

# Journal of the Senate

FORTY-NINTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Monday, March 21, 2005—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with thirty-eight senators present.

Senators Allen and Wagle were excused.

President Morris introduced as guest chaplain, Dr. E. Alan Benson, Senior Pastor, Asbury Mt. Olive Church and East Topeka United Methodist Church, who delivered the invocation:

Holy God and Omnipotent Creator, thank YOU for allowing us to gather today to address the temporal affairs of this state. We ask that YOU will imbue each of us with a Spirit of genuine love for our colleagues and constituents. We ask that YOU will grant us the courage of conviction for commitment to positive actions for justice and peace. Holy God help each of us to look beyond our individual desires to the needs of those by whom we have been elected and therefore have been called to serve. We pray that your omniscient counsel will inform and guide us. Help us to remain ever mindful that the decisions which are legislated in this grand house today inevitably will influence and affect our lives and the lives of our families for generations to come. **With respect for the most powerful GOD of gods I pray, AMEN.**

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

**SB 305.** An act concerning the Kansas comprehensive grant program; relating to persons eligible for grants thereunder; amending K.S.A. 74-32, 120 and repealing the existing section, by Committee on Ways and Means.

## CHANGE OF REFERENCE

The President withdrew **SB 293** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Ways and Means.

## MESSAGE FROM THE GOVERNOR

**SB 16, SB 104, SB 114, SB 219** approved on March 21, 2005.

## MESSAGE FROM THE HOUSE

Announcing passage of **HB 2231, HB 2331, HB 2480, HB 2481, HB 2482, HB 2496, HB 2503.**

Also, passage of **SB 50.**

The House nonconcur in Senate amendment to **HB 2077**, requests a conference and appoints Representatives Jim Morrison, Mast and Kirk as conferees on the part of the House.

The House nonconcur in Senate amendment to **HB 2109**, requests a conference and appoints Representatives Hayzlett, Faber and Long as conferees on the part of the House.

## INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2231, HB 2331, HB 2480, HB 2481, HB 2482, HB 2496, HB 2503** were there-upon introduced and read by title.

**REPORT ON ENROLLED BILLS**

**SR 1831, SR 1832, SR 1835, SR 1836** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 21, 2005.

**REPORTS OF STANDING COMMITTEES**

Committee on **Agriculture** recommends **HB 2280**, as amended by House Committee be passed.

Also, **HB 2103**, as amended by House Committee, be amended on page 1, in line 28, by striking all after “except”; by striking all in lines 29 through 34; in line 35 before the semicolon by inserting: “a mechanical vehicle scale used solely to sell aggregate products shall be allowed a minimum tolerance of +/- 100 pounds. Such scale shall not be sold or moved to another location for use in commercial applications unless it complies with all applicable tolerances of the national institute of standards and technology handbook 44 entitled specifications, tolerances, and other technical requirements for weighing and measuring devices as published in October, 1994 or later versions as established in rules and regulations adopted by the secretary. This exception shall be in effect until June 30, 2011”; and the bill be passed as amended.

**HB 2341**, as amended by House Committee, be amended on page 1, after line 39, by inserting:

“New Sec. 2. (a) On and after the effective date of this section, the provisions of the Kansas seed law, and any rules and regulations promulgated thereunder relating to seed sale or use, including, but not limited to, planting, production, use, advertising, sale, distribution, storage, transportation, formulation, packaging, labeling, certification or registration of an agricultural seed within the state of Kansas, shall be applicable and uniform throughout this state and in all cities, counties and political subdivisions therein. No local authority shall enact or enforce any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas seed law unless expressly authorized by law to do so. Any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas seed law is hereby declared to be invalid and of no effect. Any amendment to the Kansas seed law or any amendment of the rules and regulations promulgated thereunder, shall supersede and preempt the conflicting, additional or supplemental provisions of any law, ordinance, rule, regulation or resolution enacted by any city, county or other political subdivision of this state. As used in this section, “Kansas seed law” means the statutes contained in article 14 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto.

(b) Nothing in this section shall be construed to preempt or otherwise limit the authority of any city, county or political subdivision therein to adopt and enforce zoning regulations, fire codes or hazardous waste disposal restrictions.

(c) The provisions of this section are part of and supplemental to the Kansas seed law.”; Renummer sections accordingly; and the bill be passed as amended.

Committee on **Commerce** recommends **Substitute for HB 2003** be amended on page 4, in line 19, after the period by inserting “The state treasurer may make estimated payments to the bioscience authority more frequently based on estimates provided by the secretary of revenue and reconciled annually.”; after line 36, by inserting the following:

“Sec. 3. K.S.A. 2004 Supp. 74-99b68 is hereby amended to read as follows: 74-99b68. (a) There is hereby established in the state treasury the bioscience research and development voucher federal fund for the purpose of providing matching federal moneys to enable qualified companies to undertake authority approved bioscience research and development projects in partnership with bioscience research institutions.

(b) The bioscience research and development voucher federal fund shall receive all federal moneys obtained from federal sources for bioscience research and development.

(c) Federal moneys deposited in the bioscience research and development voucher federal fund shall be disbursed by the state treasurer with the consent of the chairperson of the authority.

(d) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the bioscience research and development voucher federal fund interest earnings based on ~~the~~:

(1) *The average daily balance of moneys in the bioscience research and development voucher federal fund for the preceding month; and*

(2) *the net earnings rate of the pooled money investment portfolio for the preceding month.*”;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 37, by striking “and” and inserting a comma; also in line 37, after “74-99b34” by inserting “and 74-99b68”;

In the title, in line 9, after “the” by inserting “bioscience authority;”; also in line 9, after the semicolon by inserting “bioscience research and development voucher federal fund;”; in line 10, by striking the first “and” and inserting a comma; also in line 10, after “74-99b34” by inserting “and 74-99b68”; and the substitute bill be passed as amended.

Also, **HB 2232**, as amended by House Committee, be amended on page 2, in line 30, by striking “travel and tourism”; also in line 30, before “in” by inserting “business development”; and the bill be passed as amended.

**HB 2448**, as amended by House Committee, be amended on page 8, after line 18, by inserting the following:

“Sec. 7. K.S.A. 2004 Supp. 74-50,104 is hereby amended to read as follows: 74-50,104.

(a) The secretary shall administer the provisions of this act and the IMPACT program established thereunder. The secretary shall encourage Kansas basic enterprises with similar training needs to cooperate in establishing SKILL projects. The secretary shall coordinate the SKILL program with other job training programs administered by the department of commerce. The secretary shall provide opportunities for coordination and cooperation of SKILL projects with other job training activities in Kansas. Subject to the limitation in K.S.A. 74-50,103, the secretary shall be authorized to make direct investments in educational and related workforce development institutions, for the purpose of promoting improvements in workforce development, human capital, training expertise ~~and~~, infrastructure *and job retention*.

(b) The secretary shall adopt rules and regulations as follows: (1) Prescribing review standards and priorities for approval of proposed agreements under this act, including appropriate incentives for cooperation among projects, in order to maximize the number of new jobs created *or retained* with respect to individual Kansas basic enterprises, which will remain in Kansas, and (2) prescribing limits on program costs and on project and program size in relation to the number of new jobs created ~~or the wages of new jobs created and wages of new or retained jobs~~. No agreement shall be approved which provides for program costs of a project under the agreement of more than ~~90%~~ 95% of the amount equal to the estimated rate of withholding tax applied to the estimated amount of gross wages of all the new *or retained* jobs under the project over a ten-year period.

(c) Notice of the approval of a project or program *and an annual report of the number of jobs created or retained* under the IMPACT act shall be provided to the chairpersons of the senate committee on commerce and the committee on economic development of the house of representatives.

(d) The secretary may adopt such other rules and regulations as may be required for the implementation and administration of this act.

Sec. 8. K.S.A. 2004 Supp. 74-50,105 is hereby amended to read as follows: 74-50,105. (a) Subject to the approval of the secretary of commerce, an educational institution may enter into an agreement to establish a project and provide program services to an employer. As soon as possible after initial contact between an educational institution and an employer regarding the possibility of entering into an agreement, the educational institution shall inform the secretary of commerce about the potential project. *The secretary is also authorized to enter directly into agreements with employers for benefits under this act.* If an agreement is entered into, the *secretary, the* educational institution ~~and~~ *or the* employer shall notify the secretary of revenue within 15 calendar days.

(b) Among other provisions, an agreement shall include:

(1) Provisions regarding payment of program costs, including deferred costs, which may be paid from one or a combination of the following sources:

(A) The IMPACT program services fund;  
 (B) tuition, student fees, or special charges fixed by the educational institution to defray program costs in whole or in part; and

(C) grants or donations available from federal agencies or other public or private sources;

(2) a provision requiring each Kansas basic enterprise under the agreement to submit information to the secretary of commerce regarding the numbers of new *or retained* jobs and the wages and withholding taxes paid therefor;

(3) a provision which fixes any tuition and fee payments which shall be paid for program costs; and

(4) a provision which fixes an amount that shall be paid by an employer if an agreement is terminated or any provision of the agreement is breached by the employer prior to satisfaction of all of the employer's obligations under the agreement and which prescribes that any such payment shall be deposited in the state treasury to the credit of the IMPACT program services fund.

(c) Any payment required to be made by an employer shall be a lien upon the employer's business property until paid and has equal precedence with ordinary taxes and shall not be divested by a judicial sale. Property subject to the lien may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties and consequences as for the nonpayment of ordinary taxes. The purchasers at tax sale obtain the property subject to the remaining payments.

(d) The payment of program costs incurred under any agreement shall not be deferred for a period longer than 10 years from the date of the commencement of the project.

Sec. 9. K.S.A. 2004 Supp. 74-50,106 is hereby amended to read as follows: 74-50,106. (a) The secretary of commerce shall review applications for proposed agreements submitted by employers in accordance with the standards and guidelines prescribed by this act and by rules and regulations adopted under K.S.A. 74-50,104, and amendments thereto. Each application for approval of a proposed agreement shall be accompanied by information about the number and wages of the new or retained jobs created by the employer, documentation of existing training activities of the employer and such other information as may be required by the secretary of commerce.

(b) The secretary of commerce may pool the funding requirements of projects which are the subject of proposed agreements to determine the funding requirements of the ~~SKILL~~ IMPACT projects under consideration to facilitate the issuance of bonds by the Kansas development finance authority.

(c) The secretary of commerce is hereby authorized to expend funds raised pursuant to this act on major project investments. The secretary shall adopt guidelines consistent with this act concerning firm eligibility for major project investments and shall otherwise administer the major project investment portion of the IMPACT act.

