, after line 37, by inserting the following:

“(j) During the construction of any bioscience development project, at least 75% of the construction jobs shall be filled by Kansas residents.”;

On roll call, the vote was: Yeas 52; Nays 67; Present but not voting: 0; Absent or not voting: 6.

Yeas: Ballard, Brown, Burgess, Burroughs, Carlin, Crow, Davis, DeCastro, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Holland, Humerickhouse, Hutchins, Huy, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Mah, McKinney, Menghini, M. Miller, Judy Morrison, Otto, Pauls, Phelps, Ruff, Ruiz, Sawyer, B. Sharp, Shultz, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Williams, Wimm.

Nays: Aurand, Beamer, Bethell, Brunk, Carlson, Carter, Colloton, Cox, Craft, Dahl, Decker, Edmonds, Faber, Freeborn, George, Goico, Gordon, Grange, Hayzlett, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Huntington, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Knox, Krehbiel, Landwehr, Light, Loyd, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Myers, Neufeld, Novascone, O’Malley, O’Neal, Oharah, Olson, Owens, Peck, Pottorff, Powell, Powers, Roth, Schwab, Schwartz, S. Sharp, Siegfried, Sloan, Watkins, Wilk, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Kinzer, Newton, Peterson, Pilcher-Cook, Showalter, Weber.

The motion of Rep. Grant did not prevail.

Also, on motion of Rep. Powell to amend **Sub. HB 2012**, Rep. Huntington requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane.

Also, on further motion of Rep. Grant to amend **Sub. HB 2012**, the motion did not prevail, and the substitute bill be passed as amended.

On motion to recommend **SB 47** favorably for passage, the motion did not prevail.

On motion of Rep. Otto to amend **SB 59**, the motion did not prevail, and the bill be passed.

On motion of Rep. Feuerborn to amend **SB 123**, the motion did not prevail, and the bill be passed.

On motion of Rep. Vickrey, **SB 78** be amended on page 1, by striking all in lines 14 through 43;

By striking all on pages 2, 3, 4, 5, 6 and 7;

On page 8, by striking line 1 and inserting the following:

“Section 1. K.S.A. 2004 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited

or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or *actual compensation employment contracts or employment-related contracts or agreements* and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, *except documents relating to the appointment of persons to fill a vacancy in an elected office.*

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, *except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.*

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, *except that as provided herein.* The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action, *criminal investigation or prosecution;*

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which

is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective

date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the ombudsman of corrections, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901, *et seq.*, and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 *et seq.* and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20 and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign

limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records, *other than criminal investigation records*, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; ~~or~~ (B) *transportation and sewer or wastewater treatment systems, facilities or equipment; or* (C) *private property or persons, if the records are submitted to the agency*. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. *Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.*

~~(46) Any information or material received by the secretary of state pursuant to subsection (b) of K.S.A. 2004 Supp. 44-1518, and amendments thereto, except when such information is required to be submitted in an application pursuant to K.S.A. 2004 Supp. 44-1520, and amendments thereto.~~

(46) Any information or material received by the register of deeds of a county from military discharge papers (DD Form 214). Such papers shall be disclosed: To the military dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the dischargee; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.

(47) Information that would reveal the location of a shelter or a safehouse or similar place where persons are provided protection from abuse.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of

the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) *Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.*

Sec. 2. K.S.A. 45-229 is hereby amended to read as follows: 45-229. (a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

- (1) The public record is of a sensitive or personal nature concerning individuals;
- (2) the public record is necessary for the effective and efficient administration of a governmental program; or
- (3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) ~~All~~ *Subject to the provisions of subsection (h), all exceptions to disclosure in existence on July 1, 2000, shall expire on July 1, 2005, and any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to reenact continue the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five years and that the exception shall be reviewed by the legislature before the scheduled date.*

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify to the president of the senate and the speaker of the house of representatives, by ~~June 1~~ *July 15*, the language and statutory citation of each exception which will expire in the following year which meets the criteria of an exception as defined in this section. Any exception that is not identified and certified to the president of the senate and the speaker of the house of representatives is not subject to legislative review and shall not expire. If the revisor of statutes fails to certify an exception that the revisor subsequently determines should have been certified, the revisor shall include the exception in the following year's certification after that determination.

(f) "Exception" means any provision of law which creates an exception to disclosure or limits disclosure under the open records act pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any other provision of law.

(g) A provision of law which creates or amends an exception to disclosure under the open records law shall not be subject to review and expiration under this act if such provision:

- (1) Is required by federal law;
 - (2) applies solely to the legislature or to the state court system.
- (h) (1) The legislature shall review the exception before its scheduled expiration and consider as part of the review process the following:
- (A) What specific records are affected by the exception;
 - (B) whom does the exception uniquely affect, as opposed to the general public;
 - (C) what is the identifiable public purpose or goal of the exception;
 - (D) whether the information contained in the records may be obtained readily by alternative means and how it may be obtained;

(2) An exception may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An

identifiable public purpose is served if the legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

(A) Allows the effective and efficient administration of a governmental program, which administration would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or

(C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exception of the type specified in paragraph (2)(B) or (2)(C) of this subsection (h) would occur if the records were made public.

(i) *Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) of this section on June 1, 2004, are hereby continued in existence until July 1, 2010, at which time such exceptions shall expire: 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-2227, 17-5832, 17-7503, 17-7505, 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405, 34-251, 38-1508, 38-1520, 38-1565, 38-1609, 38-1610, 38-1618, 38-1664, 39-709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, 45-221, 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849, 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 56-1a606, 56-1a607, 56a-1201, 56a-1202, 58-4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, 60-3335, 60-3336, 65-102b, 65-118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-34,126, 65-4019, 65-4608, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151, 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-996, 72-4311, 72-4452, 72-5214, 72-53,106, 72-5427, 72-8903, 73-1228, 74-2424, 74-2433f, 74-4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, 74-7405a, 74-8104, 74-8307, 74-8705, 74-8804, 74-9805, 75-104, 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133, 75-5266, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11, 76-3305, 79-1119, 79-1437f, 79-15,118, 79-3234, 79-3395, 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.*

Sec. 3. K.S.A. 2004 Supp. 66-1236 is hereby amended to read as follows: 66-1236. (a) In adopting procedures applicable in proceedings pursuant to K.S.A. 66-1233, and amendments thereto, the state corporation commission shall provide for:

(1) Confidentiality of information so that the amount of recovery requested, the amount of recovery allowed, the method of cost recovery requested and the method of cost recovery allowed is not disclosed;

(2) protective orders for all filings so that the citizens' utility ratepayer board may receive and review documents if the board intervenes;

(3) procedures to reflect rules of the United States nuclear regulatory commission or other regulatory bodies that govern the release of information and documentation which an applicant is required to submit to support the application or supply to the commission, commission staff or intervenors;

(4) the security cost recovery charge to be unidentifiable on customers' bills;

(5) the security cost recovery charge shall be allocated and added to all wholesale and retail rates and future contracts. Any contract existing on the effective date of this act, which does not specifically prohibit the addition of such charges, shall have such charges added;

(6) review of security-related filings in an expedited manner with reference only to security-related items to assure that the proposed items provide enhanced security;

(7) denial of any expenditure that the commission determines is not prudent or is not for security measures and approval of all other expenditures; and

(8) recovery of capital expenditures over a period equal to not more than ½ the usable lifetime of the capital investment.

(b) A determination by the commission of the prudence of an expenditure for security measures shall not be based on standard regulatory principles and methods of recovery and shall take fully into account the findings and intent of the legislature as stated in K.S.A. 2004 Supp. 66-1235, and amendments thereto.

(c) The provisions of this act and K.S.A. 66-1233, and amendments thereto, shall apply recovery of prudent expenditures for enhanced security incurred after September 11, 2001.

(d) Any confidential records or information relating to security measures provided or received under the provisions of this act and K.S.A. 66-1233, and amendments thereto, shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 4. K.S.A. 2004 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

(1) Personnel matters of nonelected personnel;

(2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;

(3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;

(4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;

(5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;

(6) preliminary discussions relating to the acquisition of real property;

(7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;

(8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection ~~(c)~~ (d)(1) of K.S.A. 38-1507 and amendments thereto or subsection ~~(c)~~ (e) of K.S.A. 38-1508 and amendments thereto;

(9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;

(10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;

(11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119 and amendments thereto;

(12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;

(13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or com-

munications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments; and

(14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

(d) *Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)(13), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.*

New Sec. 5. (a) On or before January 15, of each year, the county or district attorney of each county shall report to the attorney general all complaints received during the preceding fiscal year concerning violations of the open records act and open meetings act and the disposition of each complaint.

(b) The attorney general shall compile information received pursuant to subsection (a) with information relating to investigations of violations of the open records act and the open meetings act conducted by the office of the attorney general. The attorney general shall publish a yearly abstract of such information listing by name the public agencies which are the subject of such complaints or investigations.

