

Journal of the House

TWENTY-FIFTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, February 13, 2006, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 119 members present.

Reps. Kuether, Peterson and Yoder were excused on verified illness.

Reps. Aurand, Carter and Humerickhouse were excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Michael Kuner, interim pastor, First Presbyterian Church, Topeka, and former chaplain of the House from 1988 -1993:

Gracious and loving God we give you thanks for the day of life you have given to us. We are mindful of the awesome responsibility that you have entrusted to us, the task of governing the people of Kansas.

As ours is a state diverse in population with differing needs, we pray that we would use the differing gifts and abilities you have given us so that we might rightly lead your people. Be with us in our meetings, our deliberations, our debates and our voting. May all that we do serve only to advance your will. We pray in your great name O Lord, Our Rock and Our Redeemer. Amen.

The Pledge of Allegiance was led by Rep. Beamer.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were introduced and read by title:

HB 2889, An act concerning utilization review; pertaining to standards for denial of coverage, by Committee on Insurance.

HB 2890, An act concerning surface-mining; relating to establishment of a natural resource development district, by Committee on Environment.

HB 2891, An act concerning the civil commitment of certain persons; relating to sexually violent predators; relating to the rights of such predators; creating the crime of battery against a mental health employee; amending K.S.A. 59-2978, 59-29a08 and 59-29a12 and repealing the existing sections, by Representative M. Holmes.

HB 2892, An act concerning retirement and pensions; relating to certain school retirees; minimum payments; amending K.S.A. 74-4950j and repealing the existing section, by Representative Loyd.

HOUSE CONCURRENT RESOLUTION No. 5039—

By Committee on Judiciary

A PROPOSITION to amend the constitution of the state of Kansas by revising article 3 thereof, relating to judiciary.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 3 of the constitution of the state of Kansas shall be revised to read as follows:

Article 3. — JUDICIAL

“§ 1. **Judicial power; seals; rules.** The judicial power of this state shall be vested exclusively in one court of justice, which shall be divided into one supreme court, district courts, and such other courts as are provided by law; and all courts of record shall have a seal. The supreme court shall have general administrative authority over all courts in this state.

“§ 2. **Supreme court.** The supreme court shall consist of not less than seven justices who shall be selected as provided by this article. All cases shall be heard with not fewer than four justices sitting and the concurrence of a majority of the justices sitting and of not fewer than four justices shall be necessary for a decision. The justice who is senior in continuous term of service shall be chief justice, and in case two or more have continuously served during the same period the senior in age of these shall be chief justice. A justice may decline or resign from the office of chief justice without resigning from the court. Upon such declination or resignation, the justice who is next senior in continuous term of service shall become chief justice. During incapacity of a chief justice, the duties, powers and emoluments of the office shall devolve upon the justice who is next senior in continuous service.

“§ 3. **Jurisdiction and terms.** The supreme court shall have original jurisdiction in proceedings in quo warranto, mandamus, and habeas corpus; and such appellate jurisdiction as may be provided by law. It shall hold one term each year at the seat of government and such other terms at such places as may be provided by law, and its jurisdiction shall be co-extensive with the state.

“§ 4. **Reporter; clerk.** There shall be appointed, by the justices of the supreme court, a reporter and clerk of said court, who shall hold their offices two years, and whose duties shall be prescribed by law.

“§ 5. **Selection of justices of the supreme court.** (a) Any vacancy occurring in the office of any justice of the supreme court and any position to be open thereon as a result of enlargement of the court or the retirement of a justice shall be filled by appointment by the governor of a person possessing the qualifications of office. The term of office of the justices shall be 10 years.

(b) In event of the failure of the governor to make the appointment within sixty days from the date such vacancy occurred or position became open, the chief justice of the supreme court shall make the appointment of a person possessing the qualifications of office.

(c) A justice may continue to be reappointed to such position by the governor, or the chief justice as the case may be, if such person continues to possess the qualifications of office.

(d) Each justice of the supreme court who is holding office on the effective date of this amendment shall remain in office for a term ending on the second Monday in January following 10 years from the date of the next general election in which such justice is retained in office. Upon such Monday, the office shall be considered vacant.

