

Journal of the Senate

FIFTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 24, 2005—9:30 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-nine senators present.
Senator Allen was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

You know that one of my pet peeves is the low esteem in which so much of the public holds legislators.

In the first place, they insist on calling them politicians, which in itself is nothing to be embarrassed about, but it is more often than not pronounced in a derogatory tone: "Politishun". Even Webster recognizes this derogatory connotation in his secondary definition: "A person engaged in politics for personal gain."

If you're a politician
There is a strong suspicion
That the crux of your ambition
Is a lucrative position.

That you give yourself permission
To crush all competition
Making it your mission
To gain much recognition.

And you have one more condition
With your charming disposition
To succeed with abolition
Of surviving opposition.

But my personal ambition
Is to start a new tradition
With a better definition
Of a politician.

Also in addition
We should make it OUR mission
To erase their supposition
And PRAY for politicians!

I pray in the Name of Jesus Christ,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:
Health Care Strategies: **SB 306**.

Judiciary: **SB 307**.

Utilities: **HB 2519**.

Ways and Means: **Sub HB 2226; HB 2228, HB 2301, HB 2320; Sub HB 2512; HB 2518**.

COMMUNICATIONS FROM STATE OFFICERS

OFFICE OF THE ATTORNEY GENERAL
Crime Victims Compensation Board

March 22, 2005

By this letter I am hereby submitting for confirmation by the Senate the reappointment of Paula Suzanne Salazar to the Crime victims Compensation Board, pursuant to K.S.A. 74-7303, such term to expire March 15, 2009.

Phill Kline
Attorney General

KANSAS DEPARTMENT OF REVENUE
Division of Property Valuation

March 15, 2005

Mark S. Beck, Director, Division of Property Valuation, submitted the 2004 Preliminary Real Estate Appraisal/Sales Ratio Study as required by K.S.A. 79-1490. The publication, along with additional ratio study data, is available in pdf format on the Kansas Department of Revenue Website at: <http://www.ksrevenue.org/pcdratiostats.htm>.

MESSAGE FROM THE HOUSE

Announcing, the House nonconcur in Senate amendments to **HB 2082**, requests a conference and has appointed Representatives Wilk, Huff and Thull as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2247**, requests a conference and has appointed Representatives Decker, O'Neal and Larkin as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2268**, requests a conference and has appointed Representatives O'Neal, Jack and Pauls as conferees on the part of the House.

REMOVE FROM CONSENT CALENDAR

An objection having been made to **HB 2308** appearing on the Consent Calendar, the President directed the bill be removed and placed on the calendar under the heading of General Orders.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 270, An act making and concerning appropriations for the fiscal years ending June 30, 2006, and June 30, 2007, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2004 Supp. 2-223, 55-193, 75-2319, 75-6702, 76-775, 79-2959, 79-2964, 79-3425c, 79-3425i and 82a-953a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 9, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Brownlee, Huelskamp, Journey, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Wagle.

Absent or Not Voting: Allen.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: Just like the budget offered by our Governor, these budget bills contain no significant spending enhancements for education. With the session end approaching quickly, as is the Supreme Court deadline for action on school finance, I believe such inaction on education is irresponsible. Out of a massive budget of \$11 billion which included significant spending increases in other parts of the budget, I had hoped we could have found at least some new funds for education and balanced our books. I therefore must vote "no" on this bill.—TIM HUELSKAMP

Senators O'Connor, Palmer and Peterson request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on **SB 270**.

SB 272, An act making and concerning appropriations for the fiscal year ending June 30, 2005, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 9, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Brownlee, Huelskamp, Journey, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Wagle.

Absent or Not Voting: Allen.

The bill passed, as amended.

SB 273, An act making and concerning appropriations for the fiscal years ending June 30, 2005, June 30, 2006, and June 30, 2007, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 9, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Brownlee, Huelskamp, Journey, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Wagle.

Absent or Not Voting: Allen.

The bill passed, as amended.

SB 295, An act concerning taxation; relating to retailers' sales tax in Neosho county; amending K.S.A. 2004 Supp. 12-187, 12-189 and 12-192 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Journey, Pyle.

Absent or Not Voting: Allen.

The bill passed.

Sub HB 2003, An act concerning the bioscience authority; emerging industry investment act; bioscience research and development voucher — federal fund; amending K.S.A. 2004 Supp. 74-99b33, 74-99b34 and 74-99b68 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The substitute bill passed, as amended.

HB 2014, An act concerning the Kansas water authority; amending K.S.A. 2004 Supp. 74-2622 and repealing the existing section; also repealing K.S.A. 2004 Supp. 74-2622a, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 6, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Huelskamp, Jordan, Journey, Kelly, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Barone, Betts, Francisco, Hensley, Lee, Steineger.

Absent or Not Voting: Allen.

The bill passed.

Sub HB 2087, An act concerning crimes, punishment and criminal procedure; relating to identity theft, identity fraud and vital records fraud; amending K.S.A. 21-3830 and 65-2434 and K.S.A. 2004 Supp. 21-4018 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Haley.

Absent or Not Voting: Allen.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I am proud and privileged to once again introduce a new concept to the Kansas Legislature by way of a floor amendment. This topic is that of the video taping of all interrogation(s) pertinent to a potential felony prosecution. Although my amendment failed to be added to this bill, realizing that every idea of merit eventually becomes law and noting that the Federal Government and other states are contemplating enacting this simple, but justice-assisting concept, I am confident that Kansas will one day require such a common sense measure in the future. And although the sum and substance of this amendment (found in **SB 206** of the 2005 session) was not scheduled for a hearing in our Senate Judiciary I predict with pride when one day this law is on our books, some future research will show I began this, as with other, progressive debate in our state.—DAVID HALEY

HB 2103, An act concerning weights and measures; relating to standards and requirements of commercial weighing and measuring devices; amending K.S.A. 2004 Supp. 83-202 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed, as amended.

HB 2128, An act concerning criminal history records; relating to access; expungements; amending K.S.A. 38-1610 and K.S.A. 2004 Supp. 21-4619 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Betts, Haley.

Absent or Not Voting: Allen.

The bill passed, as amended.

Sub HB 2142, An act concerning workers compensation; relating to date of accident; amending K.S.A. 2004 Supp. 44-508 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The substitute bill passed.

HB 2232, An act concerning Kansas film services commission; relating to members and duties; amending K.S.A. 74-9202 and K.S.A. 2004 Supp. 74-9201 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed, as amended.

HB 2253, An act concerning wildlife; relating to wildlife violations; amending K.S.A. 22-2908, 32-1002, 32-1003 and 32-1031 and K.S.A. 2004 Supp. 32-1001, 32-1004, 32-1013 and 32-1032 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed, as amended.

Sub HB 2261, An act concerning crimes, punishment and criminal procedure; relating to searches without a search warrant; amending K.S.A. 22-2501 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 29, Nays 10, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Huelskamp, Jordan, Lee, McGinn, Morris, O'Connor, Ostmeyer, Pine, Reitz,

Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Betts, Brownlee, Haley, Hensley, Journey, Kelly, Palmer, Petersen, Pyle, Wilson.