Sec. 6. K.S.A. 45-229 and K.S.A. 2004 Supp. 45-221, 45-221g, 45-221h, 66-1236, 75-4319 and 75-4319b are hereby repealed.”; By renumbering the remaining section accordingly;

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

“AN ACT concerning open records; relating to exceptions to the requirement of disclosure thereof; amending K.S.A. 45-229 and K.S.A. 2004 Supp. 45-221, 66-1236 and 75-4319 and repealing the existing sections; also repealing K.S.A. 2004 Supp. 45-221g, 45-221h and 75-4319b.”;

Also, on motion of Rep. Faber, **SB 78** be amended on page 7, after line 42 by inserting the following:

“Sec. 2. K.S.A. 2004 Supp. 46-247 is hereby amended to read as follows: 46-247. The following individuals shall file written statements of substantial interests, as provided in K.S.A. 46-248 to 46-252, inclusive, and amendments thereto:

(a) Legislators and candidates for nomination or election to the legislature.

(b) Individuals holding an elected office in the executive branch of this state, and candidates for nomination or election to any such office.

(c) State officers, employees and members of boards, councils and commissions under the jurisdiction of the head of any state agency who are listed as designees by the head of a state agency pursuant to K.S.A. 46-285, and amendments thereto.

(d) Individuals whose appointment to office is subject to confirmation by the senate whether or not such individual is a state officer or employee.

(e) General counsels for state agencies irrespective of how compensated.

(f) The administrator or executive director of the education commission of the states, the interstate compact on agricultural grain marketing, the Mo-Kan metropolitan development district and agency compact, the Kansas City area transportation district and authority compact, the midwest nuclear compact, the central interstate low-level radioactive waste compact, the multistate tax compact, the Kansas-Oklahoma Arkansas river basin compact, the Kansas-Nebraska Big Blue river compact, and the multistate lottery.

(g) Private consultants under contract with any agency of the state of Kansas to evaluate bids for public contracts or to award public contracts.

(h) From and after January 1, 2003, any faculty member or other employee of a postsecondary educational institution as defined by K.S.A. 74-3201b, and amendments thereto,

who provides consulting services and who, on behalf of or for the benefit of the person for which consulting services are provided:

(1) Promotes or opposes action or nonaction by any federal agency, any state agency as defined by K.S.A. 46-224, and amendments thereto, or any political subdivision of the state or any agency of such political subdivision or a representative of such state agency, political subdivision or agency; or

(2) promotes or opposes action or nonaction relating to the expenditure of public funds of the federal government, the state or political subdivision of the state or agency of the federal government, state or political subdivision of the state.

(i) *From and after January 1, 2006, any faculty member, other than an adjunct faculty member, who is employed by a state education institution as defined by K.S.A. 76-711, and amendments thereto.*;

And by renumbering the remaining sections accordingly;

Also on page 7, in line 43, by striking “and 45-221h” and inserting “, 45-221h and 46-247”;

On page 1, in the title, in line 9, by striking “the open records act” and inserting “public access to records; relating to compensation of certain public employees;”; in line 10, after “and” by inserting “46-247 and”; and **SB 78** be passed as amended.

Committee report to **SB 225** be adopted; also, on motion of Rep. Feuerborn to amend, the motion did not prevail, and the bill be passed as amended.

On motion of Rep. Davis, **SB 121** be amended on page 3, after line 8, by inserting the following:

“Sec. 2. K.S.A. 2004 Supp. 17-6002 is hereby amended to read as follows: 17-6002. (a) The articles of incorporation shall set forth:

(1) The name of the corporation which, except for banks, shall contain one of the words “association,” “church,” “college,” “company,” “corporation,” “club,” “foundation,” “fund,” “incorporated,” “institute,” “society,” “union,” “*university*,” “syndicate” or “limited,” or one of the abbreviations “co.,” “corp.,” “inc.,” “ltd.,” or words or abbreviations of like import in other languages if they are written in Roman characters or letters, and which shall be such as to distinguish it upon the records in the office of the secretary of state from the names of other corporations, limited liability companies and limited partnerships organized, reserved or registered under the laws of this state, unless there shall be obtained the written consent of such other corporation, limited liability company or limited partnership executed and filed in accordance with K.S.A. 17-6003, and amendments thereto. The name of every corporation heretofore organized, except for banks, may be changed to conform to the provisions of this section, but such change of name for existing corporations shall not be required, and nothing herein shall be construed as requiring any corporation which is subject to special statutory regulation to include any of such names or abbreviations in the name of such corporation if such name or abbreviation would be inconsistent or in conflict with such special statutory regulation;

(2) the address, which shall include the street, number, city and zip code of the corporation’s registered office in this state, and the name of its resident agent at such address;

(3) the nature of the business or purposes to be conducted or promoted. It shall be sufficient to state, either alone or with other businesses or purposes, that the purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the Kansas general corporation code, and by such statement all lawful acts and activities shall be within the purposes of the corporation, except for express limitations, if any;

(4) if the corporation is to be authorized to issue only one class of stock, the total number of shares of stock which the corporation shall have authority to issue and the par value of each of such shares, or a statement that all such shares are to be without par value. If the corporation is to be authorized to issue more than one class of stock, the articles of incorporation shall set forth the total number of shares of all classes of stock which the corporation shall have authority to issue and the number of shares of each class, and shall specify each class the shares of which are to be without par value, and each class the shares of which are to have a par value and the par value of the shares of each such class. The articles of incorporation shall also set forth a statement of the designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereof, which are permitted by

K.S.A. 17-6401, and amendments thereto, in respect to any class or classes of stock or any series of any class of stock of the corporation and the fixing of which by the articles of incorporation is desired, and an express grant of such authority as it may then be desired to grant to the board of directors to fix by resolution or resolutions any thereof that may be desired but which shall not be fixed by the articles of incorporation. The provisions of this subsection shall not apply to corporations which are not organized for profit and which are not to have authority to issue capital stock. In the case of such corporations, the fact that they are not to have authority to issue capital stock shall be stated in the articles of incorporation and unless otherwise provided in the articles of incorporation or bylaws, the directors of such corporation shall be members for all purposes under the Kansas general corporation code. The conditions of membership of such corporations shall likewise be stated in the articles of incorporation or the articles may provide that the conditions of membership shall be stated in the bylaws, and if a corporation not organized for profit is to have authority to issue capital stock, such fact shall be stated in the articles of incorporation;

(5) the name and mailing address of the incorporator or incorporators; and

(6) if the powers of the incorporator or incorporators are to terminate upon the filing of the articles of incorporation, the names and mailing addresses of the persons who are to serve as directors until the first annual meeting of stockholders or until their successors are elected and qualify.

(b) In addition to the matters required to be set forth in the articles of incorporation by subsection (a), the articles of incorporation may also contain any or all of the following matters:

(1) Any provision for the management of the business and for the conduct of the affairs of the corporation, and any provision creating, defining, limiting and regulating the sale or other disposition of stock and the powers of the corporation, the directors and the stockholders, or any class of the stockholders, or the members of a nonstock corporation, if such provisions are not contrary to the laws of this state. Any provision which is required or permitted by any section of this act to be stated in the bylaws may be stated instead in the articles of incorporation;

(2) the following provisions, in these words: "Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them or between this corporation and its stockholders or any class of them, any court of competent jurisdiction within the state of Kansas, on the application in a summary way of this corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this corporation under the provisions of K.S.A. 17-6808 and 17-6901, and amendments thereto, may order a meeting of the creditors or class of creditors, or of the stockholders or class of stockholders of this corporation, as the case may be, to be summoned in such manner as the court directs. If a majority in number representing $\frac{3}{4}$ in value of the creditors or class of creditors, or of the stockholders or class of stockholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangement and the reorganization, if sanctioned by the court to which the application has been made, shall be binding on all the creditors or class of creditors, or on all the stockholders or class of stockholders, of this corporation, as the case may be, and also on this corporation";

(3) such provisions as may be desired granting to the holders of the stock of the corporation, or the holders of any class or series of a class thereof, the preemptive right to subscribe to any or all additional issues of stock of the corporation of any or all classes or series thereof, or to any securities of the corporation convertible into such stock. No stockholder shall have any preemptive right to subscribe to an additional issue of stock or to any security convertible into such stock unless, and except to the extent that, such right is expressly granted to such stockholder in the articles of incorporation. All such rights in existence on July 1, 1972, shall remain in existence unaffected by this paragraph (3) unless and until changed or terminated by appropriate action which expressly provides for such change or termination;

(4) provisions requiring for any corporate action, the vote of a larger portion of the stock or of any class or series thereof, or of any other securities having voting power, or a larger number of the directors, than is required by this act;

(5) a provision limiting the duration of the corporation's existence to a specified date; otherwise, the corporation shall have perpetual existence;

(6) a provision imposing personal liability for the debts of the corporation on its stockholders or members to a specified extent and upon specified conditions; otherwise, the stockholders or members of a corporation shall not be personally liable for the payment of the corporation's debts except as they may be liable by reason of their own conduct or acts;

(7) the manner of adoption, alteration and repeal of bylaws; and

(8) a provision eliminating or limiting the personal liability of a director to the corporation or its stockholders, policyholders or members for monetary damages for breach of fiduciary duty as a director, provided that such provision shall not eliminate or limit the liability of a director (A) for any breach of the director's duty of loyalty to the corporation or its stockholders, policyholders or members, (B) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (C) under the provisions of K.S.A. 17-6424, and amendments thereto, or (D) for any transaction from which the director derived an improper personal benefit. No such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective. All references in this subsection to a director shall be deemed also to refer to a member of the governing body of a corporation which is not authorized to issue capital stock.