(d) In order for an employer to be eligible for a major project investment, the employer must:

(1) Annually make an investment in training and education of the employer's employees that exceeds 2% of the employer's total annual payroll costs; or

(2) agree that a portion of any funds available under the agreement be spent directly on employee education and training.

(e) An employer not creating new jobs shall ~~not~~ be eligible for participation in ~~an~~ *to participate in the* IMPACT program ~~unless~~ if the employer meets the following criteria: (1) Maintains a minimum of 250 retained jobs; and (2) ~~makes a capital investment of at least \$50,000,000, and (3) if located in a metropolitan statistical area or a minimum of 100 retained jobs if located in a nonmetropolitan statistical area~~ the secretary of commerce finds that the program or project will be a major factor in the Kansas basic enterprise remaining in Kansas.

~~(f) Prior to obtaining financing from the Kansas development finance authority for any project, group of projects or major project investment for one or more employers, the secretary of commerce shall present each such project to the governor's council on work force training and investment for review and approval. No agreement shall be approved by~~

the secretary of commerce unless each project under the agreement has been reviewed and finally approved by the governor's council on work force training and investment.

Sec. 10. K.S.A. 2004 Supp. 74-50,107 is hereby amended to read as follows: 74-50,107. (a) The secretary shall determine and from time to time shall redetermine the rate at which moneys shall be credited to the IMPACT program repayment fund in order to satisfy all bond repayment obligations which have been incurred to finance program costs for IMPACT programs (which shall be referred to as the debt service rate) and the rate at which moneys shall be credited to the IMPACT program services fund in order to finance program costs that are not financed by bonds (which shall be referred to as the direct funding rate). The total of the debt service rate and the direct funding rate shall be the combined rate. Each rate so determined shall be certified to the secretary of revenue. The combined rate determined under this subsection shall not exceed 1.5%. On and after July 1, 2005, the combined rate determined under this subsection shall not exceed 2%.

(b) Upon receipt of the rates determined and certified under subsection (a), the secretary of revenue shall apply daily the combined rate to that portion of the moneys withheld from the wages of individuals and collected under the Kansas withholding and declaration of estimated tax act K.S.A. 79-3294 *et seq.*, and amendments thereto. The amount so determined shall be credited as follows: (1) The portion attributable to the debt service rate shall be credited to the IMPACT program repayment fund, and (2) the remaining portion shall be credited to the IMPACT program services fund.

For agreements entered into on and after July 1, 2006, the aggregate of all amounts credited to the IMPACT program repayment fund under this section during any fiscal year to pay bond repayment obligations on bonds to finance major project investments shall not exceed 20% of the amount which results when the rate of 1.5% is applied to all moneys withheld from the wages of individuals and received under the Kansas withholding and declaration of estimated tax act.

On and after July 1, ~~2005~~ 2006, the aggregate of all amounts credited to the IMPACT program repayment fund under this section during any fiscal year to pay bond repayment obligations on bonds to finance major project investments shall not exceed 20% of the amount which results when the rate of 2% is applied to all money withheld from the wages of individuals and received under the Kansas withholding and declaration of estimated tax act.”;

And by renumbering the remaining sections accordingly;

Also on page 8, in line 20, by striking “and” and inserting a comma; also in line 20, after “74-8136” by inserting “, 74-50,104, 74-50,105, 74-50,106 and 74-50,107”;

In the title, in line 11, by striking “and” and inserting a comma; also in line 11, after “74-8136” and inserting “, 74-50,104, 74-50,105, 74-50,106 and 74-50,107”;

and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **House Substitute for HB 2276** be passed.

Committee on **Judiciary** recommends **Substitute for HB 2087** be amended on page 1, in line 29, by striking “9” and inserting “8”; in line 42, by striking “9” and inserting “8”;

On page 2, in line 3, by striking “9-1599” and inserting “8-1599”; in line 24, by striking “9,” also in line 24, before “nonperson” by inserting “8,”; in line 35, by striking “9” and inserting “8”; in line 42, after “(a)” by inserting “Vital records identity fraud related to birth, death, marriage and divorce certificates shall be prosecuted pursuant to K.S.A. 21-3830, and amendments thereto.

(b)”;

On page 3, in line 2, after the comma by inserting “and amendments thereto,”; in line 4, by striking “(b)” and inserting “(c)”;

Also, **HB 2128**, as amended by House Committee, be amended on page 1, in line 20, by striking “KBI” and inserting “Kansas bureau of investigation”; in line 21, by striking “relating to criminal convictions”; in line 28, after the fifth comma by inserting “juvenile expungements,”;

On page 2, in line 4, before the period by inserting “or prohibit the disclosure of any such information to the post auditor in accordance with and subject to the provisions of the legislative post audit act”; preceding line 5, by inserting the following:

“Sec. 2. K.S.A. 2004 Supp. 21-4619 is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b) and (c), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Except as provided in subsection (c), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) a violation of K.S.A. 8-1567, and amendments thereto, or a violation of any law of another state, which declares to be unlawful the acts prohibited by that statute;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(4) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(5) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

(8) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(9) a violation of K.S.A. 21-3405b, prior to its repeal.

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in ~~subsection (a)(2)~~ of K.S.A. 21-3502, and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608, and amendments thereto; ~~(11) abuse of a child as defined in K.S.A. 21-3609, and amendments thereto;~~ ~~(12)~~ (11) capital murder as defined in K.S.A. 21-3439, and amendments thereto; ~~(13)~~ (12) murder in the first degree as defined in K.S.A. 21-3401, and amendments thereto; ~~(14)~~ (13) murder in the second

degree as defined in K.S.A. 21-3402, and amendments thereto; ~~(15)~~ (14) voluntary manslaughter as defined in K.S.A. 21-3403, and amendments thereto; ~~(16)~~ (15) involuntary manslaughter as defined in K.S.A. 21-3404, and amendments thereto; ~~(17)~~ (16) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 2004 Supp. 21-3442, and amendments thereto; ~~(18)~~ (17) sexual battery as defined in K.S.A. 21-3517, and amendments thereto, *when the victim was less than 18 years of age at the time the crime was committed*; ~~(19)~~ (18) aggravated sexual battery as defined in K.S.A. 21-3518, and amendments thereto; or ~~(20)~~ (19) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

(d) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. The petition shall state: (1) The defendant's full name;

(2) the full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(3) the defendant's sex, race and date of birth;

(4) the crime for which the defendant was arrested, convicted or diverted;

(5) the date of the defendant's arrest, conviction or diversion; and

(6) the identity of the convicting court, arresting law enforcement authority or diverting authority. There shall be no docket fee for filing a petition pursuant to this section. All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

(e) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(f) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2004 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(F) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(G) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(H) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-1252, and amendments thereto; or

(I) in any application for a commercial guide permit or associate guide permit under K.S.A. 32-964, and amendments thereto; or

(J) in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(h) Subject to the disclosures required pursuant to subsection (f), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime, but the expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

(i) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;



(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas sentencing commission;

(11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(12) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(13) the department of wildlife and parks and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a permit as a commercial guide or associate guide under K.S.A. 32-964, and amendments thereto;

(14) the Kansas law enforcement training commission and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

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

Sec. 3. K.S.A. 38-1610 is hereby amended to read as follows: 38-1610. (a) Except as provided in subsection (b), any records or files specified in this code concerning a juvenile offender may be expunged upon application to a judge of the court of the county in which the records or files are maintained. The application for expungement may be made by the person who is the juvenile offender or, if the person is a juvenile, by the person's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3439, 21-3442, 21-3502 (a)(1), 21-3503, 21-3504, 21-3506, 21-3509, 21-3510, 21-3511, 21-3516, 21-3517 when the victim was less than 18 years of age at the time the crime was committed, 21-3518, 21-3603, 21-3608 or 21-3609, and amendments thereto, or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

(c) When a petition for expungement is filed, the court shall set a date for a hearing on the petition and shall give notice thereof to the county or district attorney. The petition shall state: (1) The juvenile's full name; (2) the full name of the juvenile at the time of the trial, if different than (1); (3) the juvenile's sex and date of birth; (4) the offense for which the juvenile was adjudicated; (5) the date of the trial; and (6) the identity of the trial court. There shall be no docket fee for filing a petition pursuant to this section. All petitions for expungement shall be docketed in the original action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(d) (1) After hearing, the court shall order the expungement of the records and files if the court finds that:

(A) The person has reached 23 years of age or that two years have elapsed since the final discharge of the person;

(B) since the final discharge of the person, the person has not been convicted of a felony or of a misdemeanor other than a traffic offense or a juvenile offender under the Kansas juvenile justice code and no proceedings are pending seeking such a conviction or adjudication; and

(C) the circumstances and behavior of the petitioner warrant expungement.

(2) The court may require that all court costs, fees and restitution shall be paid.

(e) Upon entry of an order expunging records or files, the offense which the records or files concern shall be treated as if it never occurred, except that upon conviction of a crime or adjudication in a subsequent action under this code the offense may be considered in determining the sentence to be imposed. The person, the court and all law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the person. Inspection of the expunged files or records thereafter may be permitted by order of the court upon petition by the person who is the subject thereof. The inspection shall be limited to inspection by the person who is the subject of the files or records and those persons designated by that person.

(f) Copies of any order made pursuant to subsection (a) or (c) shall be sent to each public officer and agency in the county having possession of any records or files ordered to be expunged. If the officer or agency fails to comply with the order within a reasonable time after its receipt, the officer or agency may be adjudged in contempt of court and punished accordingly.

(g) The court shall inform any juvenile who has been adjudicated a juvenile offender of the provisions of this section.

(h) Nothing in this section shall be construed to prohibit the maintenance of information relating to an offense after records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the offender.

(i) Nothing in this section shall be construed to permit or require expungement of files or records related to a child support order registered pursuant to the Kansas juvenile justice code.

(j) Whenever the records or files of any adjudication have been expunged under the provisions of this section, the custodian of the records or files of adjudication relating to that offense shall not disclose the existence of such records or files, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(7) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission; or

(8) the Kansas sentencing commission.

Sec. 4. K.S.A. 38-1610 and K.S.A. 2004 Supp. 21-4619 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 10, by striking all after “concerning”; in line 11, by striking all before “criminal”; also in line 11, before the period by inserting “; relating to access; expungements; amending K.S.A. 38-1610 and K.S.A. 2004 Supp. 21-4619 and repealing the existing sections”; and the bill be passed as amended.

**Substitute for HB 2261** be amended on page 5, in line 13, by striking “statute book” and inserting “Kansas register”; and the substitute bill be passed as amended.