Absent or Not Voting: Allen.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote NO on "**HB 2261**."

By adopting a warrantless search incident to *any* crime and not to a *specific* crime, this Legislature attempts to shred the Constitutional protections against unwarranted searches or seizures and erodes the basis for probable cause.

The result, if this bill becomes law, will allow "fishing expeditions" for what will then become admissible evidence for any crime and not necessarily the base allegation. "A crime" in the bill should read "*the* crime."

This notion is absurd and, I predict, will be found unreasonable under state and/or federal constitutional mandates.—DAVID HALEY

Sub HB 2276, An act amending the state banking code; relating to certain trust authority; concerning transmission of money; relating to certain charges; amending K.S.A. 9-1601, as amended by section 1 of 2005 House Bill No. 2098 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The substitute bill passed, as amended.

HB 2280, An act concerning agriculture; relating to grain warehouses; sampling, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed.

HB 2304, An act concerning crimes and punishment; relating to tests for alcohol and drugs when allegedly driving under the influence; relating to ingesting or injecting certain controlled substances; amending K.S.A. 8-1001 and 65-4162 and K.S.A. 2004 Supp. 65-4160 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 18, Nays 20, Present and Passing 1, Absent or Not Voting 1.

Yeas: Apple, Barnett, Bruce, Brungardt, Donovan, Francisco, Gilstrap, Goodwin, Lee, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Barone, Betts, Brownlee, Emler, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Taddiken.

Present and Passing: Wagle.

Absent or Not Voting: Allen.

A constitutional majority having failed to vote in favor of the bill, **HB 2304** did not pass.

HB 2341, An act concerning agriculture; relating to uniformity and jurisdiction of the Kansas fertilizer law, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed, as amended.

HB 2364, An act authorizing the state board of regents to convey certain real estate, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed.

HB 2386, An act concerning crimes and punishment; relating to unlawful sexual relations; amending K.S.A. 2004 Supp. 21-3520 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed, as amended.

HB 2448, An act concerning the angel investor tax credit act; amending K.S.A. 2004 Supp. 74-8131, 74-8132, 74-8133, 74-8134, 74-8135, 74-8136, 74-50, 104, 74-50,105, 74-50,106 and 74-50,107 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill passed, as amended.

HB 2466, An act concerning wildlife; repealing the state's authority to issue commercial guide service permits; concerning hunter's education requirements; amending K.S.A. 2004 Supp. 21-4619 and 32-920 and repealing the existing sections; also repealing K.S.A. 2004 Supp. 32-964 and K.S.A. 2003 Supp. 21-4619, as amended by section 59 of chapter 154 of the 2004 Session Laws of Kansas, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The bill 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 Umbarger in the chair.

Recommended **HB 2503** be amended by adoption of the committee amendments, and the bill be passed as amended.

Senator Brungardt moved to amend **HB 2503**, as amended by Senate Committee, on page 1, following line 16, by inserting: "Section 1. As used in this act:

(a) "Local anesthesia" means the administration of an anesthetic agent into a localized part of the human body by topical application or local infiltration in close proximity to a nerve, which produces a transient and reversible loss of sensation.

(b) "Minimal sedation" means the administration of oral sedative or oral analgesic drugs in doses appropriate for the unsupervised treatment of insomnia, anxiety or pain.

(c) "Minor surgery" means surgery which can be safely and comfortably performed on a patient who has received local or topical anesthesia, without more than minimal sedation and where the likelihood of complications requiring hospitalization is remote.

(d) "Office-based surgery" means any surgery or other special procedure requiring anesthesia, analgesia or sedation which is performed by a health care provider in a clinical location other than a medical facility licensed pursuant to K.S.A. 65-425, and amendments thereto, and which results in a patient stay of less than 24 hours. The term does not include minor surgery.

(e) "Health care provider" has the meaning provided in K.S.A. 65-4915, and amendments thereto.

(f) "Secretary" means the secretary of health and environment.

(g) "Special procedure" means a patient care service which requires contact with the human body with or without instruments in a potentially painful manner, for a diagnostic or therapeutic procedure requiring anesthesia services (i.e., diagnostic or therapeutic endoscopy, invasive radiologic procedures, manipulation under anesthesia or endoscopic examination). The term does not include minor surgery.

(h) "Surgery" means a manual or operative procedure which involves the excision or resection, partial or complete, destruction, incision or other structural alteration of human tissue by any means, including the use of lasers, performed upon the human body for the purpose of preserving health, diagnosing or treating disease, repairing injury, correcting deformity or defects, prolonging life or relieving suffering, or for aesthetic, reconstructive or cosmetic purposes. Surgery includes, but is not limited to, incision or curettage of tissue or an organ, suture or other repair of tissue or an organ, a closed or open reduction of a fracture, extraction of tissue from the uterus and insertion of natural or artificial implants.

(i) "Topical anesthesia" means an anesthetic agent applied directly or by spray to the skin or mucous membranes, intended to produce a transient and reversible loss of sensation to a circumscribed area.

Sec. 2. (a) The secretary, by rules and regulations, shall establish standards for clinics and other facilities where office-based surgery or special procedures, or both, are performed. Such standards shall include such requirements as the secretary determines necessary to promote the safety of patients, including, but not limited to, standards addressing:

- (1) Qualifications and supervision of personnel;
- (2) facility safety and sanitation;
- (3) equipment requirements, sanitation, testing and maintenance;
- (4) patient screening, assessment and monitoring;
- (5) selection of procedures to be performed;
- (6) anesthesia services;
- (7) peri-operative care;
- (8) emergencies and patient transfers; and
- (9) quality assurance and peer review.

(b) In adopting standards pursuant to this section, the secretary shall give consideration to the guidelines for office-based surgery and special procedures approved by the Kansas

medical society house of delegates on May 5, 2002 and any subsequently approved guidelines.

(c) Any rules and regulations adopted by the secretary pursuant to this act shall provide for protection of the identities of patients and health care providers.

Sec. 3. (a) A correction order may be issued by the secretary or the secretary's designee to a clinic or facility which performs office-based surgery or special procedures, or both, whenever a duly authorized representative of the secretary inspects or investigates such clinic or facility and determines that the clinic or facility is not in compliance with the standards adopted by the secretary by rule and regulation pursuant to section 2, and amendments thereto, and that such noncompliance significantly and adversely affects the health and safety of such clinic's or facility's office-based surgery or special procedures patients. The correction order shall be served upon the clinic or facility either personally or by certified mail, return receipt requested. The correction order shall be in writing, shall state the specific deficiency, cite the specific statutory provision or rule and regulation alleged to have been violated, and shall specify a time of 30 days for correction of the deficiency, unless the deficiency is of such an extreme hazard to the health and safety of a patient that immediate correction is required. In such an extreme case correction of the deficiency in less than 30 days may be ordered by the secretary or the secretary's designee.