(c) It shall not be necessary to set forth in the articles of incorporation any of the powers conferred on corporations by this act.”;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 9, by striking “is” and inserting “and K.S.A. 2004 Supp. 17-6002 are”;

On page 1, in the title, in line 9, by striking all after “concerning”; in line 10, by striking all before “amending” and inserting “corporations;”; in line 11, after “and” by inserting “K.S.A. 2004 Supp. 17-6002 and”; also in line 11, by striking “section” and inserting “sections”; and **SB 121** be passed as amended.

On motion of Rep. Bethell, **SB 216** be amended on page 3, in line 3, after “under” by inserting: “sections 1 to 4, inclusive, and amendments thereto of”;

On page 4, after line 22, by inserting the following:

“Sec. 5. (a) The secretary of health and environment is hereby authorized and directed to adopt rules and regulations establishing tuberculosis evaluation requirements for certain students entering college or university classrooms in Kansas having been born in or lived or traveled in countries identified by the centers for disease control and prevention as areas where tuberculosis is a health risk. Compliance with these rules and regulations, including all cost associated with the evaluation, shall be the joint responsibility of the educational institutions and the student or the parents or guardians of the student, where applicable. These rules and regulations shall establish evaluation criteria in compliance with best practice standards as recommended by the division of tuberculosis elimination of the centers for disease control.

(b) Any person found to be infected with tuberculosis infection or tuberculosis disease will be provided treatment and ongoing monitoring in accordance with K.S.A. 65-116a to 65-116m, inclusive, and amendments thereto.”;

And by renumbering section 5 as section 6;

On page 1, in the title, in line 12, before the period, by inserting: “; requiring tuberculosis evaluations for certain students who enter college or university classrooms”;

Also, on motion of Rep. McCreary, **SB 216** be amended on page 4, after line 22, by inserting: “Sec. 5. K.S.A. 65-3407 is hereby amended to read as follows: 65-3407. (a) Except as otherwise provided by K.S.A. 65-3407c and amendments thereto, no person shall construct, alter or operate a solid waste processing facility or a solid waste disposal area of a solid waste management system, except for clean rubble disposal sites, without first obtaining a permit from the secretary.

(b) Every person desiring to obtain a permit to construct, alter or operate a solid waste processing facility or disposal area shall make application for such a permit on forms provided for such purpose by the rules and regulations of the secretary and shall provide the secretary with such information as necessary to show that the facility or area will comply

with the purpose of this act. Upon receipt of any application and payment of the application fee, the secretary, with advice and counsel from the local health authorities and the county commission, shall make an investigation of the proposed solid waste processing facility or disposal area and determine whether it complies with the provisions of this act and any rules and regulations and standards adopted thereunder. The secretary also may consider the need for the facility or area in conjunction with the county or regional solid waste management plan. If the investigation reveals that the facility or area conforms with the provisions of the act and the rules and regulations and standards adopted thereunder, the secretary shall approve the application and shall issue a permit for the operation of each solid waste processing or disposal facility or area set forth in the application. If the facility or area fails to meet the rules and regulations and standards required by this act the secretary shall issue a report to the applicant stating the deficiencies in the application. The secretary may issue temporary permits conditioned upon corrections of construction methods being completed and implemented.

(c) Before reviewing any application for permit, the secretary shall conduct a background investigation of the applicant. The secretary shall consider the financial, technical and management capabilities of the applicant as conditions for issuance of a permit. The secretary may reject the application prior to conducting an investigation into the merits of the application if the secretary finds that:

(1) The applicant currently holds, or in the past has held, a permit under this section and while the applicant held a permit under this section the applicant violated a provision of subsection (a) of K.S.A. 65-3409, and amendments thereto; or

(2) the applicant previously held a permit under this section and that permit was revoked by the secretary; or

(3) the applicant failed or continues to fail to comply with any of the provisions of the air, water or waste statutes, including rules and regulations issued thereunder, relating to environmental protection or to the protection of public health in this or any other state or the federal government of the United States, or any condition of any permit or license issued by the secretary; or if the secretary finds that the applicant has shown a lack of ability or intention to comply with any provision of any law referred to in this subsection or any rule and regulation or order or permit issued pursuant to any such law as indicated by past or continuing violations; or

(4) the applicant is a corporation and any principal, shareholder, or other person capable of exercising total or partial control of such corporation could be determined ineligible to receive a permit pursuant to subsection (c)(1), (2) or (3) above.

(d) Before reviewing any application for a permit, the secretary may request that the attorney general perform a comprehensive criminal background investigation of the applicant; or in the case of a corporate applicant, any principal, shareholder or other person capable of exercising total or partial control of the corporation. The secretary may reject the application prior to conducting an investigation into the merits of the application if the secretary finds that serious criminal violations have been committed by the applicant or a principal of the corporation.

(e) (1) The fees for a solid waste processing or disposal permit shall be established by rules and regulations adopted by the secretary. The fee for the application and original permit shall not exceed \$5,000. Except as provided by paragraph (2), the annual permit renewal fee shall not exceed \$2,000. No refund shall be made in case of revocation. In establishing fees for a construction and demolition landfill, the secretary shall adopt a differential fee schedule based upon the volume of construction and demolition waste to be disposed of at such landfill. All fees shall be deposited in the state treasury and credited to the solid waste management fund. A city, county, other political subdivision or state agency shall be exempt from payment of the fee but shall meet all other provisions of this act.

(2) The annual permit renewal fee for a solid waste disposal area which is permitted by the secretary, owned and operated by the facility generating the waste and used only for industrial waste generated by such facility shall be not less than \$1,000 nor more than \$4,000. In establishing fees for such disposal areas, the secretary shall adopt a differential fee schedule based upon the characteristics of the disposal area sites.

(f) Plans, designs and relevant data for the construction of solid waste processing facilities and disposal sites shall be prepared by a professional engineer licensed to practice in Kansas and shall be submitted to the department for approval prior to the construction, alteration or operation of such facility or area. In adopting rules and regulations, the secretary may specify sites, areas or facilities where the environmental impact is minimal and may waive such preparation requirements provided that a review of such plans is conducted by a professional engineer licensed to practice in Kansas.

(g) Each permit granted by the secretary, as provided in this act, shall be subject to such conditions as the secretary deems necessary to protect human health and the environment and to conserve the sites. Such conditions shall include approval by the secretary of the types and quantities of solid waste allowable for processing or disposal at the permitted location.

(h) As a condition of granting a permit to operate any processing facility or disposal area for solid waste, the secretary shall require the permittee to: (1) Provide a trust fund, surety bond guaranteeing payment, irrevocable letter of credit or insurance policy, to pay the costs of closure and postclosure care; or (2) pass a financial test or obtain a financial guarantee from a related entity, to guarantee the future availability of funds to pay the costs of closure and postclosure care. The secretary shall prescribe the methods to be used by a permittee to demonstrate sufficient financial strength to become eligible to use a financial test or a financial guarantee procedure in lieu of providing the financial instruments listed in (1) above. Solid waste processing facilities or disposal areas, except municipal solid waste landfills, may also demonstrate financial assurance for closure and postclosure care costs by use of ad valorem taxing power. In addition, the secretary shall require the permittee to provide liability insurance coverage during the period that the facility or area is active, and during the term of the facility or area is subject to postclosure care, in such amount as determined by the secretary to insure the financial responsibility of the permittee for accidental occurrences at the site of the facility or area. Any such liability insurance as may be required pursuant to this subsection or pursuant to the rules and regulations of the secretary shall be issued by an insurance company authorized to do business in Kansas or by a licensed insurance agent operating under authority of K.S.A. 40-246b, and amendments thereto, and shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto. Nothing contained in this subsection shall be deemed to apply to any state agency or department or agency of the federal government.

(i) (1) Permits granted by the secretary as provided by this act shall not be transferable except as follows:

(A) A permit for a solid waste disposal area may be transferred if the area is permitted for only solid waste produced on site from manufacturing and industrial processes or on-site construction or demolition activities and the only change in the permit is a name change resulting from a merger, acquisition, sale, corporate restructuring or other business transaction.

(B) A permit for a solid waste disposal area or a solid waste processing facility may be transferred if the secretary approves of the transfer based upon information submitted to the secretary sufficient to conduct a background investigation of the new owner as specified in subsections (c) and (d) of K.S.A. 65-3407, and amendments thereto, and a financial assurance evaluation as specified in subsection (h) of K.S.A. 65-3407, and amendments thereto. Such information shall be submitted to the secretary not more than one year nor less than 60 days before the transfer. If the secretary does not approve or disapprove the transfer within 30 days after all required information is submitted to the secretary, the transfer shall be deemed to have been approved.