**HB 2304** be amended on page 2, in line 26, by striking “statute book” and inserting “Kansas register”; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2253**, as amended by House Committee, be amended on page 2, in line 26, by striking “Class” and inserting “class”; on line 29, by striking “c” and inserting “C”; by striking all in lines 32 and 33; in line 40, after “tags”, by inserting “taking big game or wild turkey during a closed season, taking big game or wild turkey in violation of subsections (a)(1), (2) or (7) of K.S.A. 32-1003, and amendments thereto, or taking big game or wild turkey in violation of subsection (a)(2) or (3) of K.S.A. 32-1004, and amendments thereto, or taking big game or wild turkey in violation of K.S.A. 32-1013, and amendments thereto.”;

On page 3, in line 3, by striking “big game or wild turkey permits and game tags” and inserting “this section”; by striking in line 8 “big game or wild turkey permits and game tags” and inserting “this section”; in line 9, after “and” by inserting “shall”; in line 10, before “less” by inserting “not”; in line 14, by striking “big game or wild turkey permits and game tags” and inserting “this section”; in line 15, after “and” by inserting “shall”; also in line 15, after “for” by inserting “not”; in line 20, by striking “big game or wild turkey permits and” and in line 21, by striking “game tags” and inserting “this section”; in line 22, before the “be” by inserting “shall”, also in line 22, after the “for” by inserting “not”; by striking all in lines 24 and 25;

On page 4, in line 1, after “K.S.A.” by inserting “32-1001,” also in line 1, following “32-1003” by inserting “, 32-1004”; in line 5, by striking “, the court shall order”; in line 6, after “,” by inserting “the court may order”; in line 11, after “,” by inserting “the court shall order”; in line 16, after “,” by inserting “the court shall order”; by striking all in lines 31 through 34;

Renumber sections accordingly;

On page 5, in line 32, by striking all after “(d)”, and by striking all in lines 33 and 34, and by inserting “Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.”;

On page 6, in line 30, by striking all after “(b)”, and all in lines 31 and 32, by inserting “Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.”;

On page 7, in line 18, by striking all after “(d)”, and all in lines 19 and 20, by inserting “Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.”; also following line 20, by inserting these sections:

Sec. 7. K.S.A. 2004 Supp. 32-1001 is hereby amended to read as follows: 32-1001. (a) It is unlawful for any person to:

(1) Participate or engage in any activity for which such person is required to have obtained a license, permit, stamp or other issue of the department under the wildlife and parks laws of this state or under rules and regulations of the secretary unless such person has obtained a currently valid such license, permit, stamp or other issue issued to such person;

(2) fail to carry in such person’s possession a currently valid license, permit, stamp or other issue of the department, issued to such person, while participating or engaging in any activity for which such person is required to have obtained such license, permit, stamp or

other issue under the wildlife and parks laws of this state or under rules and regulations of the secretary;

(3) refuse to allow examination of any license, permit, stamp or other issue of the department while participating or engaging in any activity for which such person is required to have obtained such license, permit, stamp or other issue under the wildlife and parks laws of this state or under rules and regulations of the secretary, upon demand by any officer or employee of the department or any officer authorized to enforce the laws of this state or rules and regulations of the secretary;

(4) while participating or engaging in fishing or hunting: (A) Fail to carry in such person's possession a card or other evidence which such person is required to carry pursuant to K.S.A. 32-980 and amendments thereto; or (B) refuse to allow inspection of such card or other evidence upon demand of any officer or employee of the department or any officer authorized to enforce the laws of this state or rules and regulations of the secretary; or

(5) make any false representation to secure any license, permit, stamp or other issue of the department, or duplicate thereof, or to make any alteration in any such license, permit, stamp or other issue.

(b) No person charged with violating subsection (a)(1) for failure to obtain a vehicle or camping permit for use of any state park, or any portion thereof or facility therein, or any other area or facility for which a vehicle or camping permit is required pursuant to rules and regulations of the secretary shall be convicted thereof unless such person refuses to purchase such permit after receiving a permit violation notice, which notice shall require the procurement of: (1) The proper daily permit or permits and payment, within 24 hours, of a late payment fee of \$15; or (2) an annual vehicle or camping permit, as the case may be, if such permit has been established by rule and regulation and adopted by the secretary.

(c) (1) In any prosecution charging a violation of subsection (a)(1) for failure to obtain a permit required by K.S.A. 32-901 and amendments thereto, proof that the particular vehicle described in the complaint was in violation, together with proof that the defendant named in the complaint was at the time of the violation the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the time when and place where the violation occurred.

(2) Proof of a written lease of, or rental agreement for, a particular vehicle described in the complaint, on the date and at the time of the violation, which lease or rental agreement includes the name and address of the person to whom the vehicle was leased or rented at the time of the violation, shall rebut the prima facie evidence that the registered owner was the person who parked or placed the vehicle at the time when and place where the violation occurred.

(d) No person who is a resident of this state and charged with violating subsection (a)(1) or (a)(2) shall be convicted thereof if such person produces in court or the office of the arresting officer the appropriate license, permit, stamp or other issue of the department, lawfully issued to such person and valid at the time of such person's arrest.

*(e) any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.*

Sec. 8. K.S.A. 2004 Supp. 32-1004 is hereby amended to read as follows: 32-1004. (a) It is unlawful for any person to:

(1) Possess a carcass of a big game animal or wild turkey, taken within this state, unless a game tag issued by the secretary is attached to it, and a check station tag is attached to it if required by the secretary, or refuse to make such carcass available for inspection by any officer authorized to enforce the laws of this state or rules and regulations of the secretary;

(2) possess any wildlife unlawfully killed or otherwise unlawfully taken outside this state;

(3) cause to be shipped within, from or into this state any illegally taken or possessed wildlife;

(4) intentionally import into this state, or possess or release in this state, any species of wildlife prohibited pursuant to K.S.A. 32-956 and amendments thereto;

(5) refuse to allow any conservation officer or deputy conservation officer or any law enforcement officer to inspect and count any wildlife in such person's possession; or

(6) refuse to allow any conservation officer or deputy conservation officer or any law enforcement officer to inspect any devices or facilities of such person which are used in taking, possessing, transporting, storing or processing any wildlife subject to the wildlife and parks laws of this state or rules and regulations of the secretary.

(b) The provisions of subsection (a)(1) do not apply to animals sold in surplus property disposal sales of department exhibit herds or animals legally taken outside this state.

(c) *Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.*;

By renumbering sections accordingly;

Also on page 7, in line 21, by striking “22-2908,”; in line 22 following “Supp.” by inserting “32-1001, 32-1004,”;

On page 1, in the title, in line 11, by striking “22-2908,” and in line 12, after “Supp.” by inserting “32-1001, 32-1004,”; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2279**, as amended by House Committee, be passed.

Also, **SB 303** be amended on page 1, by striking all in line 36 and inserting “within 24 hours before curtailment, except that if the end use customer is a residential dwelling, service to the dwelling may be curtailed immediately upon a good faith belief by the person seeking the curtailment that an emergency exists. The person seeking curtailment under this provision, within 24 hours of the curtailment, shall report to the state corporation commission the basis for and evidence supporting the good faith belief that curtailment was necessary under the emergency provisions of this section. In the event that the curtailment of the residential dwelling was not based upon a good faith belief and unnecessary, as subsequently determined by the state corporation commission, the person requesting the curtailment shall be held responsible for the cost of the service curtailment, including any reconnection costs and temporary heating costs.”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **HB 2478**, as amended by House Committee, be passed.

Also, **SB 270** be amended on page 1, in line 40, by striking “\$22,358” and inserting “\$21,736”;

On page 2, in line 9, by striking “\$280,241” and inserting “\$275,311”;

On page 3, in line 17, by striking “\$6,813,710” and inserting “\$6,628,329”;

On page 4, in line 40, by striking “\$136,808” and inserting “\$133,876”;

On page 5, in line 9, by striking “\$568,376” and inserting “\$556,138”; in line 25, by striking “\$2,659,350” and inserting “\$2,605,261”;

On page 6, in line 4, by striking “\$757,432” and inserting “\$742,492”; in line 14, by striking “\$968,691” and inserting “\$942,690”; in line 28, by striking “\$298,866” and inserting “\$294,049”;

On page 7, in line 24, by striking “\$250,154” and inserting “\$244,650”; in line 35, by striking “\$26,680” and inserting “\$26,022”;

On page 8, in line 5, by striking “\$1,539,427” and inserting “\$1,506,355”; in line 27, by striking “\$121,795” and inserting “\$119,900”; in line 41, by striking “\$613,848” and inserting “\$599,608”;

On page 9, in line 17, by striking “\$262,324” and inserting “\$257,749”; in line 30, by striking “\$927,444” and inserting “\$968,361”; in line 33, by striking “\$905,274” and inserting “\$965,274”;

On page 10, in line 4, by striking “\$2,428,530” and inserting “\$2,364,665”; in line 41, by striking “\$539,050” and inserting “\$530,265”;

On page 11, in line 39, by striking “\$273,825” and inserting “\$267,984”; following line 39, by inserting the following:

*“Provided, That the state board of veterinary examiners may make expenditures from the veterinary examiners fee fund for fiscal year 2006 for the costs of litigation and fees for private attorneys: Provided further, That all such expenditures for the costs of litigation and fees for private attorneys shall be in addition to any expenditure limitation imposed on the veterinary examiners fee fund for fiscal year 2006.”;*

Also on page 11, by striking all in lines 41, 42 and 43 and inserting in lieu thereof the following:

*“Provided, That the state board of veterinary examiners may make expenditures from the veterinary examiners fee fund for fiscal year 2007 for the costs of litigation and fees for private attorneys: Provided further, That all such expenditures for the costs of litigation and fees for private attorneys shall be in addition to any expenditure limitation imposed on the veterinary examiners fee fund for fiscal year 2007.”;*

On page 12, in line 6, by striking “\$496,973” and inserting “\$484,616”; in line 20, by striking “\$142,799” and inserting “\$138,214”;

On page 13, in line 32, by striking “13.0” and inserting “14.0”; in line 33, by striking “13.0” and inserting “14.0”;

On page 16, in line 23, by striking “\$567,524” and inserting “\$543,679”; in line 27, by striking “\$3,070,454” and inserting “\$2,973,057”; in line 31, by striking “\$2,665,484” and inserting “\$2,594,375”;

On page 17, in line 2, by striking “\$14,915,123” and inserting “\$15,259,082”;

On page 19, in line 5, by striking “\$1,943,180” and inserting “\$1,886,719”; in line 30, by striking “\$2,325,610” and inserting “\$2,263,865”;

On page 21, in line 11, by striking “\$175,737” and inserting “\$171,011”; in line 31, by striking “\$4,003,584” and inserting “\$4,185,493”;

On page 23, in line 4, by striking “\$1,303,205” and inserting “\$1,297,782”; in line 17, by striking “\$317,968” and inserting “\$309,717”;