“§ 6. **District courts.** (a) The state shall be divided into judicial districts as provided by law. Each judicial district shall have at least one district judge. The term of office of each judge of the district court shall be four years. District court shall be held at such times and places as may be provided by law. The district judges shall be elected by the electors of the respective judicial districts unless the electors of a judicial district have adopted and not subsequently rejected a method of nonpartisan selection. The legislature shall provide a method of nonpartisan selection of district judges and for the manner of submission and resubmission thereof to the electors of a judicial district. A nonpartisan method of selection of district judges may be adopted, and once adopted may be rejected, only by a majority of electors of a judicial district voting on the question at an election in which the proposition is submitted. Whenever a vacancy occurs in the office of district judge, it shall be filled by appointment by the governor until the next general election that occurs more than thirty days after such vacancy, or as may be provided by such nonpartisan method of selection.

(b) The district courts shall have such jurisdiction in their respective districts as may be provided by law.

(c) The legislature shall provide for clerks of the district courts.

(d) Provision may be made by law for judges pro tem of the district court.

(e) The supreme court or any justice thereof shall have the power to assign judges of district courts temporarily to other districts.

(f) The supreme court may assign a district judge to serve temporarily on the supreme court.

“§ 7. **Qualifications of justices and judges.** Justices of the supreme court and judges of the district courts shall be at least thirty years of age and shall be duly authorized by the supreme court of Kansas to practice law in the courts of this state and shall possess such other qualifications as may be prescribed by law.

“§ 8. **Prohibition of political activity by justices and certain judges.** No justice of the supreme court who is appointed nor any judge of the district court holding office under a nonpartisan method authorized in subsection (a) of section 6 of this article, shall directly or indirectly make any contribution to or hold any office in a political party or organization or take part in any political campaign.

“§ 12. **Extension of terms until successor qualified.** All judicial officers shall hold their offices until their successors shall have qualified.

“§ 13. **Compensation of justices and judges; certain limitation.** The justices of the supreme court and judges of the district courts shall receive for their services such compensation as may be provided by law, which shall not be diminished during their terms of office, unless by general law applicable to all salaried officers of the state. Such justices or judges shall receive no fees or perquisites nor hold any other office of profit or trust under the authority of the state, or the United States except as may be provided by law, or practice law during their continuance in office.

“§ 15. **Removal of justices and judges.** Justices of the supreme court may be removed from office by impeachment and conviction as prescribed in article 2 of this constitution. In addition to removal by impeachment and conviction, justices may be retired after appropriate hearing as provided by law, upon certification to the governor, that such justice is so incapacitated as to be unable to perform adequately such justice’s duties. Other judges shall be subject to retirement for incapacity, and to discipline, suspension and removal for cause by the supreme court after appropriate hearing.”

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

“Explanatory statement. The purpose of this amendment is to do away with the non-partisan supreme court nominating commission and allow the governor to appoint a qualified person. If the governor fails to act, the chief justice of the supreme court would appoint a qualified person. Such person’s appointment would be effective for ten years. Following the ten-year term, such position would be vacant and the governor would then select an appointment pursuant to the same procedure. Current supreme court justices would hold office for 10 years following the next general election in which such justice is retained in office. At the time, the office shall be considered vacant. There is no change to the way in which district court judges are elected or appointed.

“A vote for this proposition would provide a procedure whereby the governor or chief justice would appoint a person to be a supreme court justice and the term of such justice would be 10 years. At the end of such term, the position would be vacant and the governor or chief justice would make an appointment.

“A vote against this proposition would continue in effect the current provision whereby the supreme court nominating commission nominates three persons for the office of the supreme court and the governor appoints one of such persons.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state

at the general election in the year 2006 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2880; SB 420.**

Economic Development: **SB 324.**

Federal and State Affairs: **Sub. SB 370; SB 418.**

Financial Institutions: **HB 2883; SB 352.**

Governmental Organization and Elections: **HB 2885.**

Health and Human Services: **HB 2876, HB 2877.**

Insurance: **SB 422.**

Judiciary: **HB 2879, HB 2881, HB 2884; SB 261.**

Taxation: **HB 2886, HB 2887, HB 2888; SB 359.**

Transportation: **HB 2878, HB 2882; SB 344, SB 346, SB 347, SB 412, SB 413, SB 496.**

Select Committee on School Finance: **SB 329.**

Select Committee on Veterans Affairs: **SB 396.**

CHANGE OF REFERENCE

Speaker Mays announced the withdrawal of **HB 2256** from Committee on Health and Human Services and referral to Committee on Appropriations.