(2) Permits granted by the secretary as provided by this act shall be revocable or subject to suspension whenever the secretary shall determine that the solid waste processing or disposal facility or area is, or has been constructed or operated in violation of this act or the rules and regulations or standards adopted pursuant to the act, or is creating or threatens to create a hazard to persons or property in the area or to the environment, or is creating or threatens to create a public nuisance, or upon the failure to make payment of any fee required under this act.

(3) The secretary also may revoke, suspend or refuse to issue a permit when the secretary determines that past or continuing violations of the provisions of K.S.A. 65-3409, subsection (c)(3) of K.S.A. 65-3407 or K.S.A. 65-3424b, and amendments thereto, have been committed by a permittee, or any principal, shareholder or other person capable of exercising partial or total control over a permittee.

(j) Except as otherwise provided by subsection (i)(1), the secretary may require a new permit application to be submitted for a solid waste processing facility or a solid waste disposal area in response to any change, either directly or indirectly, in ownership or control of the permitted real property or the existing permittee.

(k) In case any permit is denied, suspended or revoked the person, city, county or other political subdivision or state agency may request a hearing before the secretary in accordance with K.S.A. 65-3412, and amendments thereto.

(l) (1) No permit to construct or operate a solid waste disposal area shall be issued on or after the effective date of this act if such area is located within ½ mile of a navigable stream used for interstate commerce or within one mile of an intake point for any public surface water supply system.

(2) Any permit, issued before the effective date of this act, to construct or operate a solid waste disposal area is hereby declared void if such area is not yet in operation and is located within ½ mile of a navigable stream used for interstate commerce or within one mile of an intake point for any public surface water supply system.

(3) The provisions of this subsection shall not be construed to prohibit: (A) Issuance of a permit for lateral expansion onto land contiguous to a permitted solid waste disposal area in operation on the effective date of this act; (B) issuance of a permit for a solid waste disposal area for disposal of a solid waste by-product produced on-site; (C) renewal of an existing permit for a solid waste area in operation on the effective date of this act; or (D) activities which are regulated under K.S.A. 65-163 through 65-165 or 65-171d, and amendments thereto.

(m) Before reviewing any application for a solid waste processing facility or solid waste disposal area, the secretary shall require the following information as part of the application:

(1) Certification by the board of county commissioners or the mayor of a designated city responsible for the development and adoption of the solid waste management plan for the location where the processing facility or disposal area is or will be located that the processing facility or disposal area is consistent with the plan. This certification shall not apply to a solid waste disposal area for disposal of only solid waste produced on site from manufacturing and industrial processes or from on-site construction or demolition activities.

(2) If the location is zoned, certification by the local planning and zoning authority that the processing facility or disposal area is consistent with local land use restrictions or, if the location is not zoned, certification from the board of county commissioners that the processing facility or disposal area is compatible with surrounding land use.

(3) For a solid waste disposal area permit issued on or after July 1, 1999, proof that the permittee owns the land where the disposal area will be located, if the disposal area is: (A) A municipal solid waste landfill; or (B) a solid waste disposal area that has: (i) A leachate or gas collection or treatment system; (ii) waste containment systems or appurtenances with planned maintenance schedules; or (iii) an environmental monitoring system with planned maintenance schedules or periodic sampling and analysis requirements. This requirement shall not apply to a permit for lateral or vertical expansion contiguous to a permitted solid waste disposal area in operation on July 1, 1999, if such expansion is on land leased by the permittee before April 1, 1999.

(n) *Before issuing any permit to construct or operate a solid waste disposal area, the secretary shall contract for a hydrogeologic site investigation of the proposed solid waste disposal area to be performed by an independent professional geologist licensed to practice in Kansas. The cost of the evaluation shall be paid by the applicant. The applicant shall notify local health officials of such evaluation and shall provide a copy of the evaluation to the local health officials.*

Sec. 6. K.S.A. 65-3407 is hereby repealed.”;

By renumbering the remaining sections accordingly;

On page 1, in the title, in line 9, by striking “infectious and contagious diseases” and inserting “the powers and duties of the secretary of health and environment”; also in line 9 by striking “powers and du-”; by striking all in line 10; in line 11, by striking “in investigating” and inserting “relating to the investigation of”; also in line 11, by striking “quarantine or isola-”; in line 12, by striking all before the period and inserting “also relating to permits for construction of solid waste processing facilities; amending K.S.A. 65-3407 and repealing the existing section”; and **SB 216** be passed as amended.

Committee report to **SB 7** be adopted; also, on motion of Rep. Faust-Goudeau to amend, Rep. Kiegerl requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane, and **SB 7** be passed as amended.

On motion of Rep. McCreary to amend **SB 148**, Rep. Crow requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane, and the bill be passed.

Committee report recommending a substitute bill to **H. Sub. for SB 24** be adopted; also, on motion of Rep. Mah be amended on page 5, in line 18, following “reasonable” by inserting “, whether the service plan was adequate”; in line 19, by striking “therewith” and inserting “with the annexation procedures”; following line 22, by inserting:

“Sec. 4. K.S.A. 12-531 is hereby amended to read as follows: 12-531. (a) ~~Five~~ *Three* years following the annexation of any land pursuant to K.S.A. 12-520 or 12-521, and amendments thereto, or, where there has been litigation relating to the annexation, ~~five~~ *three* years following the conclusion of such litigation, the board of county commissioners shall call a hearing to consider whether the city has provided the municipal services as provided in the timetable set forth in the plan in accordance with K.S.A. 12-520b or 12-521, and amendments thereto. The board of county commissioners shall schedule the matter for public hearing and shall give notice of the date, hour and place of the hearing to: (1) The city; and (2) any landowner in the area subject to the service extension plan.

(b) At the hearing, the board shall hear testimony as to the city’s extension of municipal services, or lack thereof, from the city and the landowner. After the hearing, the board shall make a finding as to whether or not the city has provided services in accordance with its service extension plan. If the board finds that the city has not provided services as provided in its service extension plan, the board shall notify the city and the landowner that such property may be deannexed, as provided in K.S.A. 12-532, if the services are not provided within 2½ years of the date of the board’s findings.”;

By renumbering sections accordingly;

Also on page 5, in line 23, by striking “and 12-520a” and inserting “, 12-520a and 12-531”;

In the title, in line 10, by striking “and 12-520a” and inserting “, 12-520a and 12-531”;

Also, on motion of Rep. Novascone, **H. Sub. for SB 24** be amended on page 5, in line 13, after “12-520” by inserting “(a)(1) through (6)”;

and the substitute bill be passed as amended.

Committee report to **SB 133** be adopted; and the bill be passed as amended.

Committee report to **SB 144** be adopted; also, on motion of Rep. Sloan to amend, Rep. Kinzer requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane.

Also, on motion to recommend **SB 144** favorably for passage, the motion did not prevail.

Committee report to **HB 2108** be adopted; and the bill be passed as amended.

Committee report to **HB 2530** be adopted; and the bill be passed as amended.

Committee report to **HB 2501** be adopted; also, roll call was demanded on motion of Rep. Lane to amend on page 2, in line 8, after the comma, by inserting “72-6435 and 72-8801 et seq.”;

On roll call, the vote was: Yeas 48; Nays 70; Present but not voting: 0; Absent or not voting: 7.

Yeas: Ballard, Burroughs, Carlin, Crow, Davis, DeCastro, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Holland, Huy, Kiegerl, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Pauls, Phelps, Pottorff, Powers, Ruff, Ruiz, Sawyer, B. Sharp, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Williams, Winn.

Nays: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Craft, Dahl, Decker, Edmonds, Faber, Flower, Freeborn, George, Goico, Gordon, Grange, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kilpatrick, Kinzer, Knox, Krehbiel, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Peck, Pilcher-Cook, Powell, Roth, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Sloan, Weber, Wilk, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Hayzlett, Landwehr, Light, Neufeld, Peterson, Showalter, Watkins.

The motion of Rep. Lane did not prevail.