(b) When the time period set forth in the correction order has passed, the clinic or facility shall be reinspected for compliance. If the clinic or facility is still in noncompliance, the secretary or the secretary's designee may place a ban on the performance of any office-based surgeries and special procedures at the noncompliant clinic or facility until compliance is found and may level a civil penalty against such clinic or other facility pursuant to section 4, and amendments thereto.

Sec. 4. (a) Any clinic or facility which remains noncompliant to the correction order and continues to violate any provision of the rules and regulations adopted under this act may incur a civil penalty in an amount not more than \$5,000 for every such violation. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) The secretary, upon a finding that a clinic or facility has violated any provision of rules and regulations adopted under this act may impose a penalty within the limits provided in this section. In determining the amount of the civil penalty, the secretary shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs and any corrective actions taken.

(c) No penalty shall be imposed under this section until written notice and an opportunity for hearing have been provided to the clinic or facility alleged to have committed the violation. Such notice shall state the violation, the penalty to be imposed and the right of the clinic or facility to a hearing on the matter. Such clinic or facility, within 15 days after service of the order, may make written request to the secretary for a hearing thereon. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(d) Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 5. Any clinic or facility where office-based surgery or special procedures, or both, are performed at the time rules and regulations adopted under this act take effect shall be given reasonable time, as determined by the secretary under the particular circumstances, but not to exceed 30 days from the effective date of such rules and regulations, within which to comply with such rules and regulations.

Sec. 6. (a) The department of health and environment shall conduct unannounced inspections of any clinic or facility where office-based surgery or special procedures are performed at least every five years on a routine basis. Upon receipt of a complaint, the department of health and environment shall conduct an inspection in a timely manner.

(b) The board of healing arts shall forward all complaints it receives regarding clinics or facilities where office-based surgery or special procedures are performed to the department of health and environment.

(c) The department of health and environment shall forward the results of all inspections to the board of healing arts or the state board of nursing, or both, as appropriate, when a clinic or facility where office-based surgery or special procedures are performed are out of compliance.”;

And by renumbering the remainings section accordingly;

In the title, in line 12, by striking “abortion clinics” and inserting “the department of health and environment”; in line 13, by striking “thereof” and inserting “certain clinics and facilities”

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

On roll call, the vote was: Yeas 19, Nays 20, Present and Passing 0, Absent or Not Voting 1.

Yeas: Betts, Bruce, Brungardt, Emler, Francisco, Goodwin, Haley, Hensley, Kelly, Lee, Morris, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Vratil, Wysong.

Nays: Apple, Barnett, Barone, Brownlee, Donovan, Gilstrap, Huelskamp, Jordan, Journey, McGinn, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Taddiken, Umbarger, Wagle, Wilson.

Absent or Not Voting: Allen.

The motion failed and the amendment was rejected.

The Committee recommended **HB 2503** be passed as amended.

The committee rose and reported progress (see Committee of the Whole, afternoon session).

On motion of Senator Schmidt, the Senate recessed until 2:00 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with President Morris in the chair.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 308, An act concerning personal property taxation; relating to reporting errors; correction and refund authority of county, by Committee on Ways and Means.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2300**, **HB 2338**, **HB 2374**, **HB 2406**.

Also, passage of **SB 4**, as amended, **SB 13**, as amended, **SB 30**, as amended, **SB 36**, as amended, **SB 37**, as amended, **SB 39**, as amended, **SB 42**, as amended, **SB 55**, as amended, **SB 63**, as amended, **SB 74**, as amended, **SB 75**, as amended, **SB 100**, as amended, **SB 107**, **SB 108**, as amended, **SB 116**, as amended, **SB 119**, as amended, **SB 126**, as amended, **SB 138**, as amended, **SB 142**, as amended, **SB 154**, as amended, **SB 158**, **SB 161**, as amended, **SB 181**, as amended, **SB 192**, as amended, **SB 209**, as amended, **SB 256**, **SB 258**, as amended.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2300, **HB 2338**, **HB 2374**, **HB 2406** were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Brownlee the Senate nonconcurrent in the House amendments to **SB 69** and requested a conference committee be appointed.

The President appointed Senators Brownlee, Jordan and Kelly as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **HB 2082**.

The President appointed Senators Donovan, D. Schmidt and Lee as conferees on the part of the Senate.

On motion of Senator Schodorf, the Senate acceded to the request of the House for a conference on **HB 2247**.

The President appointed Senators Schodorf, Vratil and Lee as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2268**.

The President appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

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

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

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

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

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

On motion of Senator Schodorf, the Senate adopted the conference committee report on **HB 2247**, and requested a new conference committee be appointed.

The President appointed Senators Schodorf, Vratil and Lee as second conferees on the part of the Senate on **HB 2247**.

REPORT ON ENGROSSED BILLS

SB 273 reported correctly engrossed March 24, 2005.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2144**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2144," as follows:

"SENATE Substitute for HOUSE BILL No. 2144
By Committee on Commerce

"AN ACT regarding economic development; relating to tax increment financing and a motorsports complex; amending K.S.A. 12-1774a and 12-1777 and K.S.A. 2004 Supp. 12-1770a, 12-1771, 12-1771b, 12-1772, 12-1773, 12-1774, 12-1780b and 12-1780c and repealing the existing sections; also repealing K.S.A. 2004 Supp. 75-5735."; and the substitute bill be passed.

Committee on **Elections and Local Government** recommends **HB 2058**, as amended by House Committee of the Whole, be amended on page 1, in line 28, by striking "six" and inserting "12"; also in line 28, after "hours" by inserting "biennially"; in line 30, before "or" by inserting ". Continuing education may be provided by the local governing body"; also in line 30, by striking "six" and inserting "12";

On page 2, in line 38, by striking "six" and inserting "12"; also in line 38, after "hours" by inserting "biennially"; in line 39, before "or" by inserting ". Continuing education may be provided by the local governing body"; in line 40, by striking "six" and inserting "12"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 90** be passed.

COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Jordan in the chair.

On motion of Senator Jordan the morning report and following afternoon report were adopted:

Recommended **HB 2152, HB 2222, HB 2279, HB 2288, HB 2407, HB 2478** be passed.

The committee report on **SB 80** recommending a **Sub SB 80** be adopted, and the substitute bill be passed.

The committee report on **HB 2037** recommending a **S Sub for HB 2037** be adopted, and the substitute bill be passed.

The committee report on **HB 2172** recommending a **S Sub for HB 2172** be adopted, and the substitute bill be passed

SB 303; HB 2045, HB 2299, HB 2477 be amended by adoption of the committee amendments, and the bills be passed as amended.

Sub HB 2457 be amended by adoption of the committee amendments.

A motion by Senator Goodwin to rerefer **Sub HB 2457** to the Committee on Judiciary failed.