On page 26, after line 10, by inserting the following:

*“Provided, That the state treasurer is hereby authorized to charge cash management fees, banking services fees and fees for processing warrants, vouchers and direct deposits for the services that the state treasurer’s office provides to other state agencies: Provided, however, That payroll warrants shall not be subject to any such fee, except for the charges to the state’s operating account for processing such warrants: Provided further, That such fees shall be based upon the number and type of transactions processed for each agency: And provided further, That the fees shall be based upon a combination of the banking fees incurred by the state treasurer and the operating costs for providing each service: And provided further, That the state treasurer shall revise the schedule of fees annually after consulting with various state agencies: And provided further, That all such fees collected shall be deposited in the state treasury to the credit of the services reimbursement fund of the state treasurer: And provided further, That moneys in the services reimbursement fund may be expended for the general operating expenditures of the state treasurer’s office in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or by a person designated by the state treasurer: And provided further, That the director of accounts and reports shall transfer to the services reimbursement fund one or more amounts certified by the state treasurer, for expenses incurred for unemployment insurance benefit warrants issued and processed and electronic transactions processed for the department of labor payable from the employment security fund, from moneys made available to the state under section 903(d) of the federal social security act, as amended, and credited to the employment security fund.”;*

On page 29, in line 40, by striking “\$1,159,173” and inserting “\$1,129,784”;

On page 30, in line 40, by striking “\$8,797,813” and inserting “\$8,812,309”;

On page 31, in line 14, by striking “\$1,880,771” and inserting “\$1,891,112”;

On page 32, in line 12, by striking “\$102,385,946” and inserting “\$95,256,056”;

On page 34, in line 32, by striking “\$7,152,369” and inserting “\$6,988,419”; in line 40, by striking “\$151,000” and inserting “\$146,849”;

On page 35, in line 10, by striking “\$1,460,991” and inserting “\$1,413,110”;

On page 37, in line 37, by striking “\$15,640,671” and inserting “\$15,251,220”;

On page 38, in line 33, by striking “\$735,067” and inserting “\$721,219”;

On page 40, in line 1, by striking “\$1,027,401” and inserting “\$994,082”; in line 20, by striking “\$1,794,812” and inserting “\$1,742,132”; in line 26, by striking “\$491,988” and inserting “\$479,072”; in line 31, by striking “\$1,368,626” and inserting “\$1,328,012”;

On page 41, in line 19, by striking “\$252,587” and inserting “\$236,745”;

On page 46, in line 35, by striking “\$2,113,213” and inserting “\$2,090,008”;

On page 52, in line 21, by striking "\$1,371,092" and inserting "\$1,328,874"; in line 36, by striking "\$20,678,285" and inserting "\$20,171,379";

On page 53, in line 4, by striking "\$41,037,199" and inserting "\$40,764,388";

On page 56, in line 18, by striking "\$81,810" and inserting "\$77,250"; in line 36, by striking "\$9,794,586" and inserting "No limit";

On page 57, in line 41, by striking "\$2,854,664" and inserting "\$2,781,427";

On page 58, after line 19, by inserting the following:

"(c) On July 1, 2005, the director of accounts and reports shall transfer \$200,000 from the state general fund to the state racing fund.;"

And by redesignating subsections accordingly;

On page 59, in line 32, by striking "\$198,237" and inserting "\$192,088"; in line 41, by striking "\$15,665,118" and inserting "\$15,487,118";

On page 64, in line 22, by striking "\$382,615" and inserting "\$374,618"; in line 36, by striking "\$11,911,056" and inserting "\$11,847,726";

On page 65, in line 16, by striking "\$345,330" and inserting "\$337,669"; in line 31, by striking "\$11,765,521" and inserting "\$11,480,064";

On page 66, in line 8, by striking "\$367,391" and inserting "\$355,941";

On page 67, in line 38, by striking "\$1,853,060" and inserting "\$1,791,901"; in line 42, by striking "\$455,760" and inserting "\$443,354";

On page 68, in line 4, by striking "\$2,358,597" and inserting "\$2,289,223"; in line 8, by striking "\$2,387,118" and inserting "\$2,241,887"; in line 22, by striking "\$2,132,503" and inserting "\$2,089,105";

On page 69, in line 1, by striking "\$6,891,248" and inserting "\$6,730,283";

On page 76, in line 15, by striking "\$9,910,933" and inserting "\$9,647,452";

On page 81, in line 35, by striking "\$281,293" and inserting "\$271,932"; in line 38, after the colon, by inserting: "*Provided, however,* That expenditures from such reappropriated balance shall not exceed \$10,164, except upon approval of the state finance council.;"

On page 82, in line 1, by striking "\$98,628" and inserting "\$96,626"; in line 4, before the period, by inserting: "*Provided, however,* That expenditures from such reappropriated balance shall not exceed \$1,267, except upon approval of the state finance council"; in line 13, by striking "\$1,702,344" and inserting "\$1,660,565"; in line 16, before the period, by inserting: "*Provided, however,* That expenditures from such reappropriated balance shall not exceed \$24,194, except upon approval of the state finance council"; in line 17, by striking "\$184,727" and inserting "\$182,638";

On page 83, in line 20, after the colon, by inserting: "*Provided, however,* That expenditures from such reappropriated balance shall not exceed \$404,467, except upon approval of the state finance council.;"

On page 84, in line 17, by striking "\$2,034,173" and inserting "\$1,983,509"; in line 20, before the period, by inserting: "*Provided, however,* That expenditures from such reappropriated balance shall not exceed \$25,944, except upon approval of the state finance council"; in line 21, by striking "\$1,068,131" and inserting "\$1,041,473"; in line 24, before the period, by inserting: "*Provided, however,* That expenditures from such reappropriated balance shall not exceed \$17,939, except upon approval of the state finance council";

On page 87, in line 7, by striking all after "fiscal" and inserting "year ending June 30, 2006."; in line 21, by striking "\$99,985,660" and inserting "\$97,338,249"; in line 37, by striking "\$152,587,618" and inserting "\$152,787,618";

On page 88, in line 5, before the period, by inserting: "*And provided further,* That the secretary of social and rehabilitation services shall not expand the existing public mental health provider system by opening up the medical card for the provision of mental health services to other than the existing medicaid eligible providers of mental health services as of March 1, 2005: *And provided further,* That the secretary of social and rehabilitation services shall work with the association of community mental health centers of Kansas, inc., to identify and address concerns related to service delivery, access and choice within the structure of the existing public mental health system"; in line 6, by striking "\$11,561,455" and inserting "\$10,845,530"; in line 26, by striking "\$24,137,685" and inserting "\$22,995,711";

On page 89, in line 3, by striking "\$9,086,679" and inserting "\$8,503,848"; in line 17, by striking "\$8,605,960" and inserting "\$7,976,698"; in line 37, by striking "\$3,838,339" and inserting "\$3,684,131";

On page 92, in line 37, by striking "\$1,059,910" and inserting "\$1,030,291"; in line 41, by striking "\$73,308,973" and inserting "\$73,643,973";

On page 94, in line 22, by striking "\$8,895,491" and inserting "\$8,890,040"; in line 25, before the period, by inserting: ": *Provided further*, That \$200,000 shall be expended from the children's cabinet early childhood discretionary grant program account for fiscal year 2006 for the department of health and environment infants and toddlers program";

On page 97, in line 19, by striking "75" and inserting "100"; in line 21, by striking "75" and inserting "100"; in line 26, before the period, by inserting: ": *And provided further*, That the department of social and rehabilitation services shall report to the legislature at the beginning of the regular session in 2006 with expenditure data regarding this program";

On page 98, in line 6, by striking "\$9,578,981" and inserting "\$9,459,374"; in line 10, by striking "\$2,500,000" and inserting "\$1,000,000";

On page 99, in line 42, by striking "\$4,817,000" and inserting "\$4,667,000";

On page 104, in line 6, by striking "\$1,625,815" and inserting "\$1,584,920"; in line 31, by striking "\$360,521" and inserting "\$351,212";

On page 105, in line 26, by striking "\$4,695,672" and inserting "\$4,556,293";

On page 106, in line 18, by striking "\$7,907,019" and inserting "\$7,681,055";

On page 107, in line 5, by striking "\$5,725,462" and inserting "\$5,578,459";

On page 111, by striking all in lines 9 through 19;

On page 114, by striking all in lines 7 through 17;

On page 116, by striking all in lines 2 through 12;

On page 117, by striking all in lines 25 through 35;

On page 120, by striking all in lines 5 through 15;

On page 122, by striking all in lines 15 through 25;

On page 125, by striking all in lines 42 and 43;

On page 126, by striking all in lines 1 through 9; in line 37, by striking "salaries" and inserting "expenses";

On page 127, in line 3, by striking "school of allied health"; also in line 3, by striking all after the last semicolon; in line 4, by striking all before "surplus"; in line 6, after the first semicolon, by inserting "Kansas university physicians inc., salaries reimbursements";

On page 128, in line 33, before "federal" by inserting "federal student education opportunity grant fund; federal college work study fund; educational nurse faculty loan program fund";

On page 129, by striking all in lines 14 through 24;

On page 131, in line 23, by striking "\$94,551" and inserting "\$42,150"; by striking all in lines 26 through 36; in line 41, by striking "\$3,302,107" and inserting "\$3,211,380";

On page 133, in line 22, by striking "\$1,048,998" and inserting "\$1,148,998";

On page 134, by striking all in lines 8 through 19 and inserting in lieu thereof the following:  
 "Out-district tuition off-set ..... \$3,200,000  
*Provided*, That the state board of regents is hereby authorized to make expenditures from the out-district tuition off-set account for grants to community colleges and Washburn university: *Provided further*, That such grants shall be distributed in proportion to the amount of out-district tuition received by the community colleges and Washburn university.";

On page 139, in line 6, by striking "\$15,476,471" and inserting "\$15,068,709";

On page 140, in line 9, by striking "\$42,867,437" and inserting "\$42,853,796"; in line 15, by striking "\$11,158,406" and inserting "\$10,822,863"; in line 23, by striking "\$26,228,871" and inserting "\$25,522,028"; in line 31, by striking "\$34,610,561" and inserting "\$33,657,254"; in line 39, by striking "\$11,348,068" and inserting "\$11,043,549";

On page 141, in line 4, by striking "\$10,701,697" and inserting "\$10,419,881"; in line 12, by striking "\$13,155,522" and inserting "\$12,795,611"; in line 20, by striking "\$22,209,809" and inserting "\$21,616,100"; in line 29, by striking "\$8,752,919" and inserting "\$8,504,251";