Also, on motion of Rep. Bethell, **HB 2501** be amended on page 2, after line 18, by inserting the following:

"Sec. 4. K.S.A. 79-5a27 is hereby amended to read as follows: 79-5a27. On or before ~~June 15, 1999, and on or before~~ June 15 each year ~~thereafter~~, the director of property valuation shall certify to the county clerk of each county the amount of assessed valuation apportioned to each taxing unit therein for properties valued and assessed under K.S.A. 79-5a01 *et seq.*, and amendments thereto. The county clerk shall include such assessed valuations in the applicable taxing districts with all other assessed valuations in those taxing districts and on or before July 1 notify the appropriate officials of each taxing district within the county of the assessed valuation estimates to be utilized in the preparation of budgets for ad valorem tax purposes. If in any year the county clerk has not received the applicable valuations from the director of property valuation, the county clerk shall use the applicable assessed valuations of the preceding year as an estimate for such notification. *If the public utility has filed an application for exemption of all or a portion of its property, the county clerk shall not include such assessed valuation in the applicable taxing districts until such time as the application is denied by the state board of tax appeals or, if judicial review of the board's order is sought, until such time as judicial review is finalized.*";

And by renumbering sections accordingly;

Also on page 2, in line 19, after "K.S.A." by inserting "79-5a27 and K.S.A.";

On page 1, in the title, in line 12, before "amending" by inserting: "certification of assessed valuations apportioned to taxing districts;"; also in line 12, after "K.S.A." by inserting "79-5a27 and K.S.A.";

Also, on motion of Rep. O'Neal, **HB 2501** be amended on page 2, following line 18, by inserting:

"Sec. 4. K.S.A. 74-2426 is hereby amended to read as follows: 74-2426. (a) Orders of the board of tax appeals on any appeal, in any proceeding under the tax protest, tax grievance or tax exemption statutes or in any other original proceeding before the board shall be rendered and served in accordance with the provisions of the Kansas administrative procedure act. Notwithstanding the provisions of subsection (g) of K.S.A. 77-526 and amendments thereto, a final order of the board shall be rendered in writing and served within 120 days after the matter was fully submitted to the board unless this period is waived or extended with the written consent of all parties or for good cause shown.

(b) No final order of the board shall be subject to review pursuant to subsection (c) unless the aggrieved party first files a petition for reconsideration of that order with the board in accordance with the provisions of K.S.A. 77-529 and amendments thereto.

(c) Any action of the board pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions, except that:

(1) The parties to the action for judicial review shall be the same parties as appeared before the board in the administrative proceedings before the board. The board shall not be a party to any action for judicial review of an action of the board.

(2) There is no right to review of any order issued by the board in a no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 *et seq.*, 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and statutes of a similar character.

(3) The court of appeals has jurisdiction of any action for review pertaining to property appraised and assessed by the director of property valuation, excise, income or inheritance taxes assessed by the director of taxation and the exemption of any property from property taxation. The district court of the proper county has jurisdiction in all other cases.

(4) Review of orders issued by the board of tax appeals relating to the valuation or assessment of property for ad valorem tax purposes or relating to the tax protest shall be conducted by the district court of the county in which the property is located or, if located in more than one county, the district court of any county in which any portion of the property is located. *If the review of an order as provided in this subsection is sought by a county and the taxpayer prevails on such appeal, the court shall award to the taxpayer reasonable attorney fees and costs incurred by the taxpayer on such appeal.*

(5) In addition to the cost of the preparation of the transcript, the appellant shall pay to the board the other costs of certifying the record to the reviewing court. Such payment shall be made prior to the transmission of the agency record to the reviewing court.

(d) If review of an order of the board relating to excise, income or inheritance taxes, is sought by a person other than the director of taxation, such person shall give bond for costs at the time the petition is filed. The bond shall be in the amount of 125% of the amount of taxes assessed or a lesser amount approved by the court of appeals and shall be conditioned on the petitioner's prosecution of the review without delay and payment of all costs assessed against the petitioner.

(e) If review of an order is sought by a party other than the director of property valuation or a taxing subdivision and the order determines, approves, modifies or equalizes the amount of valuation which is assessable and for which the tax has not been paid, a bond shall be given in the amount of 125% of the amount of the taxes assessed or a lesser amount approved by the reviewing court. The bond shall be conditioned on the petitioner's prosecution of the review without delay and payment of all costs assessed against the petitioner.”;

Renumbering the remaining sections accordingly;

In line 19, before “K.S.A.” by inserting “K.S.A. 74-2426 and”;

On page 1, in the title, in line 12, by striking “amending” and inserting “providing for attorney fees and costs on appeals of orders of the board of tax appeals; amending K.S.A. 74-2426 and”; and **HB 2501** be passed as amended.

Committee report to **HB 2507** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 140** be adopted; also, roll call was demanded on motion to recommend the substitute bill favorably for passage.

On roll call, the vote was: Yeas 59; Nays 61; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aurand, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Dahl, Edmonds, Flower, Freeborn, George, Goico, Gordon, Grange, C. Holmes, M. Holmes, Huerbert, Humerickhouse, Huntington, Hutchins, Huy, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Myers, Neufeld, Newton, Novascone, O’Neal, Oharah, Olson, Otto, Peck, Pilcher-Cook, Pottorff, Powell, Schwab, Schwartz, S. Sharp, Siegfried, Watkins, Weber, Wilk, Yoder.

Nays: Ballard, Beamer, Burroughs, Carlin, Cox, Craft, Crow, Davis, DeCastro, Dillmore, Faber, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Hill, Holland, Horst, Huff, Jack, D. Johnson, Kirk, Kuether, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Judy Morrison, O’Malley, Owens, Pauls, Phelps, Powers, Roth, Ruff, Ruiz, Sawyer, B. Sharp, Shultz, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Williams, Winn, Yonally.

Present but not voting: None.

Absent or not voting: Decker, Faust-Goudeau, Hayzlett, Peterson, Showalter.

The motion to recommend **H. Sub. for SB 140** favorably for passage did not prevail.

Committee report to **SB 215** be adopted; also, on motion of Rep. O’Neal be amended on page 2, in line 20, before “A” by inserting “(a)”; in line 21, by striking “(a)” and inserting “(1)”; in line 27, by striking “(b)” and inserting “(2)”; following line 30, by inserting:

“(b) No lien filed pursuant to this act shall have preference or priority over a mortgage given by a purchaser to secure the payment of purchase money.”;

On page 3, in line 11, by striking all after “when”; by striking all in line 12; in line 13, by striking “and”;

On page 5, in line 9, by striking all after “demand”; by striking all in lines 12 through 14;

And by renumbering sections accordingly;

Also on page 5, following line 34, by inserting:

“Sec. 18. K.S.A. 58-2305 is hereby amended to read as follows: 58-2305. A mortgage given by a purchaser to secure the payment of purchase money shall have preference over a prior judgment against such purchaser *and any lien filed pursuant to the commercial real estate broker lien act, sections 1 through 17, and amendments thereto.*”

Sec. 19. K.S.A. 58-2305 is hereby repealed.”; And by renumbering the remaining section accordingly;

On page 1, in the title, in line 12, before the period by inserting “; amending K.S.A. 58-2305 and repealing the existing section”;

Also, on motion of Rep. Kinzer, **SB 215** be amended on page 5, in line 28, by striking “in damages”; in line 29, before the comma, by inserting “as a civil penalty”; and the bill be passed as amended.

On motion to recommend **HB 2106** favorably for passage, the motion did not prevail.

Committee report to **SB 94** be adopted; and the bill be passed as amended.

On motion of Rep. Jim Morrison, **SB 254** be amended on page 3, in line 2, by striking “statute book” and inserting “Kansas register”; and the bill be passed as amended.

Roll call was demanded on motion of Rep. Brunk to amend **SB 92** page 1, in line 19, after “exploitation” by inserting: “, or is in a condition where food and water may not be withheld under subsection (e)(7)(C) of K.S.A. 59-3075 and amendments thereto”;

on page 2, after line 6, by inserting the following:

“Sec. 2. K.S.A. 2004 Supp. 59-3075 is hereby amended to read as follows: 59-3075. (a) (1) The individual or corporation appointed by the court to serve as the guardian shall carry out diligently and in good faith, the general duties and responsibilities, and shall have the general powers and authorities, provided for in this section as well as any specific duties, responsibilities, powers and authorities assigned to the guardian by the court. In doing so, a guardian shall at all times be subject to the control and direction of the court, and shall act in accordance with the provisions of any guardianship plan filed with the court pursuant to K.S.A. 2004 Supp. 59-3076, and amendments thereto. The court shall have the authority to appoint counsel for the guardian, and the fees of such attorney may be assessed as costs pursuant to K.S.A. 2004 Supp. 59-3094, and amendments thereto.

(2) A guardian shall become and remain personally acquainted with the ward, the spouse of the ward and with other interested persons associated with the ward and who are knowledgeable about the ward, the ward’s needs and the ward’s responsibilities. A guardian shall exercise authority only as necessitated by the ward’s limitations. A guardian shall encourage the ward to participate in making decisions affecting the ward. A guardian shall encourage the ward to act on the ward’s own behalf to the extent the ward is able. A guardian shall encourage the ward to develop or regain the skills and abilities necessary to meet the ward’s own essential needs and to otherwise manage the ward’s own affairs. In making decisions on behalf of the ward, a guardian shall consider the expressed desires and personal values of the ward to the extent known to the guardian. A guardian shall strive to assure that the personal, civil and human rights of the ward are protected. A guardian shall at all times act in the best interests of the ward and shall exercise reasonable care, diligence and prudence.