The following amendments offered to **Sub HB 2457** were rejected:

Senator Hensley moved to amend the bill, on page 6, in line 5, by striking "exceeds \$1,000,000 in value but" and on line 6 by striking "\$1,000,000," and inserting "\$25,000,000,"

Senator Journey moved to amend the bill, on page 6, in line 12, after "(i)" by striking all in lines 12, 13, 14 and 15 and inserting "It shall be the appellant's burden to prove by a preponderance of the evidence that the appellant has sufficient assets to satisfy the judgment, interest and costs. It shall also be the appellant's burden to prove by a preponderance of the evidence that the appellant will not dissipate or divert assets. Should the appellant fail to meet the burden of proof the court shall"

SB 298 be amended by motion of Senator Brungardt, on page 4, in line 24, by striking all after the period and inserting "No city or county shall enact any ordinance or resolution"; in line 26, after "act" by inserting "and any such ordinance or resolution";

On page 8, in line 13, before the period, by inserting ", if such premises are located in a township having a population of more than 5,000"; in line 19, before the comma, by inserting "in a township having a population of more than 5,000 and thereafter such township population decreases or has decreased to 5,000 or less"; in line 30, before "and" by inserting "in a township having a population of more than 5,000"; in line 36, by striking "county" and inserting "township"; in line 41, before "shall" by inserting "or in a township having a population of more than 5,000";

On page 9, in line 6, after "p.m.", by inserting "and on Memorial Day, Independence Day and Labor Day";

On page 10, in line 30, by striking all before the comma and inserting "(a) Within any city where the hours and days of sale at retail of alcoholic liquor in the original package have been restricted as provided by section 9, and amendments thereto, and within any township where the hours and days of sale at retail of alcoholic liquor in the original package have not been expanded as provided by K.S.A. 41-303, and amendments thereto"; by striking all in lines 37 through 43;

On page 11, by striking all in line 1 and inserting:

"(b) Within any city where the hours of sale at retail of alcoholic liquor in the original package have not been restricted as provided in section 9, and amendments thereto, and within any township where the hours and days of sale at retail of alcoholic liquor in the original package have been expanded as provided by K.S.A. 41-303, and amendments thereto, no person shall sell at retail alcoholic liquor in the original package: (1) On Sunday before 12 noon or after 8 p.m.; (2) on Thanksgiving Day or Christmas Day; or (3) before 9 a.m. or after 11 p.m. on any day when the sale is permitted, except that the governing body of any city by ordinance may require the closing of premises prior to 11 p.m., but such ordinance shall not require closing prior to 8 p.m.";

Also on page 11, in line 3, by striking all after “nance”; by striking all in line 4; in line 5, by striking all before “Such” and inserting “to restrict the hours and days of sale at retail of alcoholic liquor or cereal malt beverage, or both, in the original package by prohibiting such sales on Sunday, Memorial Day, Independence Day and Labor Day.”; by striking all in lines 28 through 33; by striking all in lines 35 through 41; in line 43, by striking the period;

On page 12, by striking all in line 1; in line 2, by striking all before “Any” and inserting “(a)”; by striking all in lines 5 through 11; in line 12, by striking “(d)” and inserting “(b)”; in line 15, by striking all after “liquor”; by striking all in line 16; in line 17, by striking all before the period; by striking all in lines 18 through 25;

On page 15, in line 1, by striking all after the period and inserting “No city or county shall enact any ordinance or resolution”; in line 3, after “act” by inserting “and any such ordinance or resolution”; in line 19, by striking all before the comma and inserting:

“(b) Within any city where the hours and days of sale at retail of cereal malt beverage in the original package have been restricted as provided by section 9, and amendments thereto, and within any township where the hours and days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by section 14, and amendments thereto”;

Also on page 15, following line 28, by inserting:

“(c) Within any city where the hours of sale at retail of cereal malt beverage in the original package have not been restricted as provided in section 9, and amendments thereto, and within any township where the hours and days of sale at retail of cereal malt beverage in the original package have been expanded as provided by section 14, and amendments thereto, no person shall sell at retail cereal malt beverage:

(1) Between the hours of 12 midnight and 6 a.m.; or

(2) in the original package before 12 noon after 8 p.m. on Sunday; or

(3) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.”;

By relettering subsections (c) through (g) as subsections (d) through (h);

On page 16, by striking all in lines 19 through 25

Senator Barnett further amended **SB 298**, on page 3, in line 37, by striking “contrary” and inserting “are more restrictive than or supplemental”;

On page 4, in line 37, before “more” by inserting “which are”;

On page 15, in line 6, before “more” by inserting “which are”, and **SB 298** be passed as amended.

The following amendment offered by Senator Barnett to **SB 298** was rejected: on page 9, by striking all in lines 4 through 10;

On page 10, by striking all in lines 29 through 43;

On page 11, by striking all in lines 1 through 33;

By renumbering sections accordingly;

On page 15, by striking all in lines 12 through 43;

On page 16, by striking all in lines 1 through 32; by renumbering sections accordingly; in line 33, by striking all after “41-710”; in line 34, by striking “41-2704” and inserting “and 41-714”;

In the title, in line 10, by striking all after “41-710”; in line 11, by striking all before the second “and” and inserting “and 41-714”

HB 2309 be amended by motion of Senator Barone, on page 1, in line 43, before “Douglas” insert “Crawford.”

Senator Pine further amended the bill, on page 1, in line 43, by inserting “Jefferson,” after “Franklin.”

Senator Reitz further amended the bill, on page 1, in line 43, by inserting “Riley,” after “Miami,” and **HB 2309** be passed as amended.

HB 2018 be amended by adoption of the committee amendments, be further amended by motion of Senator Francisco, on page 2, in line 37, after the word “section” at the end

of the line by inserting “, such memorandum takes effect by operation of law pursuant to this section,” and **HB 2018** be passed as further amended.

HB 2053 be amended by adoption of the committee amendments, be further amended by motion of Senator Taddiken, as amended by Senate Committee, on page 2, in line 21, by striking all following “disease”; by striking all in line 22; in line 23, by striking all preceding the period and inserting “. The state of Kansas shall pay to the owner the amount to which the owner is entitled as determined by the commissioner as provided by this section unless payment or indemnity for such domestic animal may be obtained from the United States government”, and **HB 2053** be passed as further amended.

HB 2203 be amended by adoption of the committee amendments, be further amended by motion of Senator Barnett, as amended by Senate Committee, on page 4, after line 34, by inserting the following:

“Sec. 3. K.S.A. 40-2239 is hereby amended to read as follows: 40-2239. As used in this act, unless the context requires otherwise:

(a) “Carrier” means an insurance company, medical or hospital service corporation, medical and hospital service corporation or health maintenance organization which holds a valid certificate of authority from the insurance commissioner.

(b) “Commissioner” means the commissioner of insurance.

(c) “Eligible employee” means an employee who is employed by the employer for an average of at least 30 hours per week and who elects to participate in one of the benefit plans provided under this act, and includes individuals who are sole proprietors, business partners and limited partners. The term “eligible employee” does not include individuals:

(1) Engaged as independent contractors;

(2) whose periods of employment are on an intermittent or irregular basis; or

(3) who have been employed by the employer for fewer than 90 days.