On page 144, in line 12, by striking "\$29,615,125" and inserting "\$29,530,708"; in line 22, by striking "\$14,948,370" and inserting "\$14,589,197"; in line 37, by striking "\$6,075,402" and inserting "\$5,957,064";

On page 145, in line 4, by striking "\$4,609,697" and inserting "\$4,503,193"; in line 14, by striking "\$8,012,838" and inserting "\$7,831,458";

On page 148, in line 27, by striking "\$4,252,206" and inserting "\$4,273,149";

On page 150, after line 27, by inserting the following:

"(c) In addition to the other purposes for which expenditures may be made by the adjutant general from moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2006 and from which expenditures may be made for salaries and wages, as authorized by this or other appropriation act of the 2005 regular session of the legislature, expenditures may be made by the adjutant general from such moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2006, notwithstanding the provisions of K.S.A. 48-205 and amendments thereto or any other statute, in addition to other positions within the adjutant general's department in the unclassified service as prescribed by law, to provide for one of the two assistant adjutants general authorized by K.S.A. 48-205 and amendments thereto to be designated as a position in the unclassified service under the Kansas civil service act: *Provided*, That the position of such assistant adjutant general in the unclassified service under the Kansas civil service act shall be established by the adjutant general within the position limitation established for the adjutant general on the number of full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, paid from appropriations for fiscal year 2006 made by this or other appropriation act of the 2005 regular session of the legislature: *Provided, however*, That any amount of expenditures for salaries and wages for fiscal year 2006 for such position of assistant adjutant general in the unclassified service under the Kansas civil service act in excess of the amount of expenditures authorized by law for the classified position of assistant adjutant general shall be funded entirely from moneys received from the federal government and appropriated for the adjutant general from one or more special revenue funds for fiscal year 2006 and shall not be funded from any moneys appropriated for the adjutant general from the state general fund for fiscal year 2006: *Provided further*, That the authority to establish such position in the unclassified service shall not affect the classified service status of any person who is an employee of the adjutant general in the classified service under the Kansas civil service act.";

Also on page 150, in line 36, by striking "\$3,381,344" and inserting "\$3,296,374";

On page 151, in line 10, by striking "\$434,218" and inserting "\$428,889"; in line 12, by striking "\$155,374" and inserting "\$152,325";

On page 152, in line 11, by striking "\$458,053" and inserting "\$444,326"; in line 19, by striking "\$35,647,855" and inserting "\$35,143,538";

On page 154, in line 28, by striking "\$14,591,746" and inserting "\$14,181,165";

On page 155, in line 18, by striking "\$3,647,936.50" and inserting "\$3,545,291.25";

On page 156, in line 8, by striking "\$8,416,225" and inserting "\$8,301,321.25"; after line 21, by inserting the following:

"(k) On and after the effective date of this act, during the fiscal year ending June 30, 2005, and during the fiscal year ending June 30, 2006, in addition to the other purposes for which expenditures may be made by the Kansas highway patrol and the department of administration from the moneys appropriated from the state general fund or any special revenue fund for fiscal years 2005 and 2006 by this or other appropriation act of the 2005 regular session of the legislature, notwithstanding the provisions of any other statute, expenditures shall be made by the Kansas highway patrol and the department of administration from the moneys appropriated from the state general fund or any special revenue fund for fiscal year 2005 and fiscal year 2006 to adopt policies and procedures for use by officers and employees of the Kansas highway patrol to facilitate and provide for automatic issuance of purchasing contract waivers or exemptions to permit each troop headquarters to purchase automotive parts and supplies from vendors other than those prescribed in existing purchasing contracts in those cases when vendors prescribed in existing purchasing contracts are not located within the five-digit zip code of the troop headquarters.";

Also on page 156, in line 27, by striking "\$12,813,745" and inserting "\$13,329,582";

On page 157, in line 17, by striking "\$77,488" and inserting "\$75,332"; in line 26, by striking "\$2,285,559" and inserting "No limit";

On page 159, in line 3, by striking "\$2,341,892" and inserting "No limit"; in line 30, by striking "\$1,100,666" and inserting "\$1,076,788";

On page 160, in line 31, by striking "\$100,000" and inserting "\$200,000";

On page 161, in line 7, by striking "\$573,188" and inserting "\$558,318"; in line 26, by striking "\$10,485,429" and inserting "\$10,167,101";

On page 164, after line 37, by inserting the following:

"Gifts and donations fund ..... No limit

*Provided*, That the secretary of agriculture is hereby authorized to receive gifts and donations of resources and money for services for the benefit and support of agriculture and purposes thereto: *Provided further*, That such gifts and donations of money shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215 and amendments thereto and shall be credited to the gifts and donations fund.

General fees fund ..... No limit

*Provided*, That expenditures may be made from the general fees fund for operating expenditures for the regulatory programs of the Kansas department of agriculture and for official hospitality: *Provided further*, That the secretary of agriculture is hereby authorized to fix, charge and collect fees in order to recover all or part of the costs incurred for such regulatory program activities and for official hospitality: *And provided further*, That such fees shall be fixed in order to recover all or part of the operating expenses incurred for the regulatory program activity or official hospitality for which such fees are imposed: *And provided further*, That all amounts received for such fees shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215 and amendments thereto and shall be credited to the general fees fund: *And provided further*, That the authority to fix, charge and collect such fees shall not authorize the secretary of agriculture to increase or otherwise change any fee authorized or fixed by any other statute or to fix, charge or collect any new or additional fees for any regulatory program of the Kansas department of agriculture for which fees are authorized or fixed by any other statute.";

Also on page 164, in line 41, by striking "\$68,773" and inserting "\$66,852"; in line 42, by striking "\$254,986" and inserting "\$248,859"; in line 43, by striking "\$554,369" and inserting "\$540,682";

On page 165, in line 1, by striking "\$187,925" and inserting "\$181,749"; by striking all in lines 20 through 35; in line 40, by striking "\$779,349" and inserting "\$736,232";

On page 166, by striking all in lines 32 through 39;

On page 167, by striking all in lines 14 through 20; in line 25, by striking "\$646,189" and inserting "\$618,941"; after line 29, by inserting the following:

"Any unencumbered balance in the multipurpose small lakes programs account in excess of \$100 as of June 30, 2005, is hereby reappropriated for fiscal year 2006: *Provided*, That expenditures shall be made from the multipurpose small lakes programs account for the construction of horsethief reservoir.";

On page 169, by striking all in line 3; by striking all in lines 40 through 43;

On page 170, by striking all in lines 1 through 9; in line 10, by striking "(h)" and inserting in lieu thereof "(g)"; in line 20, by striking "\$1,441,352" and inserting "\$1,394,620";

On page 171, in line 15, by striking "or Tuttle"; in line 16, by striking "Creek" and inserting "Big Hill or Hillsdale"; also in line 16, before the period, by inserting: ", unless a contract is entered into under the state water plan storage act, K.S.A. 82a-1301 *et seq.*, and amendments thereto, to supply water to users which is not held under contract in such reservoirs";

On page 174, in line 41, by striking "\$2,591,538" and inserting "\$2,557,778";

On page 176, in line 1, by striking "\$18,269,589" and inserting "\$18,559,554"; in line 12, by striking "\$6,465,950" and inserting "\$6,308,375"; in line 22, by striking "\$725,249" and inserting "\$699,185";

On page 179, in line 27, by striking "\$251,955,775" and inserting "\$247,013,531";

On page 182, after line 31, by inserting the following:

"(j) On and after the effective date of this act, during the fiscal year ending June 30, 2005, and during the fiscal year ending June 30, 2006, in addition to the other purposes for which expenditures may be made by the department of transportation and the department of

administration from the moneys appropriated from the state general fund or any special revenue fund for fiscal years 2005 and 2006 by this or other appropriation act of the 2005 regular session of the legislature, notwithstanding the provisions of any other statute, expenditures shall be made by the department of transportation and the department of administration from the moneys appropriated from the state general fund or any special revenue fund for fiscal year 2005 and fiscal year 2006 to adopt policies and procedures for use by officers and employees of the department of transportation to facilitate and provide for automatic issuance of purchasing contract waivers or exemptions to permit each subarea shop of the department of transportation to purchase automotive parts and supplies from vendors other than those prescribed in existing purchasing contracts in those cases when vendors prescribed in existing purchasing contracts are not located within the five-digit zip code of the subarea shop.”;

On page 183, in line 14, by striking “1,196.00” and inserting “1,146.00”;

On page 184, in line 4, by striking “200.00” and inserting “207.00”;

On page 191, by striking all in lines 30 through 43;

On page 192, by striking all in lines 1 through 7 and inserting in lieu thereof the following:

“(j) (1) In addition to the other purposes for which expenditures may be made by the legislature from the operations (including official hospitality) account of the state general fund for the fiscal year ending June 30, 2006, expenditures shall be made by the legislature from the operations (including official hospitality) account of the state general fund for fiscal year 2006 for an additional amount of allowance equal to the amount required to provide, along with the amount of allowance otherwise payable from appropriations for the legislature to each member of the legislature at the rate prescribed by subsection (c) of K.S.A. 46-137a and amendments thereto, an aggregate amount of allowance of \$332.10 for (A) the two-week period which coincides with the first biweekly payroll period which is chargeable to fiscal year 2006 and for each of the 14 ensuing two-week periods thereafter, and (B) the two-week period which coincides with the biweekly payroll period which includes April 1, 2006, which is chargeable to fiscal year 2006 and for each of the four ensuing two-week periods thereafter, for each member of the legislature to defray expenses incurred between sessions of the legislature for postage, telephone, office and other incidental expenses, which are chargeable to fiscal year 2006, notwithstanding the provisions of K.S.A. 46-137a, and amendments thereto: *Provided*, That all expenditures under this subsection (j)(1) for such purposes shall be made otherwise in the same manner that such allowance is payable to such members of the legislature for such two-week periods for which such allowance is payable in accordance with this subsection (j)(1) and which are chargeable to fiscal year 2006.