(b) A guardian shall have the following general duties, responsibilities, powers and authorities:

(1) If the ward is a minor, to have the custody and control of the minor, and to provide for the minor’s care, treatment, habilitation, education, support and maintenance;

(2) if the ward is an adult, to take charge of the person of the ward, and to provide for the ward’s care, treatment, habilitation, education, support and maintenance;

(3) to consider and either provide on behalf of the ward necessary or required consents or refuse the same;

(4) to assure that the ward resides in the least restrictive setting appropriate to the needs of the ward and which is reasonably available;

(5) to assure that the ward receives any necessary and reasonably available medical care, consistent with the provisions of K.S.A. 2004 Supp. 59-3077, and amendments thereto, when applicable, and any reasonably available nonmedical care or other services as may be needed to preserve the health of the ward or to assist the ward to develop or retain skills and abilities;

(6) to promote and protect the comfort, safety, health and welfare of the ward;

(7) to make necessary determinations and arrangements for, and to give the necessary consents in regard to, the ward's funeral arrangements, burial or cremation, the performance of an autopsy upon the body of the ward, and anatomical gifts of the ward, subject to the provisions and limitations provided for in K.S.A. 65-2893 and 65-3210 and K.S.A. 65-1734, and amendments thereto; and

(8) to exercise all powers and to discharge all duties necessary or proper to implement the provisions of this section.

(c) A guardian shall not be obligated by virtue of the guardian's appointment to use the guardian's own financial resources for the support of the ward.

(d) A guardian shall not be liable to a third person for the acts of the ward solely by virtue of the guardian's appointment, nor shall a guardian who exercises reasonable care in selecting a third person to provide any medical or other care, treatment or service for the ward be liable for any injury to the ward resulting from the wrongful conduct of that third person.

(e) A guardian shall not have the power:

(1) To prohibit the marriage or divorce of the ward;

(2) to consent, on behalf of the ward, to the termination of the ward's parental rights;

(3) to consent to the adoption of the ward, unless approved by the court;

(4) to consent, on behalf of the ward, to any psychosurgery, removal of any bodily organ, or amputation of any limb, unless such surgery, removal or amputation has been approved in advance by the court, except in an emergency and when necessary to preserve the life of the ward or to prevent serious and irreparable impairment to the physical health of the ward;

(5) to consent, on behalf of the ward, to the sterilization of the ward, unless approved by the court following a due process hearing held for the purposes of determining whether to approve such, and during which hearing the ward is represented by an attorney appointed by the court;

(6) to consent, on behalf of the ward, to the performance of any experimental biomedical or behavioral procedure on the ward, or for the ward to be a participant in any biomedical or behavioral experiment, without the prior review and approval of such by either an institutional review board as provided for in title 45, part 46 of the code of federal regulations, or if such regulations do not apply, then by a review committee established by the agency, institution or treatment facility at which the procedure or experiment is proposed to occur, composed of members selected for the purposes of determining whether the proposed procedure or experiment:

(A) Does not involve any significant risk of harm to the physical or mental health of the ward, or the use of aversive stimulants, and is intended to preserve the life or health of the ward or to assist the ward to develop or regain skills or abilities; or

(B) involves a significant risk of harm to the physical or mental health of the ward, or the use of an aversive stimulant, but that the conducting of the proposed procedure or experiment is intended either to preserve the life of the ward, or to significantly improve the quality of life of the ward, or to assist the ward to develop or regain significant skills or abilities, and that the guardian has been fully informed concerning the potential risks and benefits of the proposed procedure or experiment or of any aversive stimulant proposed to be used, and as to how and under what circumstances the aversive stimulant may be used, and has specifically consented to such;

(7) to consent, on behalf of the ward, to the withholding or withdrawal of life-saving or life sustaining medical care, treatment, services or procedures, except:

(A) In accordance with the provisions of any declaration of the ward made pursuant to the provisions of K.S.A. 65-28,101 through 65-28,109, and amendments thereto; or

(B) if the ward, prior to the court's appointment of a guardian pursuant to K.S.A. 2004 Supp. 59-3067, and amendments thereto, shall have executed a durable power of attorney for health care decisions pursuant to K.S.A. 58-629, and amendments thereto, and such shall not have been revoked by the ward prior thereto, and there is included therein any provision relevant to the withholding or withdrawal of life-saving or life-sustaining medical care, treatment, services or procedures, then the guardian shall have the authority to act as

provided for therein, even if the guardian has revoked or otherwise amended that power of attorney pursuant to the authority of K.S.A. 58-627, and amendments thereto, or the guardian may allow the agent appointed by the ward to act on the ward's behalf if the guardian has not revoked or otherwise amended that power of attorney; or

(C) ~~in the circumstances where the ward's treating physician shall certify in writing to the guardian that the ward is in a persistent vegetative state or is suffering from an illness or other medical condition for which further treatment, other than for the relief of pain, would not likely prolong the life of the ward other than by artificial means, nor would be likely to restore to the ward any significant degree of capabilities beyond those the ward currently possesses, and which opinion is concurred in by either a second physician or by any medical ethics or similar committee to which the health care provider has access established for the purposes of reviewing such circumstances and the appropriateness of any type of physician's order which would have the effect of withholding or withdrawing life-saving or life sustaining medical care, treatment, services or procedures. Such written certification shall be approved by an order issued by the court when the guardian can prove beyond a reasonable doubt the ward's intent, after full informed consent, to withhold or withdraw health care or food and water in the current circumstances. The ward shall be afforded full and complete due process including, but not limited to, the right to court appointed counsel, notice, hearing, subpoena power, discovery, payment of costs for experts if such ward is deemed indigent and right to a jury trial. In making this determination, there shall be a presumption in favor of the continued treatment of the ward. If the ward is not able to communicate or give informed consent, the court appointed counsel shall make decisions on behalf of the ward in order to zealously represent the ward and protect such ward's constitutional rights. If the ward, or court appointed attorney on behalf of a noncommunicative ward, elects a jury trial, the panel shall consist of 12 members and render a unanimous verdict. The court should appoint an attorney from the protection and advocacy system for the state of Kansas if they are able to serve. Health care shall not include food and water. Food and water shall not be withheld or withdrawn without express written intent of the ward. Nonterminal physical or mental disability alone shall not be a rational reason for withholding or withdrawing medical treatment. People with nonterminal physical or mental disabilities who express an interest in withholding or withdrawing medical care should be treated the same as people without disabilities and be referred for appropriate support and services;~~

(8) to exercise any control or authority over the ward's estate, except if the court shall specifically authorize such. The court may assign such authority to the guardian, including the authority to establish certain trusts as provided in K.S.A. 2004 Supp. 59-3080, and amendments thereto, and may waive the requirement of the posting of a bond, only if:

(A) Initially, the combined value of any funds and property in the possession of the ward or in the possession of any other person or entity, but which the ward is otherwise entitled to possess, equals \$10,000 or less; and

(B) either the court requires the guardian to report to the court the commencement of the exercising of such authority, or requires the guardian to specifically request of the court the authority to commence the exercise of such authority, as the court shall specify; and

(C) the court also requires the guardian, whenever the combined value of such funds and property exceeds \$10,000, to:

(i) File a guardianship plan as provided for in K.S.A. 2004 Supp. 59-3076, and amendments thereto, which contains elements similar to those which would be contained in a conservatorship plan as provided for in K.S.A. 2004 Supp. 59-3078, and amendments thereto;

(ii) petition the court for appointment of a conservator as provided for in K.S.A. 2004 Supp. 59-3058, 59-3059 or 59-3060, and amendments thereto; or

(iii) notify the court as the court shall specify that the value of the conservatee's estate has equaled or exceeded \$10,000, if the court has earlier appointed a conservator but did not issue letters of conservatorship pending such notification; and

(9) to place the ward in a treatment facility as defined in K.S.A. 2004 Supp. 59-3077, and amendments thereto, except if authorized by the court as provided for therein.

(f) The guardian shall file with the court reports concerning the status of the ward and the actions of the guardian as the court shall direct pursuant to K.S.A. 2004 Supp. 59-3083, and amendments thereto.”;

And by renumbering sections accordingly;

Also on page 2, in line 7, by striking “is” and inserting “and 59-3075 are”;

On page 1, in the title, in line 9, before “relating” by inserting “concerning abuse, neglect or exploitation of persons;”; in line 10, before “amending” by inserting “concerning withholding or withdrawal of life-saving or life-sustaining care of certain persons;”; also in line 10, after “39-1404” by inserting “and 59-3075”; in line 11, by striking “section” and inserting “sections”;

On roll call, the vote was: Yeas 85; Nays 36; Present but not voting: 0; Absent or not voting: 4.

Yeas: Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Dahl, DeCastro, Dillmore, Faber, Feuerborn, Flower, Freeborn, Garcia, Gatewood, George, Goico, Grange, Grant, Hawk, Hayzlett, Henry, Hill, Holland, C. Holmes, M. Holmes, Huebert, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Lane, Larkin, Light, Long, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, Judy Morrison, Myers, Newton, Novascone, O’Malley, Oharah, Olson, Otto, Owens, Pauls, Peck, Phelps, Pilcher-Cook, Powers, Ruff, Ruiz, Sawyer, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams.