(d) “Family member” means an eligible employee’s spouse and any unmarried dependent child or stepchild.

(e) “Health benefit plan” means a contract for group medical, surgical, hospital or any other remedial care recognized by state law and related services and supplies.

(f) “*Health savings account*” means a trust created or organized in the United States as a health savings account exclusively for the purpose of paying the qualified medical expenses of the account beneficiary, but only if the written governing instrument creating the trust meets the requirements specified by the medicare, prescription drug, improvement and modernization act of 2003, Pub. L. No. 108-173, 117 Stat. 2067.

(g) “Premium” means the monthly or other periodic charge for a health benefit plan.

~~(g)~~ (h) “Small employer health benefit plan” means an arrangement providing a health benefit plan for the purpose described in K.S.A. 40-2240, and amendments thereto.

Sec. 4. K.S.A. 2004 Supp. 40-2240 is hereby amended to read as follows: 40-2240. (a) Any small employer as defined in subsection (4) of K.S.A. 40-2209d, and amendments thereto, may establish a small employer health benefit plan for the purpose of providing a health benefit plan as described in subsection (u) of K.S.A. 40-2209d, and amendments thereto, covering such employers’ eligible employees and such employees’ family members. If an association or trust is used for such purposes, the association or trust may not condition eligibility or membership on the health status of members or employees.

(b) ~~Employers desiring to offer a small employer health benefit plan shall notify the commissioner and provide the commissioner with information on the number of employees and family members to be covered by the insurance described in K.S.A. 40-2209d, and amendments thereto. The commissioner shall provide assistance to employers desiring to organize and maintain any such benefit plan and may aid in the acquisition of the health care insurance by the small employer health benefit plan. The commissioner shall issue a certificate to every employer participating in any such small employer health benefit plan entitling such employer to claim the tax credit authorized by K.S.A. 40-2246 and amendments thereto subject to the following limitation. No certificate shall be issued to any employer seeking the same after certificates have already been issued under this act to employers offering health benefits described in K.S.A. 40-2209d, and amendments thereto; to employees and family members entitling such employers to claim the credits for taxable years which commence after December 31, 1999.~~

Sec. 5. K.S.A. 40-2242 is hereby amended to read as follows: 40-2242. As a condition to participation as a member of any small employer health benefit plan as provided in K.S.A. 40-2240 and amendments thereto, an employer shall have not contributed within the preceding two years to any health insurance premium *or health savings account* on behalf of an employee who is to be covered by the employer's contribution other than a contribution by an employer to a health insurance premium *or health savings account* within the preceding two years solely for the benefit of the employer or the employer's dependents.

Sec. 6. K.S.A. 40-2246 is hereby amended to read as follows: 40-2246. (a) A credit against the taxes otherwise due under the Kansas income tax act shall be allowed to an employer for amounts paid during the taxable year for purposes of this act on behalf of an eligible employee as defined in K.S.A. 40-2239 and amendments thereto to provide health insurance or care *and amounts contributed to health savings accounts of eligible covered employees.*

(b) (1) *For employers that have established a small employer health benefit plan after December 31, 1999, but prior to January 1, 2005, the amount of the credit allowed by subsection (a) shall be \$35 per month per eligible covered employee or 50% of the total amount paid by the employer during the taxable year, whichever is less, for the first two years of participation. In the third year, the credit shall be equal to 75% of the lesser of \$35 per month per employee or 50% of the total amount paid by the employer during the taxable year. In the fourth year, the credit shall be equal to 50% of the lesser of \$35 per month per employee or 50% of the total amount paid by the employer during the taxable year. In the fifth year, the credit shall be equal to 25% of the lesser of \$35 per month per employee or 50% of the total amount paid by the employer during the taxable year. For the sixth and subsequent years, no credit shall be allowed.*

(2) *For employers that have established a small employer health benefit plan or made contributions to a health savings account of an eligible covered employee after December 31, 2004, the amount of credit allowed by subsection (a) shall be \$70 per month per eligible covered employee for the first 12 months of participation, \$50 per month per eligible covered employee for the next 12 months of participation and \$35 per eligible covered employee for the next 12 months of participation. After 36 months of participation, no credit shall be allowed.*

(c) If the credit allowed by this section is claimed, the amount of any deduction allowable under the Kansas income tax act for expenses described in this section shall be reduced by the dollar amount of the credit. The election to claim the credit shall be made at the time of filing the tax return in accordance with law. If the credit allowed by this section exceeds the taxes imposed under the Kansas income tax act for the taxable year, that portion of the credit which exceeds those taxes shall be refunded to the taxpayer.

(d) Any amount of expenses paid by an employer under this act shall not be included as income to the employee for purposes of the Kansas income tax act. If such expenses have been included in federal taxable income of the employee, the amount included shall be subtracted in arriving at state taxable income under the Kansas income tax act.

(e) *The secretary of revenue shall promulgate rules and regulations to carry out the provisions of this section.*

(f) This section shall apply to all taxable years commencing after December 31, 1999.”;
And by renumbering sections accordingly;

Also on page 4, in line 35, by striking “and” and inserting a comma; also in line 35, after “40-19c06” by inserting “, 40-2239, 40-2242 and 40-2246 and K.S.A. 2004 Supp. 40-2240”;

On page 1, in the title, in line 13, after the semicolon, by inserting “health benefit plans and health savings accounts, income tax credits for certain employer contributions;”; also in line 13, by striking “and” the first time it appears and inserting a comma; also in line 13, after “40-19c06” by inserting “, 40-2239, 40-2242 and 40-2246 and K.S.A. 2004 Supp. 40-2240”, and **HB 2203** be passed as further amended.

HB 2263 be amended by adoption of the committee amendments, be further amended by motion of Senator Apple, as amended by Senate Committee, on page 1, in line 39, by striking “Five” and inserting “Three”;

On page 2, in line 1, by striking “Two” and inserting “One”; in line 4, by striking “two” and inserting “one”; in line 11, by striking “three” and inserting “two”; following line 19, by inserting:

“(3) One member shall be appointed by the president of the senate and one member shall be appointed by the speaker of the house. The members so appointed and serving as members shall be qualified voters of the state of Kansas with special knowledge, as evidenced by college degrees or courses, or with at least five years’ experience in managerial positions, in the field of electric transmission or generation development. The member appointed by the president of the senate shall be appointed to a term of four years and the member appointed by the speaker of the house shall be appointed to a term of two years. Successors to such members shall be appointed for terms of four years. Each member shall hold office for the term of appointment and until the successor has been appointed. In the event of a vacancy, the vacancy shall be filled by the legislative officer who appointed the member who created the vacancy in the manner provided for the original appointment for the remainder of the unexpired portion of the term.”;

Also on page 2, in line 20, by striking “(3)” and inserting “(4)”;

On page 9, in line 28, following the comma, by inserting “except that state finance council approval shall be required in accordance with this section,”; in line 33, following “bonds” by inserting “and shall be approved by resolution of the state finance council. The approval of the state finance council is hereby characterized as matters of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto. Such approval may be given by the state finance council when the legislature is in session”; and **HB 2263** be passed as further amended.