(2) In addition to the other purposes for which expenditures may be made by the legislature from the operations (including official hospitality) account of the state general fund for the fiscal year ending June 30, 2007, expenditures shall be made by the legislature from the operations (including official hospitality) account of the state general fund for fiscal year 2007 for an additional amount of allowance equal to the amount required to provide, along with the amount of allowance otherwise payable from appropriations for the legislature to each member of the legislature at the rate prescribed by subsection (c) of K.S.A. 46-137a and amendments thereto, an aggregate amount of allowance of \$332.10, except as otherwise provided in this subsection (j)(2), for (A) the two-week period which coincides with the first biweekly payroll period which is chargeable to fiscal year 2007 and for each of the 15 ensuing two-week periods thereafter, and (B) for the two-week period which coincides with the biweekly payroll period which includes April 1, 2007, which is chargeable to fiscal year 2007 and for each of the four ensuing two-week periods thereafter, for each member of the legislature to defray expenses incurred between sessions of the legislature for postage, telephone, office and other incidental expenses, which are chargeable to fiscal year 2007, notwithstanding the provisions of K.S.A. 46-137a, and amendments thereto: *Provided*, That, if the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act are increased for the payroll periods chargeable to the fiscal year ending June 30, 2007, then the aggregate amount of allowance payable under this subsection (j)(2) for the two-week period which coincides with the first biweekly pay period that such increase is effective and each of the two-week periods thereafter, which are chargeable to

fiscal year 2007 and for which such allowance is payable under this subsection (j)(2), shall be increased by an amount computed by multiplying the average of the percentage increases in all steps of such pay plan by the aggregate amount of allowance otherwise payable under this subsection (j)(2): *Provided further*, That all expenditures under this subsection (j)(2) for such purposes shall be made otherwise in the same manner that such allowance is payable to such members of the legislature for such two-week periods for which such allowance is payable in accordance with this subsection (j)(2) and which are chargeable to fiscal year 2007.”;

On page 196, after line 30, by inserting the following:

“Sec. 91. (a) In addition to the other purposes for which expenditures may be made by any state agency named in this or other appropriation act of the 2005 regular session of the legislature from the moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2006 as authorized by this or other appropriation act of the 2005 regular session of the legislature, expenditures are hereby authorized and directed to be made by each such state agency from moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2006 to provide a military pay differential for officers or employees of the state agency who are called or have been called to active military duty on or after September 11, 2001: *Provided, however*, That all such expenditures shall be made in accordance with and subject to the procedures, guidelines, limitations and restrictions, including the eligibility conditions, prescribed in executive directive no. 05-356.

(b) As used in this section, “state agency” means any state agency in the executive branch of state government.”;

And by renumbering sections accordingly;

On page 207, in line 20, before “such” by inserting “(1)”; in line 24, before the period, by inserting: “, and (2) the amount of moneys transferred from the state general fund to the state water plan fund during state fiscal year 2006 on each such date shall not exceed \$2,345,000”; and the bill be passed as amended.

**SB 272** be amended on page 3, after line 28, by inserting the following:

“(b) Notwithstanding the provisions of section 140(c)(1)(A) of chapter 123 of the 2004 Session Laws of Kansas, the amount to be transferred from the state board of pharmacy fee fund to the state general fund on or before June 30, 2005, shall not exceed \$843,600.”;

On page 4, after line 16, by inserting the following:

“(b) On the effective date of this act, the director of accounts and reports shall transfer \$103,183 from the state general fund to the settlements fund of the insurance department: *Provided*, That any unencumbered balance in the settlements fund account in excess of \$100 as of June 30, 2005, is hereby reappropriated for fiscal year 2006.”;

Also on page 4, in line 22, by striking “\$360,843” and inserting “\$95,116”; by striking all in lines 24 through 28 and inserting in lieu thereof the following:

“(b) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2005, the following:

Capital defense operations..... \$5,998”;

On page 5, in line 38, by striking “\$8,974,530” and inserting “\$9,118,480”;

On page 6, in line 13, by striking all after “(b)”; by striking all in lines 14, 15 and 16 and inserting in lieu thereof: “The director of accounts and reports shall not make the transfer of \$115,016 from the state racing fund of the Kansas racing and gaming commission to the state gaming revenues fund of the department of administration which was directed to be made on or before June 30, 2005, by section 92(g) of chapter 123 of the 2004 Session Laws of Kansas.”;

On page 8, in line 12, by striking “\$128,543” and inserting “\$3,543”;

On page 11, in line 4, by striking “\$59,293,068” and inserting “\$59,418,068”; after line 20, by inserting the following:

“(h) On the effective date of this act, of the \$6,772,365 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 24(g) of chapter 184 of the 2004 Session Laws of Kansas from the state institutions building fund in the rehabilitation and repair projects account, the sum of \$1,759,394 is hereby lapsed.”;

On page 12, in line 13, by striking “\$167,269” and inserting “\$108,722”;

On page 13, after line 9, by inserting the following:

“(c) On the effective date of this act of the \$32,910,090 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 121(a) of chapter 123 of the 2004 Session Laws of Kansas from the state general fund in the Lansing correctional facility — facilities operations account, the sum of \$68,468, is hereby lapsed.

(d) On the effective date of this act, the \$1,460,000 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 37(a) of chapter 184 of the 2004 Session Laws of Kansas from the state general fund in the bedspace contracts account, is hereby lapsed.

(e) On the effective date of this act, the \$3,637,303 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 147 (a) of chapter 123 of the 2004 Session Laws of Kansas from the state general fund in the debt service payment for the revenue refunding bond issues account, is hereby lapsed.

(f) On the effective date of this act, the \$164,000 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 147 (a) of chapter 123 of the 2004 Session Laws of Kansas from the state general fund in the debt service payment for the Wichita work release facility bond issue account, is hereby lapsed.

(g) On the effective date of this act, the \$1,625,000 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 147 (a) of chapter 123 of the 2004 Session Laws of Kansas from the state general fund in the debt service payment for the Ellsworth correctional facility at Ellsworth, Kansas account, is hereby lapsed.

(h) On the effective date of this act, the \$1,334,000 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 147 (a) of chapter 123 of the 2004 Session Laws of Kansas from the state general fund in the debt service payment for the reception and diagnostic unit relocation bond issue account, is hereby lapsed.

(i) On the effective date of this act, the \$1,018,000 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 147 (a) of chapter 123 of the 2004 Session Laws of Kansas from the state general fund in the debt service payment for the Topeka and Lansing correctional facility bond issue account, is hereby lapsed.

(j) On the effective date of this act, the \$1,689,697 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 147 (b) of chapter 123 of the 2004 Session Laws of Kansas from the correctional institutions building fund in the debt service payment for the revenue refunding bond issues account, is hereby lapsed.

(k) On the effective date of this act, the \$3,250,328 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 147 (b) of chapter 123 of the 2004 Session Laws of Kansas from the correctional institutions building fund in the capital improvements — rehabilitation, remodeling, renovation and repair of correctional institutions account, is hereby lapsed.

(l) On and after the effective date of this act, no moneys appropriated in the correctional industries fund shall be expended for capital improvements for the fiscal year ending June 30, 2005.”;

On page 14, after line 3, by inserting the following:

“(i) On the effective date of this act, the \$1,120,000 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 167(a) of chapter 123 of the 2004 Session Laws of Kansas from the state institutions building fund in the capital improvements — rehabilitation, remodeling, renovation and repair of juvenile correctional facilities account, is hereby lapsed.

(j) On the effective date of this act, of the \$4,001,013 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 167(a) of chapter 123 of the 2004 Session Laws of Kansas from the state institutions building fund in the debt service — Topeka complex and Larned juvenile correctional facility account, the sum of \$2,006,181 is hereby lapsed.

(k) On the effective date of this act, the \$494,908 appropriated for the above agency for the fiscal year ending June 30, 2005, by section 167(a) of chapter 123 of the 2004 Session Laws of Kansas from the state institutions building fund in the install back-up generator at Topeka juvenile correctional facility account, is hereby lapsed.

(l) On the effective date of this act, of the amount reappropriated for the above agency for the fiscal year ending June 30, 2005, by section 187 of chapter 123 of the 2004 Session

Laws of Kansas from the state institutions building fund in the capital improvements — rehabilitation, remodeling, renovation and repair of juvenile correctional facilities account, the sum of \$398,192 is hereby lapsed.”;

Also on page 14, following line 8, by inserting the following:  
 “*Provided*, That all expenditures from the military activation payments account shall be for military activation payments which are hereby authorized and directed to be made in accordance with and subject to the procedures, guidelines, limitations and restrictions, including the eligibility conditions, prescribed in executive directive no. 05-356, to officers and employees of state agencies in the executive branch of state government, who are called or have been called to active military duty on or after September 11, 2001.”;

On page 16, in line 6, by striking “\$59,049” and inserting “\$59,094”;

On page 17, in line 17, by striking all after “(a)”; by striking all in lines 18 and 19 and inserting in lieu thereof the following: “The secretary of wildlife and parks is hereby directed, after authorizing expenditures from the department access road fund or the bridge maintenance fund for the purpose of paying operating expenditures other than capital improvement projects, to pledge when sufficient funds are available on or after June 30, 2005, in the parks fee fund, to repay from the parks fee fund any and all amounts expended from the department access road fund or the bridge maintenance fund for the purpose of paying operating expenditures other than capital improvements.”;

On page 18, after line 8, by inserting the following:

“Sec. 45.

#### STATE BOARD OF VETERINARY EXAMINERS

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2005, by section 63(a) of chapter 123 of the 2004 Session Laws of Kansas on the veterinary examiners fee fund is hereby decreased from \$281,238 to \$257,723.

(b) In addition to the other purposes for which expenditures may be made by the state board of veterinary examiners from the veterinary examiners fee fund for fiscal year 2005 as authorized by chapter 138 or 160 of the 2003 Session Laws of Kansas, by chapter 123 of the 2004 Session Laws of Kansas or by this or other appropriation act of the 2005 regular session of the legislature, expenditures may be made by the state board of veterinary examiners from the veterinary examiners fee fund for fiscal year 2005 for the costs of litigation and fees for private attorneys: *Provided*, That all such expenditures for fiscal year 2005 for the costs of litigation and fees for private attorneys shall be in addition to any expenditure limitation imposed on the veterinary examiners fee fund for fiscal year 2005.

Sec. 46.

#### ATTORNEY GENERAL

(a) On the effective date of this act, the limitation established by section 76(a) of chapter 123 of the 2004 Session Laws of Kansas on the costs of defending the state or any employee of the state in any actions or proceedings on claims against the state or an employee of the state under the tort claims act or under the civil rights laws of the United States or of the state of Kansas is hereby increased from \$1,176,072 to No limit.

Sec. 47. (a) In addition to the other purposes for which expenditures may be made by any state agency named in this or other appropriation act of the 2005 regular session of the legislature from the moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2005 as authorized by chapter 123 or chapter 184 of the 2004 Session Laws of Kansas or by this or other appropriation act of the 2005 regular session of the legislature, expenditures are hereby authorized and directed to be made by each such state agency from moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2005 to provide a military pay differential for officers or employees of the state agency who are called or have been called to active military duty on or after September 11, 2001: *Provided, however*, That all such expenditures shall be made in accordance with and subject to the procedures, guidelines, limitations and restrictions, including the eligibility conditions, prescribed in executive directive no. 05-356.