Nays: Aurand, Ballard, Colloton, Cox, Craft, Crow, Davis, Decker, Faust-Goudeau, Flaharty, Flora, Gordon, Henderson, Horst, Huff, Humerickhouse, Huntington, Kirk, Krehbiel, Kuether, Loganbill, Loyd, Mah, M. Miller, Jim Morrison, Neufeld, O’Neal, Pottorff, Powell, Roth, B. Sharp, Sloan, Storm, Winn, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Edmonds, Landwehr, Peterson, Showalter.

The motion of Rep. Brunk prevailed, and **SB 92** be passed as amended.

Committee report to **SB 10** be adopted; and the bill be passed as amended.

Committee report to **SB 151** be adopted; also, on motion of Rep. McCreary to amend, Rep. Owens requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane. Rep. McCreary challenged the ruling, the question being “Shall the Rules Chair be sustained?” The Rules Chair was sustained.

Also, on motion of Rep. Huebert to amend **SB 151**, the motion did not prevail, and the bill be passed as amended.

Committee report to **HB 2484** be adopted; also, on motion of Rep. Oharah be amended on page 1, in line 34, by striking “60 days” and inserting “six months”; and the bill be passed as amended.

Committee report to **Sub. SB 33** be adopted; also, on motion of Rep. Grant to amend, the motion did not prevail, and the bill be passed as amended.

Committee report to **SB 176** be adopted; also, on motion of Rep. Carter be amended on page 9, in line 33, by striking “60” and inserting “30”;

Also, on motion of Rep. Kiegerl to amend **SB 176**, Rep. Dillmore requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. The question reverted back to the motion of Rep. Kiegerl to amend, which did not prevail, and the bill be passed as amended.

Committee report to **Sub. SB 77** be adopted; also, on motion of Rep. O’Neal be amended on page 3, in line 24, by striking all after “Kansas”; in line 25, by striking “and training” and inserting “human rights commission”;

Also, on motion of Rep. Loyd, **Sub. SB 77** be amended on page 1, in the title, in line 12, after “racial” by inserting “and other”; and the bill be passed as amended.

Committee report to **SB 178** be adopted; and the bill be passed as amended.

Committee report to **Sub. SB 103** be adopted; also, on motion of Rep. O’Neal be amended on page 3, in line 41, by striking “Any” and inserting “(1) Except as provided in paragraph (2), any”;

On page 4, in line 6, by striking “amount of liability proceeds ac-”; by striking all in line 7, and inserting “bodily injury coverage carried by the owner or operator of the other motor vehicle.

(2) Any uninsured motorist coverage shall include an underinsured motorist provision which enables the insured or the insured’s legal representative to recover from the insurer the amount of damages for bodily injury or death to which the insured is legally entitled from the owner or operator of another motor vehicle covered by a combined single limit policy if the recovery by the insured is less than the per person underinsured motorist provision of the insured’s policy.”; and the bill be passed as amended

Committee report to **SB 82** be adopted; and the bill be passed as amended.

Committee report to **SB 72** be adopted; also, on motion of Rep. McCreary be amended on page 10, in line 1, before “Except” by inserting “(1)”; in line 15, by striking all after the period; in line 16, by striking all before “completion” and inserting “Upon”; after line 20, by inserting the following:

“(2) If a defendant’s sentence is modified pursuant to section 2, and amendments thereto, and such defendant fails to participate in or has a pattern of intentional conduct that demonstrates the offender’s refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to revocation of probation and the defendant shall serve the underlying prison sentence as established prior to the modification. Upon completion of the underlying prison sentence, the defendant shall not be subject to a period of postrelease supervision. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

New Sec. 5. (a) A person convicted of a felony violation of K.S.A. 65-4160 or 65-4162, on or after July 1, 1993, and sentenced therefor prior to November 1, 2003, may have such person’s sentences modified according to the provisions of this section if:

(1) The person’s sole crime of which convicted and for which incarcerated is such violation of K.S.A. 65-4160 or 65-4162; and

(2) such person meets the requirements of K.S.A. 2004 Supp. 21-4729, and amendments thereto.

(b) (1) The department of corrections shall conduct a review and prepare a report on all persons who committed such crimes during such dates. A copy of the report shall be transmitted to the inmate, the county or district attorney for the county from which the inmate was sentenced and the sentencing court.

(2) The department of corrections shall complete and submit to the appropriate parties the report on all imprisoned inmates who were convicted of a felony violation of K.S.A. 65-4160 or 65-4162, on or after July 1, 1993 but sentenced prior to November 1, 2003, and who have greater than 180 days to serve on such inmates’ sentence prior to such inmates’ initial release date. The department of corrections shall review inmates based on such inmate’s custody or security classification in the following order: Minimum, within 60 days of the effective date of this act; medium, within 90 days of the effective date of this act; and maximum, within 120 days of the effective date of this act.

(c) The reports on those inmates who would be eligible for modification of sentence as determined by the department of corrections shall be deemed to be correct unless objection thereto is filed by either the person or the prosecution officer within the 60-day period provided to request a hearing. If an objection is filed, the sentencing court shall determine if the person is eligible for a modification of sentence. The burden of proof shall be on the prosecution officer to prove that the person is not eligible for such modification of sentence.

(d) (1) Within 60 days of the issuance of such report, the inmate shall have the right to request a hearing by filing a motion with the sentencing court, regarding the modification of the sentence under this section to be held in the jurisdiction where the original criminal case was filed. The secretary of corrections shall be provided written notice of any request for a hearing. If a request for a hearing is not filed within 60 days of the issuance of the report, the person is not eligible for such modification of sentence.

(2) In the event a hearing is requested, and the court deems the hearing is necessary, the court shall schedule and hold the hearing within 60 days after it was requested and shall rule on the issues raised by the parties within 30 days after the hearing.

(3) Such offender shall be represented by counsel pursuant to the provisions of K.S.A. 22-4501 et seq., and amendments thereto.

(4) Nothing contained in this section shall be construed as requiring the appearance in person of the offender or creating such a right of appearance in person of the offender at the hearing provided in this section regarding the modification of a sentence under this section.

(5) In the event a hearing is requested and held, the court shall determine whether the safety of the members of the public will be jeopardized by such modification of sentence.

(6) If the court determines that the safety of the members of the public will not be jeopardized by such modification of sentence, the court shall enter an order regarding the person's modification of sentence and forward that order to the secretary of corrections who shall administer the modification of sentence. The court shall commit the person to treatment in a drug abuse treatment program pursuant to K.S.A. 2004 Supp. 21-4729, and amendments thereto.

(7) If the court determines that the safety of the members of the public will be jeopardized by such modification of sentence, the court shall enter an order denying the person's modification of sentence and the person shall remain in the custody of the department of corrections.

(e) All sentence modifications that result in an offender being released from a state correctional facility shall require that the offender be placed under the supervision of community corrections.

(f) An offender shall not be credited for service on the modified sentence for the amount of time spent in prison on the original prison sentence.

Sec. 6. K.S.A. 2004 Supp. 21-4729 is hereby amended to read as follows: 21-4729. ~~On and after November 1, 2003:~~ (a) There is hereby established a nonprison sanction of certified drug abuse treatment programs for certain offenders ~~who are sentenced on or after November 1, 2003~~. Placement of offenders in certified drug abuse treatment programs by the court shall be limited to placement of adult offenders, convicted of a felony violation of K.S.A. 65-4160 or 65-4162, and amendments thereto:

(1) Whose offense is classified in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, and amendments thereto or any substantially similar offense from another jurisdiction; or

(2) whose offense is classified in grid blocks 4-A, 4-B, 4-C or 4-D of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, and amendments thereto, or any substantially similar offense from another jurisdiction, if such person felonies committed by the offender were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes and the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement in a drug abuse treatment program.

(b) (1) As a part of the presentence investigation pursuant to K.S.A. 21-4714, and amendments thereto, offenders who meet the requirements of subsection (a) shall be subject to a drug abuse assessment.

(2) The drug abuse assessment shall include a statewide, mandatory, standardized risk assessment tool and an instrument validated for drug abuse treatment program placements and shall include a clinical interview with a mental health professional. Such assessment shall assign a high or low risk status to the offender and include a recommendation concerning drug abuse treatment for the offender.

(c) The sentencing court shall commit the offender to treatment in a drug abuse treatment program until determined suitable for discharge by the court but the term of treatment shall not exceed 18 months.

(d) Offenders shall be supervised by community correctional services.

(e) Placement of offenders under subsection (a)(2) shall be subject to the departure sentencing statutes of the Kansas sentencing guidelines act.

(f) (1) Offenders in drug abuse treatment programs shall be discharged from such program if the offender:

(A) Is convicted of a new felony, other than a felony conviction of K.S.A. 65-4160 or 65-4162, and amendments thereto; or

(B) has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding.

(2) Offenders who are discharged from such program shall be subject to the revocation provisions of subsection (n) of K.S.A. 21-4603d, and amendments thereto.