HB 2310 be amended by adoption of the committee amendments, be further amended by motion of Senator Brownlee, as amended by Senate Committee, on page 4, after line 5, by inserting the following:

“Sec. 4. K.S.A. 8-177c is hereby amended to read as follows: 8-177c. (a) As used in this section, “prisoner of war” means any person who was held as a prisoner of war while serving in the army, navy, coast guard, air force or marine corps of the United States in World War I or World War II or while serving with the armed forces of the United States during the military, naval and air operations in Korea, Vietnam or other places under the flags of the United States and the United Nations or under the flag of the United States alone. *“Prisoner of war” shall also include any civilian who was held as a prisoner of war.*

(b) Any owner or lessee of a passenger vehicle or truck of gross weight of 20,000 pounds or less, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a former prisoner of war or is the surviving spouse of a former prisoner of war, may, upon compliance with the provisions of this section, be issued one distinctive license plate designating such person as a prisoner of war. The license plate shall be issued for the same period of time as other license plates are issued upon proper registration without payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto. Only one distinctive license plate may be issued to any prisoner of war or surviving spouse of a prisoner of war, to be displayed on such a vehicle owned or leased by such person.

(c) Any prisoner of war or surviving spouse of a prisoner of war may make application for the distinctive license plate, not less than 60 days prior to such person’s renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plate shall furnish the director with such proof as the director shall require that the applicant was a prisoner of war or is the surviving spouse of a prisoner of war. Application for the registration of a passenger vehicle or truck and issuance of the distinctive license plate under the provisions of this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon the appropriate form furnished by the director.

(d) Any registration or distinctive license plate issued under the authority of this section shall not be transferable to any other person, except to the surviving spouse of a prisoner of war.

(e) Renewals of registration hereunder shall be made annually, without charge, in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until the applicant has filed with the director a form as provided in subsection (c). If the form is not filed, the applicant shall be required

to register the motor vehicle as provided in K.S.A. 8-143, and amendments thereto, and return the distinctive license plate to the county treasurer.

(f) The rights of the surviving spouse of a prisoner of war under this section shall terminate upon remarriage of such person.

(g) Nothing in this section shall authorize the surviving spouse of a prisoner of war to be issued a distinctive license plate under this section, unless the deceased prisoner of war had already been issued such distinctive license plate.

(h) *Any license plate issued under the provisions of this section to a person who was a prisoner of war shall be issued a decal indicating that such person was a civilian prisoner of war. Such decal shall be affixed to the license plate in the location required by the director.*;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 6, after "K.S.A." by inserting "8-177c and";

On page 1, in the title, in line 14, after "K.S.A." by inserting "8-177c and", and **HB 2310** be passed as further amended.

HB 2331 be amended by adoption of the committee amendments, be further amended by motion of Senator Barnett, as amended by Senate Committee, on page 32, following line 18, by inserting:

"Sec. 23. K.S.A. 74-32,101 is hereby amended to read as follows: 74-32,101. As used in this act:

(a) "Executive officer" means the chief executive officer of the state board of regents appointed under K.S.A. 74-3203a, and amendments thereto;

(b) "qualified student" means a person who: (1) Is a resident of the state of Kansas; (2) has been accepted for admission to or is enrolled full time in a course of instruction leading to ~~certification~~ licensure as a teacher; and (3) has qualified for the award of a scholarship under the teacher service scholarship program on the basis of having demonstrated scholastic ability, or who has previously so qualified and remains qualified for renewal of the scholarship on the basis of remaining in good standing and making satisfactory progress toward completion of the requirements of the course of instruction in which enrolled;

(c) "hard-to-fill teaching discipline" means (1) a teaching discipline in which there is a critical shortage of teachers as determined and specified by the state board of education; and (2) the teaching disciplines of mathematics and science for any of the grades five through 12;

(d) "underserved area" means a geographic area of the state in which there is a critical shortage of teachers as determined and specified by the state board of education;

(e) "state educational institution" has the meaning ascribed thereto in K.S.A. 76-711, and amendments thereto;

(f) "private postsecondary educational institution" has the meaning ascribed thereto in K.S.A. 2004 Supp. 74-32,163, and amendments thereto.

Sec. 24. K.S.A. 74-32,102 is hereby amended to read as follows: 74-32,102. (a) There is hereby established the teacher service scholarship program. A scholarship may be awarded under the teacher service scholarship program to any qualified student and may be renewed for each such student who remains qualified for the scholarship. Determination of the students qualified for such scholarships shall be made by the executive officer. Scholastic ability shall be determined on the basis of any one or more of the following: (1) High ACT or SAT score; (2) rank in high school graduation class; (3) cumulative high school or college grade point average; or (4) any other indicator of scholastic ability which the state board of regents determines to be demonstrative of potential for successful completion of a course of instruction leading to ~~certification~~ licensure as a teacher. To the extent practicable and consistent with qualification factors, consideration shall be given to *qualified* students who are members of ethnic minority groups.

(b) A scholarship awarded under the program shall provide for payment to a qualified student of (1) an amount not to exceed 70% of the cost of attendance for an academic year at the teacher education school in which the qualified student is enrolled if such teacher education school is maintained by a state educational institution or (2) an amount not to exceed 70% of the average amount of the cost of attendance for an academic year at the teacher education schools maintained by the state educational institutions if the teacher

education school in which the qualified student is enrolled is ~~not a state educational institution~~ *in a private postsecondary educational institution located in the state of Kansas.* A qualified student may be awarded a scholarship for not more than four academic years of undergraduate study, except that a qualified student who is enrolled full time in a course of instruction leading to ~~certification~~ *licensure* in a teaching discipline for which graduate study is required may be awarded a scholarship for the duration of the course of instruction.”;

By renumbering sections accordingly;

Also on page 32, in line 21, by striking “and 72-996” and inserting “, 72-996, 74-32,101 and 74-32,102”;

In the title, in line 13, after the semicolon by inserting “relating to teachers;”; in line 15, by striking “and 72-996” and inserting “, 72-996, 74-32,101 and 74-32,102”

Senator Barnett further amended **HB 2331**, as amended by Senate Committee, on page 32, following line 18, by inserting:

“Sec. 23. K.S.A. 72-1398 is hereby amended to read as follows: 72-1398. (a) The national board for professional teaching standards certification incentive program is hereby established for the purpose of rewarding teachers who have attained certification from the national board. Teachers who have attained certification from the national board shall be issued a master teacher’s certificate by the state board of education. A master teacher’s certificate shall be valid for 10 years and renewable thereafter every 10 years through compliance with continuing education and professional development requirements prescribed by the state board. Teachers who have attained certification from the national board and who are employed by a school district shall be paid an incentive bonus in the amount of \$1,000 each school year, ~~not exceeding 10 years~~, that the teacher remains employed by a school district and retains a valid master teacher’s certificate.