(b) As used in this section, “state agency” means any state agency in the executive branch of state government.”;

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

**SB 273** be amended on page 3, by striking all in lines 1 through 43;

On page 4, by striking all in lines 1 through 33;

And by renumbering sections accordingly;

On page 16, in line 13, by striking "\$125,000" and inserting "No limit"; in line 34, after "construct" by inserting "an addition to";

On page 22, after line 21, by inserting the following:

"(c) In addition to the other purposes for which expenditures may be made by the state board of regents from the moneys appropriated from the state general fund or from any special revenue fund or funds for the fiscal year 2006 or fiscal year 2007 as authorized by this or other appropriation act of the 2005 regular session of the legislature, expenditures may be made by the state board of regents from moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2006 or fiscal year 2007 to provide for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 2004 Supp. 76-783 and amendments thereto to finance scientific research and development facilities, as defined by K.S.A. 2004 Supp. 76-779 and amendments thereto, including capital improvement projects therefor, at Kansas state university, Wichita state university and Pittsburg state university pursuant to the university research and development enhancement act: *Provided*, That, notwithstanding any provisions of K.S.A. 2004 Supp. 76-783 and amendments thereto to the contrary, such bonds and scientific research and development facilities, including capital improvement projects therefor, are hereby approved for the state board of regents for the purposes of the university research and development enhancement act and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 2004 Supp. 76-783 and amendments thereto: *Provided further*, That the state board of regents may make expenditures from the moneys received from the issuance of any such bonds for such scientific research and development facilities, including capital improvement projects therefor, in accordance with the procedures and guidelines authorized and prescribed for scientific research and development facilities pursuant to the university research and development enhancement act: *Provided, however*, That expenditures from the issuance of any such bonds for such scientific research and development facilities, including capital improvement projects therefor, shall not exceed \$5,000,000, plus all amounts required for the costs of bond issuance, costs of interest on the bonds issued for scientific research and development facilities, including capital improvement projects therefor, during the completion of such scientific research and development facilities and projects and any required reserves for the payment of principal and interest on the bonds: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants: *And provided further*, That debt service for any such bonds for such scientific research and development facilities, including capital improvement projects therefor, shall be financed by appropriations from any appropriate special revenue fund or funds of Kansas state university, Wichita state university, or Pittsburg state university.";

On page 30, in line 32, by striking "\$875,370" and inserting "\$75,370";

On page 32, after line 38, by inserting the following:

"(s) In addition to the other purposes for which expenditures may be made by the above agency from the wildlife fund — federal for fiscal year 2006, expenditures may be made by the above agency from the following capital improvement account or accounts of the wildlife fund — federal for fiscal year 2006 for the following capital improvement project or projects, subject to the expenditure limitations prescribed therefor:

Wildlife fund — federal boating access projects ..... \$800,000

*Provided*, That all expenditures from each such capital improvement account shall be in addition to any expenditure limitation imposed on the wildlife fund — federal for fiscal year 2006.

(t) In addition to the other purposes for which expenditures may be made by the above agency from the wildlife fund — federal for fiscal year 2006, expenditures may be made by the above agency from the wildlife fund — federal for fiscal year 2006 from the unencumbered balance as of June 30, 2005, in each existing capital improvement account of the wildlife fund — federal: *Provided*, That expenditures from the unencumbered balance of any such existing capital improvement account shall not exceed the amount of the unen-

cumbered balance in such account on June 30, 2005: *Provided further*, That all expenditures from the unencumbered balance of any such account shall be in addition to any expenditure limitation imposed on the wildlife fund — federal for fiscal year 2006 and shall be in addition to any other expenditure limitation imposed on any such account of the wildlife fund — federal for fiscal year 2006.”;

And by relettering subsection (s) as subsection (u);

On page 33, by striking all in lines 18 through 27; in line 29, by striking “\$4,000,512” and inserting “\$2,205,512”; and the bill be passed as amended.

#### COMMITTEE OF THE WHOLE

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

On motion of Senator Donovan the following report was adopted:

Recommended **HB 2102**, **HB 2168**, **HB 2461** be passed.

The committee recommended **HB 2141** be passed.

Senator Journey moved to amend **HB 2141**, on page 2, line 12, by striking conclusively Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 16, Nays 22, Present and Passing 0, Absent or Not Voting 2.

Yeas: Barone, Betts, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Journey, Kelly, Lee, Petersen, Reitz, Schodorf, Steineger, Teichman.

Nays: Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Jordan, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Pine, Pyle, Schmidt D, Schmidt V, Taddiken, Umbarger, Vratil, Wilson, Wysong.

Absent or Not Voting: Allen, Wagle.

The motion failed and the amendment was rejected, and **HB 2141** be passed.

Also, the committee recommended **HB 2180** be passed.

Senator Haley moved to amend **HB 2180**, on page 2, after line 42, by inserting the following:

“Sec. 3. K.S.A. 2004 Supp. 21-4310 is hereby amended to read as follows: 21-4310. (a) Cruelty to animals is:

(1) Intentionally killing, ~~injuring~~, maiming, torturing, *burning* or mutilating or *causing serious physical injury* to any animal;

(2) abandoning or leaving any animal in any place without making provisions for its proper care;

(3) having physical custody of any animal and failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal; ~~or~~

(4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;

(5) *causing any physical injury other than serious physical injury to any animal.*

(b) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) bona fide experiments carried on by commonly recognized research facilities;

(3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated;

(4) rodeo practices accepted by the rodeo cowboys' association;

(5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) ~~with respect to farm animals~~, normal or accepted practices of animal husbandry;



(7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods; or

(9) laying an equine down for medical or identification purposes.

(c) As used in this section, "equine" means a horse, pony, mule, jenny, donkey or hinny.

(d) (1) *Cruelty to animals as described in subsection (a)(1) is a severity level 9, nonperson felony.*

(2) *Cruelty to animals as described in subsections (a)(2), (a)(3), (a)(4) and (a)(5) is a class A nonperson misdemeanor.*;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 43, by striking "and" and inserting a comma; also in line 43, after "21-3436" by inserting "and 21-4310";

In the title, in line 10, after the semicolon by inserting "relating to cruelty to animals"; also in line 10, by striking "and" and inserting a comma; also in line 10, after "21-3436" by inserting "and 21-4310"; in line 11, by striking "section" and inserting "sections"

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

On roll call, the vote was: Yeas 7, Nays 21, Present and Passing 8, Absent or Not Voting 4.

Yeas: Barone, Francisco, Gilstrap, Haley, Hensley, Kelly, Steineger.

Nays: Apple, Brownlee, Bruce, Brungardt, Donovan, Emler, Huelskamp, Jordan, McGinn, O'Connor, Palmer, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wilson.

Present and Passing: Barnett, Goodwin, Journey, Lee, Morris, Ostmeyer, Petersen, Pyle.

Absent or Not Voting: Allen, Betts, Wagle, Wysong.

The motion failed and the amendment was rejected, and **HB 2180** be passed.

**SB 274; HB 2247, HB 2268** be amended by adoption of the committee amendments, and the bills be passed as amended.

**HB 2390** be amended by motion of Senator Morris on page 3, following line 18, by inserting:

Sec. 2. K.S.A. 2004 Supp. 79-4227 is hereby amended to read as follows: 79-4227. (a) All revenue collected or received by the director from the tax imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall first credit such amount as the director shall order to the mineral production tax refund fund created under subsection (b) of this section. *Except as otherwise provided by this section*, the state treasurer shall credit the remainder of such amounts as follows: (1) Seven percent to the special county mineral production tax fund created under subsection (c) of this section; and (2) the remainder shall be credited to the state general fund. *On and after July 1, 2008, and thereafter, the state treasurer shall credit the remainder of such amounts for oil and gas for any county which in fiscal year 2005 or any fiscal year thereafter had \$100,000 or more in receipts of the excise tax upon the severance and production of oil and gas as follows: (1) Seven percent to the special county mineral production tax fund created under subsection (c); (2) 4.96% from July 1, 2008, through June 30, 2009, to the oil and gas valuation depletion trust fund; 7.44% from July 1, 2009, through June 30, 2010, to the oil and gas valuation depletion trust fund; 9.93% from July 1, 2010, to June 30, 2011, to the oil and gas valuation depletion trust fund; and 12.41% from July 1, 2011, and thereafter, to the oil and gas valuation depletion trust fund; and (3) the remainder shall be credited to the state general fund.*

(b) A refund fund designated as "mineral production tax refund fund" not to exceed \$50,000 is hereby created for the prompt payment of all tax refunds. The mineral production tax refund fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) There is hereby created a special county mineral production tax fund. On December 1, 1983, and quarterly thereafter, the director of taxation shall distribute all moneys credited to such fund to the county treasurers of all counties in which taxes were levied under K.S.A. 79-4217, and amendments thereto, for the severing and producing of coal, oil or gas from property within the county, in the proportion that the taxes levied upon production in each county bears to the total of all of such taxes levied in all of such counties. Such distribution shall be based on returns filed, with any adjustments or corrections thereto made by the director of taxation.

(d) The secretary of revenue shall make provision for the determination of the counties within which taxes are levied under K.S.A. 79-4217, and amendments thereto, for the severance of coal, oil or gas and shall certify the same to the director of accounts and reports.

(e) The director of accounts and reports shall draw warrants on the state treasurer payable to the county treasurer of each county entitled to payment from the special county mineral production tax fund upon vouchers approved by the director of taxation. Upon receipt of such warrant, each county treasurer shall credit 50% of the amount thereof to the county general fund and shall distribute the remaining 50% thereof to the treasurer of each school district all or any portion of which is located within the county in the proportion that the assessed value of coal, oil and gas properties within each district bears to the total of the assessed value of all coal, oil and gas properties within the county. Such assessed valuation shall be determined upon the basis of the most recent November 1 tax roll. The treasurer of each school district shall credit the entire amount of the moneys so received to the general fund of the school district.

New Sec. 3. (a) There is hereby created in the state treasury the oil and gas valuation depletion trust fund. The director of taxation shall administer the oil and gas valuation depletion trust fund. All amounts credited to the oil and gas valuation depletion trust fund pursuant to the provisions of K.S.A. 79-4227, and amendments thereto, shall be credited to a separate trust account which shall be established within such fund for each county which in fiscal year 2005 or any fiscal year thereafter had \$100,000 or more in receipts of the excise tax upon the severance and production of oil and gas. Each county's trust account shall be credited in the proportion that the amount of oil and gas valuation depletion trust fund receipts collected from that county bears to the total amount of moneys credited to the oil and gas valuation depletion trust fund pursuant to K.S.A. 79-4227, and amendments thereto. Commencing July 1, 2008, and thereafter on an annual basis, such moneys shall remain credited in such account in trust for such county for distributions pursuant to this section.