(g) As used in this section, "mental health professional" includes licensed social workers, licensed psychiatrists, licensed psychologists, licensed professional counselors or registered alcohol and other drug abuse counselors licensed or certified as addiction counselors who have been certified by the secretary of corrections to treat offenders pursuant to K.S.A. 2004 Supp. 75-52,144, and amendments thereto.;

And by renumbering sections accordingly;

Also on page 10, in line 21, by striking "and" and inserting in lieu thereof a comma; in line 22, after "4603d" by inserting "and 21-4729";

On page 1, in the title, in line 12, after the semicolon, by inserting "relating to the nonprison sanction of a certified drug abuse treatment program.;" in line 13, by striking "and" and inserting in lieu thereof a comma; in line 14, after "21-4603d" by inserting "and 21-4729"; and **SB 72** be passed as amended.

Committee report to **SB 19** be adopted; and the bill be passed as amended.

Committee report to **SB 147** be adopted; also, on motion of Rep. Carter to amend, the motion was withdrawn. Also, roll call was demanded on further motion of Rep. Carter to amend on page 1, in line 32, by striking "(6)" and inserting "(5)";

On page 2, in line 3, by striking "(6)" and inserting "(5)"; in line 12, by striking "(6)" and inserting "(5)"; in line 13, by striking "felony" and inserting "crime"; by striking all in lines 16 through 19;

And by renumbering the remaining sections accordingly;

On page 3, after line 23, by inserting the following:

"Sec. 2. K.S.A. 21-3510 is hereby amended to read as follows: 21-3510. (a) Indecent solicitation of a child is:

(1) Enticing or soliciting a child 14 or more years of age but less than 16 years of age to commit or to submit to an unlawful sexual act; or

(2) inviting, persuading or attempting to persuade a child 14 or more years of age but less than 16 years of age to enter any vehicle, building, room or secluded place with intent to commit an unlawful sexual act upon or with the child.

(b) Indecent solicitation of a child is a severity level ~~7~~ 6, person felony.

Sec. 3. K.S.A. 21-3511 is hereby amended to read as follows: 21-3511. Aggravated indecent solicitation of a child is:

(a) Enticing or soliciting a child under the age of 14 years to commit or to submit to an unlawful sexual act; or

(b) inviting, persuading or attempting to persuade a child under the age of 14 years to enter any vehicle, building, room or secluded place with intent to commit an unlawful sexual act upon or with the child.

Aggravated indecent solicitation of a child is a severity level ~~6~~ 5, person felony.

Sec. 4. K.S.A. 2004 Supp. 21-3516 is hereby amended to read as follows: 21-3516. (a) Sexual exploitation of a child is:

(1) Employing, using, persuading, inducing, enticing or coercing a child under 18 years of age to engage in sexually explicit conduct for the purpose of promoting any performance;

(2) possessing any ~~film, photograph, negative, slide, book, magazine or other printed or visual medium or any audio tape recording or any photocopy, video tape, video laser disk, computer hardware, software, floppy disk or any other computer related equipment or computer generated image that contains or incorporates in any manner any film, photograph, negative, photocopy, video tape or video laser disk in which a visual depiction~~ *visual depiction, including any photograph, film, video picture, digital or computer generated image or picture, whether made or produced by electronic, mechanical or other means, where such visual depiction of a child under 18 years of age is shown or heard engaging in sexually explicit conduct with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender, the child or another;*

(3) being a parent, guardian or other person having custody or control of a child under 18 years of age and knowingly permitting such child to engage in, or assist another to engage in, sexually explicit conduct for any purpose described in subsection (a)(1) or (2); or

(4) promoting any performance that includes sexually explicit conduct by a child under 18 years of age, knowing the character and content of the performance.

(b) As used in this section:

(1) "Sexually explicit conduct" means actual or simulated: Exhibition in the nude; sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex; masturbation; sado-masochistic abuse for the purpose of sexual stimulation; or lewd exhibition of the genitals, female breasts or pubic area of any person.

(2) "Promoting" means procuring, selling, providing, lending, mailing, delivering, transferring, transmitting, distributing, circulating, disseminating, presenting, producing, directing, manufacturing, issuing, publishing, displaying, exhibiting or advertising:

(A) For pecuniary profit; or

(B) with intent to arouse or gratify the sexual desire or appeal to the prurient interest of the offender, the child or another.

(3) "Performance" means any film, photograph, negative, slide, book, magazine or other printed or visual medium, any audio tape recording or any photocopy, video tape, video laser disk, computer hardware, software, floppy disk or any other computer related equipment or computer generated image that contains or incorporates in any manner any film, photograph, negative, photocopy, video tape or video laser disk or any play or other live presentation.

(4) "Nude" means any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered.

(c) Sexual exploitation of a child is a severity level 5, person felony.

(d) This section shall be part of and supplemental to the Kansas criminal code.";

Also on page 3, in line 24, after "K.S.A." by inserting "21-3510 and 21-3511 and K.S.A."; also in line 24, by striking "is" and inserting "and 21-3516 are";

On page 1, in the title, in line 13, after "amending" by inserting "K.S.A. 21-3510 and 21-3511 and"; also in line 13, after "and" by inserting "21-3516 and"; in line 14, by striking "section" and inserting "sections";

On roll call, the vote was: Yeas 106; Nays 6; Present but not voting: 0; Absent or not voting: 13.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Dahl, Davis, DeCastro, Decker, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Larkin, Loganbill, Long, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Pauls, Peck, Phelps, Pilcher-Cook, Powell, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Yoder, Yonally.

Nays: Crow, Huntington, Loyd, Owens, Roth, Winn.

Present but not voting: None.

Absent or not voting: Dillmore, Edmonds, Flora, Hayzlett, Kiegerl, Kirk, Kuether, Lane, Light, Peterson, Pottorff, Powers, Showalter.

The motion of Rep. Carter prevailed, and **SB 147** be passed as amended.

MESSAGES FROM THE SENATE

The Senate accedes to the request of the House for a conference on **HB 2247** and has appointed Senators Schodorf, Vratil and Lee as conferees on the part of the Senate.

Also, the Senate nonconcurrs in House amendments to **SB 69**, requests a conference and has appointed Senators Brownlee, Jordan and Kelly as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2082** and has appointed Senators Donovan, D. Schmidt and Lee as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2268** and has appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 69**.

Speaker pro tem Merrick thereupon appointed Reps. Dahl, Novascone and Ruff as conferees on the part of the House.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Wilk, the House nonconcurred in Senate amendments to **Sub. HB 2003** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Wilk, Huff and Thull as conferees on the part of the House.

On motion of Rep. Loyd, the House nonconcurred in Senate amendments to **Sub. HB 2087** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Loyd, Owens and Davis as conferees on the part of the House.

On motion of Rep. Loyd, the House nonconcurred in Senate amendments to **HB 2128** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Loyd, Owens and Davis as conferees on the part of the House.

On motion of Rep. Myers, the House nonconcurred in Senate amendments to **HB 2253** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Myers, Judy Morrison and Flaharty as conferees on the part of the House.

On motion of Rep. Loyd, the House nonconcurred in Senate amendments to **Sub. HB 2261** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Loyd, Owens and Davis as conferees on the part of the House.

On motion of Rep. Cox, the House nonconcurred in Senate amendments to **Sub. HB 2276** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Cox, Humerickhouse and Grant as conferees on the part of the House.

On motion of Rep. Loyd, the House nonconcurred in Senate amendments to **HB 2386** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Loyd, Owens and Davis as conferees on the part of the House.

On motion of Rep. Freeborn, the House nonconcurred in Senate amendments to **HB 2390** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Freeborn, Burgess and Menghini as conferees on the part of the House.

On motion of Rep. Wilk, the House nonconcurred in Senate amendments to **HB 2448** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Wilk, Huff and Thull as conferees on the part of the House.

On motion of Rep. Myers, the House nonconcurred in Senate amendments to **HB 2466** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Myers, Judy Morrison and Flaharty as conferees on the part of the House.

MESSAGE FROM THE SENATE

The Senate adopts the conference committee report to agree to disagree on **HB 2247** and has appointed Senators Schodorf, Vratil and Lee as second conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2247**, submits the following report:

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

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

JEAN SCHODORF
JOHN VRATIL
JANIS K. LEE
Conferees on part of Senate

KATHE DECKER
MICHAEL R. O'NEAL
BRUCE LARKIN
Conferees on part of House

On motion of Rep. Decker, the conference committee report on **HB 2247** was adopted. Speaker pro tem Merrick thereupon appointed Reps. Decker, O'Neal and Larkin as second conferees on the part of the House.

REPORT ON ENROLLED RESOLUTIONS

HR 6027 reported correctly enrolled and properly signed on March 24, 2005.

READING AND CORRECTION OF THE JOURNAL

In the Journal, on page 473, under Committee of the Whole, "**SB 107**" should read "**SB 107** be passed."

On motion of Rep. Aurand, the House adjourned until 10:00 a.m., Friday, March 25, 2005.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