(b) The board of education of each school district employing one or more national board certified teachers shall pay the incentive bonus to each such teacher in each school year that the teacher retains eligibility for such payment. Each board of education which has made payments of incentive bonuses to national board certified teachers under this subsection may file an application with the state board of education for state aid and shall certify to the state board the amount of such payments. The application and certification shall be on a form prescribed and furnished by the state board, shall contain such information as the state board shall require and shall be filed at the time specified by the state board.

(c) In each school year, each school district employing one or more national board certified teachers is entitled to receive from appropriations for the national board for professional teaching standards certification incentive program an amount which is equal to the amount certified to the state board of education in accordance with the provisions of subsection (b). The state board shall certify to the director of accounts and reports the amount due each school district. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school district entitled to payment under this section upon vouchers approved by the state board.

(d) Moneys received by a board of education under this section shall be deposited in the general fund of the school district. ~~Moneys deposited in the general fund of the school district under this subsection~~ *and* shall be considered reimbursements to the district for the purpose of the school district finance and quality performance act and may be expended whether the same have been budgeted or not.

(e) *The state board of education is authorized to provide scholarships of \$1,100 each to teachers who are accepted to participate in the national board of professional teaching standards program for initial certification. The state board of education is authorized to provide scholarships of \$500 each to teachers who are accepted to participate in the national board for professional teaching standards program for renewal of certification. Any teacher who has been accepted to participate in such program may file an application with the state board of education for a scholarship. The application shall be on a form prescribed and furnished by the state board, shall contain such information as the state board shall require and shall be filed at the time specified by the state board.*

(f) As used in this section, the term school district means any school district organized and operating under the laws of this state.

Sec. 24. K.S.A. 74-32,101 is hereby amended to read as follows: 74-32,101. As used in this act:

(a) "Executive officer" means the chief executive officer of the state board of regents appointed under K.S.A. 74-3203a, and amendments thereto;

(b) "qualified student" means a person who: (1) Is a resident of the state of Kansas; (2) has been accepted for admission to or is enrolled full time in a course of instruction leading to ~~certification~~ licensure as a teacher; and (3) has qualified for the award of a scholarship under the teacher service scholarship program on the basis of having demonstrated scholastic ability, or who has previously so qualified and remains qualified for renewal of the scholarship on the basis of remaining in good standing and making satisfactory progress toward completion of the requirements of the course of instruction in which enrolled;

(c) "hard-to-fill teaching discipline" means (1) a teaching discipline in which there is a critical shortage of teachers as determined and specified by the state board of education; and (2) *the teaching disciplines of mathematics and science for any of the grades five through 12;*

(d) "underserved area" means a geographic area of the state in which there is a critical shortage of teachers as determined and specified by the state board of education;

(e) "state educational institution" *has the meaning ascribed thereto in K.S.A. 76-711, and amendments thereto;*

(f) "private postsecondary educational institution" *has the meaning ascribed thereto in K.S.A. 2004 Supp. 74-32,163, and amendments thereto.*

Sec. 25. K.S.A. 74-32,102 is hereby amended to read as follows: 74-32,102. (a) There is hereby established the teacher service scholarship program. A scholarship may be awarded under the teacher service scholarship program to any qualified student and may be renewed for each such student who remains qualified for the scholarship. Determination of the students qualified for such scholarships shall be made by the executive officer. Scholastic ability shall be determined on the basis of any one or more of the following: (1) High ACT or SAT score; (2) rank in high school graduation class; (3) cumulative high school or college grade point average; or (4) any other indicator of scholastic ability which the state board of regents determines to be demonstrative of potential for successful completion of a course of instruction leading to ~~certification~~ licensure as a teacher. To the extent practicable and consistent with qualification factors, consideration shall be given to *qualified* students who are members of ethnic minority groups.

(b) A scholarship awarded under the program shall provide for payment to a qualified student of (1) an amount not to exceed 70% of the cost of attendance for an academic year at the teacher education school in which the qualified student is enrolled if such teacher education school is maintained by a state educational institution or (2) an amount not to exceed 70% of the average amount of the cost of attendance for an academic year at the teacher education schools maintained by the state educational institutions if the teacher education school in which the qualified student is enrolled ~~is not a state educational institution~~ *in a private postsecondary educational institution located in the state of Kansas.* A qualified student may be awarded a scholarship for not more than four academic years of undergraduate study, except that a qualified student who is enrolled full time in a course of instruction leading to ~~certification~~ licensure in a teaching discipline for which graduate study is required may be awarded a scholarship for the duration of the course of instruction.";

By renumbering sections accordingly;

Also on page 32, in line 21, by striking "and 72-996" and inserting ", 72-996, 72-1398, 74-32,101 and 74-32,102";

In the title, in line 13, after the semicolon by inserting "relating to teachers."; in line 15, by striking "and 72-996" and inserting ", 72-996, 72-1398, 74-32,101 and 74-32,102", and **HB 2331** be passed as further amended.

HB 2385 be amended by adoption of the committee amendments, be further amended by motion of Senator Lee, as amended by Senate Committee, on page 1, preceding line 36, by inserting the following:

"Sec. 2. K.S.A. 8-1001 is hereby amended to read as follows: 8-1001. (a) Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent,

subject to the provisions of this act, to submit to one or more tests, *including, but not limited to, a preliminary screening test pursuant to K.S.A. 8-1012, and amendments thereto*, of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The testing deemed consented to herein shall include all quantitative and qualitative tests for alcohol and drugs. A person who is dead or unconscious shall be deemed not to have withdrawn the person's consent to such test or tests, which shall be administered in the manner provided by this section.

(b) A law enforcement officer shall request a person to submit to a test or tests deemed consented to under subsection (a) if the officer has reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person was driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, or was under the age of 21 years while having alcohol or other drugs in such person's system; and one of the following conditions exists: (1) The person has been arrested or otherwise taken into custody for any offense involving operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both, or for a violation of K.S.A. 8-1567a, and amendments thereto, or involving driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, in violation of a state statute or a city ordinance; or (2) the person has been involved in a vehicle accident or collision resulting in property damage, personal injury or death. The law enforcement officer directing administration of the test or tests may act on personal knowledge or on the basis of the collective information available to law enforcement officers involved in the accident investigation or arrest.

(c) If a law enforcement officer requests a person to submit to a test of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) any qualified medical technician, including, but not limited to, an emergency medical technician-intermediate or mobile intensive care technician, as those terms are defined in K.S.A. 65-6112, and amendments thereto, or a phlebotomist. When presented with a written statement by a law enforcement officer directing blood to be withdrawn from a person who has tentatively agreed to allow the withdrawal of blood under this section, the person authorized herein to withdraw blood and the medical care facility where blood is withdrawn may rely on such a statement as evidence that the person has consented to the medical procedure used and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent. No person authorized by this subsection to withdraw blood, nor any person assisting in the performance of a blood test nor any medical care facility where blood is withdrawn or tested that has been directed by any law enforcement officer to withdraw or test blood, shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices in the community where performed.