(b) For any tax year that the oil and gas leasehold ad valorem valuation of any county, which has a trust account established and maintained in the oil and gas valuation depletion trust fund as provided by this section, is less than 50% of the oil and gas leasehold ad valorem valuation of such county for the second succeeding tax year which commences January 1 following the end of the fiscal year in which the county had \$100,000 or more in receipts of the excise tax upon the production of oil and gas and the county had a trust account established in the oil and gas valuation depletion trust fund as provided by this section, as certified by the property valuation division, on or before January 15 of the year following such tax year, the director of taxation shall distribute 20% of the moneys credited to such county's trust account to the county treasurer of such county. In any year in which a county's oil and gas leasehold valuation is 50% or more of the oil and gas leasehold valuation of such county for tax year as described in this subsection, such county shall not receive a distribution of trust moneys pursuant to this section for such tax year. On an annual basis, the director of taxation shall certify to the director of accounts and reports the counties entitled to a distribution pursuant to this section. The director of accounts and reports shall draw warrants on the state treasurer payable to the county treasurer of each county entitled to payment from such county's trust account in the oil and gas valuation depletion trust fund upon vouchers approved by the director of taxation.

By numbering sections accordingly;

Also on page 3, in line 19, by striking "is" and inserting "and 79-4227 are";

On page 1, in the title, in line 9, after "gas;" by inserting "relating to the taxation thereof; creating the oil and gas valuation depletion trust fund and providing for distribution of

moneys therefrom; also"; in line 10, after "55-155" by inserting "and 79-4227"; in line 11, by striking "section" and inserting "sections"; and **HB 2390** be passed as amended.

**SB 267** be amended by adoption of the committee amendments, be further amended by motion of Senator Brungardt as amended by Senate Committee, in the title, in line 11, by striking "K.S.A. 2004 Supp. 41-719 and", and **SB 267** be passed as further amended.

**HB 2252** be amended by adoption of the committee amendments, be further amended by motion of Senator Hensley as amended by Senate Committee, on page 2, by striking all in line 43 and inserting the following:

"Sec. 2. K.S.A. 25-2017a is hereby amended to read as follows: 25-2017a. The clerk of the board of education of every school district shall certify to the county election officer of the home county of the school district a list of all school offices to be voted upon at each school election, any boundary changes of member districts since the last preceding election and the voting plan to be used as defined in K.S.A. 25-2005 not later than January 5 of each odd-numbered year. A copy of the above information shall be furnished to the county election officer of every county in which a part of the territory of the school district is located.

Sec. 3. K.S.A. 25-2022 is hereby amended to read as follows: 25-2022. Any board shall have power to fill by appointment any vacancy which occurs thereon, and such appointee shall serve for the unexpired term. When a vacancy occurs, the board shall publish a notice one time in a newspaper having general circulation in the school district stating that the vacancy has occurred and that it will be filled by appointment by the board not sooner than ~~fifteen (15)~~ 15 days after such publication. If such vacancy occurs before January 1 of an odd-numbered year leaving an unexpired term of more than two years such appointee shall serve until the ~~July 1 after the following~~ first meeting of the board of education following certification of the general school election as provided in K.S.A. 25-2023 or any amendments thereto.

In the latter event, the unexpired term of two years ~~commencing July 1 after the to commence with and include the first meeting of the board of education~~ following general school election shall be filled at such election and the ballots or ballot labels and returns of election with respect to such office shall be designated as follows: "To fill the unexpired term."

Sec. 4. K.S.A. 25-2023 is hereby amended to read as follows: 25-2023. (a) Each board member shall qualify by filing an oath of office with the election officer not later than ~~ten (10)~~ 10 days following the date of the election, or not later than five (5) days after issuance of such member's certificate of election, whichever is the later date. ~~Each board member shall take office on the July 1 following the general school election. Except as provided in this section,~~ each member elected to a board of education shall hold office until a successor is elected or appointed and qualified and shall serve for a term of four (4) years. ~~The term of office of each board member shall commence with and include the first meeting of the board of education following certification of the general school election.~~

(b) ~~Each board member holding office on the effective date of this act shall not serve a full term of four years but shall hold office until the first meeting of the board of education following certification of the general school election occurring in the fourth year of the term of office for which elected, or as soon thereafter as a successor is elected or appointed and qualifies.~~

(c) ~~Except as otherwise provided in subsection (b), on and after the effective date of this act any reference in the laws of this state which pertains to the commencement and duration of terms of office of members of boards of education shall be considered to be a reference to the date of commencement and the duration of terms of office prescribed in subsection (a).~~

Sec. 5. K.S.A. 72-7902 is hereby amended to read as follows: 72-7902. The provisions of law relating to the term of office of members of boards of education, including method and time of qualification and of taking office shall apply to every school district in this state. In the event no candidate is elected to a position on the board of education of a school district in a regular election, or if an elected member moves out of the school district after such member is elected and before such member takes office ~~the following July 1,~~ or if such member becomes ineligible to serve for any other reason during that period of time, the holdover member shall continue to sit as a voting member of the board of education of such school district until an eligible successor is appointed ~~by the board of education to fill the~~

~~position. Such successor shall be appointed not later than November 15 next following the regular election of board members in accordance with K.S.A. 25-2022, and amendments thereto.~~

Sec. 6. K.S.A. 2004 Supp. 72-8202a is hereby amended to read as follows: 72-8202a. (a) At the first meeting of the board of education in ~~July~~ April of each year, the board shall elect a president and vice-president, both of whom shall be members of the board. The president and vice-president shall each serve for a term of one (1) year and until his successor is elected and qualified.

(b) The president shall preside at meetings of the board and perform such other duties as are provided by law.

(c) In the absence or inability to act of the president, the vice-president shall perform the duties of the president. In the absence or inability to act of both the president and vice-president, the remaining members shall select a member to act in the capacity of president.

Sec. 7. K.S.A. 2004 Supp. 72-8205 is hereby amended to read as follows: 72-8205. (a) The board shall meet at least once each month. During the month of ~~July~~ April of each year, the board shall adopt a resolution specifying a regular meeting time of the board and the regular hour of commencement of the meeting, as well as the day of the week and the week of the month. Such resolution also shall specify the alternative date and time of any meeting if the regular meeting date occurs on a Sunday or on a legal holiday or on a holiday specified by the board. Such resolution also shall specify the regular meeting place of the board and may specify that any regular meeting may be adjourned to another time and place. If the board cancels a regularly-scheduled meeting because of an emergency, within 24 hours of such cancellation, the board shall establish and give notice of the new meeting date and time. Special meetings may be called at any time by the president of the board or by joint action of any three members of the board. Unless waived, written notice, stating the time and place of any special meeting and the purpose for which called shall be given each member of the board at least two days in advance of the special meeting and no business other than that stated in the notice shall be transacted at such meeting. A majority of the full membership of the board shall constitute a quorum for the purpose of conducting any business of the school district, and the vote of a majority of the full membership of the board shall be required for the passage of any motion or resolution. Any member who abstains from voting shall be counted as having voted against the motion or resolution. If a member announces a conflict of interest with regard to the issue, the member may leave the meeting until the voting on the issue is concluded and the member who abstains from voting thereby shall not be counted as having voted.

(b) Except as otherwise provided by law, the board shall have and may exercise the same powers and authorities as were immediately prior to this act conferred uniformly upon boards of education in cities of the first class, and, in addition thereto, the powers and authority expressly conferred by law.

(c) The board shall have authority to prescribe courses of study for each year of the school program and to adopt rules and regulations for teaching in the school district and general government thereof, and to approve and adopt suitable textbooks and study material for use therein subject to the plans, methods, rules and regulations of the state board of education.

(d) The board may provide legal counsel at district expense to any members of the board of education, or school district officers or employees who are sued in situations relating to and arising out of the performance of their office or employment. No teacher or other employment contract shall make reference to or incorporate the provisions of this subsection, nor shall the provisions of this subsection be construed as any part of the consideration of employment of any teacher, officer or other employee of the board.

(e) (1) The board may transact all school district business and adopt policies that the board deems appropriate to perform its constitutional duty to maintain, develop and operate local public schools.

(2) The power granted by this subsection shall not be construed to relieve a board from compliance with state law.

The power granted by this subsection shall not be construed to relieve any other unit of government of its duties and responsibilities which are prescribed by law, nor to create any

responsibility on the part of a school district to assume the duties or responsibilities which are required of another unit of government.

(3) The board shall exercise the power granted by this subsection by resolution of the board of education.

Sec. 8. K.S.A. 72-8706 is hereby amended to read as follows: 72-8706. If the proposition to consolidate is approved as provided in K.S.A. 72-8704, the election of board members at the next following school election shall be by the method of election and voting plan provided in the agreement for the consolidated unified school district, and at such election seven (7) new board members shall be elected. The four (4) candidates receiving the highest number of votes at the general school election shall serve as board members for four-year terms ~~commencing on the July 1 which shall commence with and include the first meeting of the board of education~~ following such election and the three (3) candidates receiving the next highest number of votes shall serve for two-year terms ~~commencing on the July 1 which shall commence with and include the first meeting of the board of education~~ following such election, except where a member-district method of election is in effect in which case persons elected to even-numbered board member positions shall serve for two-year terms ~~commencing on the July 1 which shall commence with and include the first meeting of the board of education~~ following such election and persons elected to odd-numbered member positions shall serve for four-year terms ~~commencing on the July 1 which shall commence with and include the first meeting of the board of education~~ following such election. Thereafter at school elections in odd-numbered years board members shall be elected to serve for four-year terms *which shall commence with and include the first meeting of the board of education*.

Sec. 9. K.S.A. 25-2017a, 25-2022, 25-2023, 72-6769, 72-7902 and 72-8706 and K.S.A. 2004 Supp. 72-8116, 72-8118a, 72-8125, 72-8145, 72-8202a and 72-8205 are hereby repealed.”;

By renumbering the remaining section accordingly;

In the title, by striking all in lines 11 through 13 and inserting “AN ACT concerning school districts; relating to the election of the governing body thereof; amending K.S.A. 25-2017a, 25-2022, 25-2023, 72-6769, 72-7902 and 72-8706 and K.S.A. 2004 Supp. 72-8116, 72-8118a, 72-8125, 72-8145, 72-8202a and 72-8205 and repealing the existing sections.”, and **HB 2252** be passed as further amended.

**HB 2265** be amended by adoption of the committee amendments, be further amended by motion of Senator Wysong as amended by Senate Committee, on page 4, by striking all in lines 7 through 11, and **HB 2265** be passed as further amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, March 22, 2005.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