(d) If there are reasonable grounds to believe that there is impairment by a drug which is not subject to detection by the blood or breath test used, a urine test may be required. If a law enforcement officer requests a person to submit to a test of urine under this section, the collection of the urine sample shall be supervised by persons of the same sex as the person being tested and shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence.

(e) No law enforcement officer who is acting in accordance with this section shall be liable in any civil or criminal proceeding involving the action.

(f) Before a test or tests are administered under this section, the person shall be given oral and written notice that: (A) Kansas law requires the person to submit to and complete one or more tests of breath, blood or urine to determine if the person is under the influence of alcohol or drugs, or both;

(B) the opportunity to consent to or refuse a test is not a constitutional right;

(C) there is no constitutional right to consult with an attorney regarding whether to submit to testing;

(D) if the person refuses to submit to and complete any test of breath, blood or urine hereafter requested by a law enforcement officer, the person's driving privileges will be suspended for one year for the first occurrence, two years for the second occurrence, three years for the third occurrence, 10 years for the fourth occurrence and permanently revoked for a fifth or subsequent offense;

(E) if the person submits to and completes the test or tests and the test results show an alcohol concentration of .08 or greater, the person's driving privileges will be suspended for 30 days for the first occurrence, one year for the second, third or fourth occurrence and permanently revoked for a fifth or subsequent offense;

(F) if the person is less than 21 years of age at the time of the test request and submits to and completes the tests and the test results show an alcohol concentration of .08 or greater, the person's driving privileges will be suspended up to one year;

(G) refusal to submit to testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both;

(H) the results of the testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both; and

(I) after the completion of the testing, the person has the right to consult with an attorney and may secure additional testing, which, if desired, should be done as soon as possible and is customarily available from medical care facilities and physicians.

(g) If a law enforcement officer has reasonable grounds to believe that the person has been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, the person shall also be provided the oral and written notice pursuant to K.S.A. 8-2,145 and amendments thereto. Any failure to give the notices required by K.S.A. 8-2,145 and amendments thereto shall not invalidate any action taken as a result of the requirements of this section. If a law enforcement officer has reasonable grounds to believe that the person has been driving or attempting to drive a vehicle while having alcohol or other drugs in such person's system and such person was under 21 years of age, the person also shall be given the notices required by K.S.A. 8-1567a, and amendments thereto. Any failure to give the notices required by K.S.A. 8-1567a, and amendments thereto, shall not invalidate any action taken as a result of the requirements of this section.

(h) After giving the foregoing information, a law enforcement officer shall request the person to submit to testing. The selection of the test or tests shall be made by the officer. If the person refuses to submit to and complete a test as requested pursuant to this section, additional testing shall not be given unless the certifying officer has probable cause to believe that the person, while under the influence of alcohol or drugs, or both, has operated a vehicle in such a manner as to have caused the death of or serious injury to another person. If the test results show a blood or breath alcohol concentration of .08 or greater, the person's driving privileges shall be subject to suspension, or suspension and restriction, as provided in K.S.A. 8-1002 and 8-1014, and amendments thereto.

(i) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of the alleged operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both.

(j) If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .04 or greater, the person shall be disqualified from driving a commercial motor vehicle, pursuant to K.S.A. 8-2,142, and amendments thereto. If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .08 or greater, or the person refuses a test, the person's driving privileges shall be subject to suspension, or suspension and restriction, pursuant to this section, in

addition to being disqualified from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.

(k) An officer shall have probable cause to believe that the person operated a vehicle while under the influence of alcohol or drugs, or both, if the vehicle was operated by such person in such a manner as to have caused the death of or serious injury to another person. In such event, such test or tests may be made pursuant to a search warrant issued under the authority of K.S.A. 22-2502, and amendments thereto, or without a search warrant under the authority of K.S.A. 22-2501, and amendments thereto.

(l) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(m) It shall not be a defense that the person did not understand the written or oral notice required by this section.

(n) No test results shall be suppressed because of technical irregularities in the consent or notice required pursuant to this act.

(o) Nothing in this section shall be construed to limit the admissibility at any trial of alcohol or drug concentration testing results obtained pursuant to a search warrant.

(p) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.

(q) This act is remedial law and shall be liberally construed to promote public health, safety and welfare.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 36, after “K.S.A.” by inserting “8-1001 and”; also in line 36, by striking “is” and inserting “are”;

In the title, in line 14, after the semicolon by inserting “tests for alcohol and drugs when allegedly driving under the influence;”; also in line 14, after “K.S.A.” by inserting “8-1001 and”; also in line 14, by striking “section” and inserting “sections”, and **HB 2385** be passed as further amended.

Senator Haley moved to amend **HB 2385**, as amended by Senate Committee, on page 1, preceding line 36, by inserting the following:

“New Sec. 2. (a) Deprivation of rights under color of law is the intentional subjection by a person who, under color of any law, statute, county resolution, ordinance or regulation, of any person, to the deprivation of any rights, privileges or immunities secured or protected by the Constitution or laws of the state of Kansas, or to different punishments, pains or penalties on account of such person being an alien, or by reason of color or race than are prescribed for the punishment of citizens by: (1) Causing bodily harm to another person or disfigurement of another person; or

(2) causing great bodily harm to another person or disfigurement of another person; or

(3) causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or

(4) causing physical contact with another person when done in a rude, insulting or angry manner with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or

(5) causing monetary loss to another person.

(b) (1) Deprivation of rights under color of law as described in section (a)(1) is a class B person misdemeanor.

(2) Deprivation of rights under color of law as defined in subsection (a)(2) is a severity level 4, person felony.

(3) Deprivation of rights under color of law as defined in subsection (a)(3) or (a)(4) is a severity level 7, person felony.

(4) Deprivation of rights under color of law as defined in subsection (a)(5) where the monetary loss is less than \$500 is a class A nonperson misdemeanor.

(5) Deprivation of rights under color of law as defined in subsection (a)(5) where the monetary loss is at least \$500 but less than \$25,000 is a severity level 9, nonperson felony.

(6) Deprivation of rights under color of law as defined in subsection (a)(5) where the monetary loss is \$25,000 or more is a severity level 7, nonperson felony.

(c) A person convicted of deprivation of rights under color of law shall be subject to the provisions of subsection (h) of K.S.A. 21-4704 and amendments thereto.

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

And by renumbering the remaining sections accordingly;

In the title, in line 14, after the semicolon by inserting “creating the crime of deprivation of rights under color of law;”

A ruling of the chair was requested as to the germaneness of the amendment to the bill.

The Chair ruled the amendment was not germane.

HB 2138, HB 2357, HB 2380 be passed over and retain a place on the calendar.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Friday, March 25, 2005.

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

PAT SAVILLE, *Secretary of the Senate*.