CONSENT CALENDAR

No objection was made to **HB 2634, HB 2678, HB 2705, HB 2856** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2806** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2759, HB 2794** appearing on the Consent Calendar for the third day. The bills were advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2759, An act concerning cities; relating to the limitation of bonded indebtedness; amending K.S.A. 10-308 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 1; Present but not voting: 0; Absent or not voting: 6.

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

Nays: Faber.

Present but not voting: None.

Absent or not voting: Aurand, Carter, Humerickhouse, Kuether, Peterson, Yoder.

The bill passed.

HB 2794, An act concerning sales taxation; relating to city retailers' sales tax; class D cities; amending K.S.A. 2005 Supp. 12-188 and repealing the existing section, was considered on final action.

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

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

Nays: None.

Present but not voting: None.

Absent or not voting: Aurand, Carter, Humerickhouse, Kuether, Peterson, Yoder.

The bill passed.

HB 2583. An act concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; purchase of service credit; beneficiaries; disability benefits; amending K.S.A. 74-4919f, 74-4919h, 74-4919j, 74-4919l, 74-4919m, 74-4919o, 74-4960a, 74-4965a and 74-4990 and K.S.A. 2005 Supp. 20-2606, 20-2625, 74-4902, 74-4963 and 74-4963a and repealing the existing sections, was considered on final action.

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

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

Nays: None.

Present but not voting: None.

Absent or not voting: Aurand, Carter, Humerickhouse, Kuether, Peterson, Yoder.

The bill passed.

HB 2611. An act relating to allocation of certain funds; amending the child passenger safety act; amending K.S.A. 8-1344 and 8-1345 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 90; Nays 29; Present but not voting: 0; Absent or not voting: 6.

Yeas: Ballard, Bethell, Burgess, Burroughs, Carlin, Colloton, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huff, Huntington, Hutchins, D. Johnson, Kelsey, Kiegerl, Kilpatrick, Kirk, Krehbiel, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Mays, McKinney, Menghini, Merrick, M. Miller, Jim Morrison, Myers, O'Malley, O'Neal, Otto, Owens, Pauls, Phelps, Pottorff, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yonally.

Nays: Beamer, Brown, Brunk, Carlson, Cox, Edmonds, Faber, Freeborn, Hayzlett, Huebert, Huy, E. Johnson, Kelley, Kinzer, Knox, Masterson, McCreary, McLeland, F. Miller, Judy Morrison, Neufeld, Oharah, Olson, Peck, Pilcher-Cook, Powell, Powers, Schwartz, Ward.

Present but not voting: None.

Absent or not voting: Aurand, Carter, Humerickhouse, Kuether, Peterson, Yoder.

The bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: As a parent of a large family, I am confident I know best how to care for my children. This legislation is another instance of government intrusion into the lives of families and would go against my voting record favoring limited government. I understand the purpose of the bill, but for the government to ask law enforcement to guess at a child's weight, decide which parents will receive citations, mandate which children should use booster seats and generally directing parents how best to take care of their children is something I cannot support. I vote no on **HB 2611**.—ANTHONY BROWN, FORREST KNOX, RICHARD CARLSON, VIRGIL PECK, JR., STEVE HUEBERT

MR. SPEAKER: If big government can save just one child's life I'm for it! Being a pro-life legislator, my mind has been changed and I vote YES on **HB 2611**. I feel good! Now, let's see if the same people and organizations that pushed this legislation through will have the guts and same fervor to go after the real killer—the teenagers and adults who, in a drunken stupor, kill and maim 100 times more children than this bill will save. One might start with the holy alcohol industry and get them to stop pushing their drugs on teenagers.—DONALD L. DAHL

MR. SPEAKER: **HB 2611** is yet another case of government intrusion largely because citizens fail to live up to the responsibility to protect and keep children safe. Although the concern for the safety of children is a good thing, it is never a good thing when the government becomes intrusive by micro-managing how parents protect and raise their children. Government cannot make irresponsible citizens become responsible by passing another law. Mr. Speaker, by excluding school buses that transport far more children than passenger vehicles and that have frequent accidents, causing tragic injuries and deaths of children, I must vote no.—BONNIE HUY, KASHA KELLY, VIRGINIA B. BEAMER

MR. SPEAKER: I vote "Yes" on **HB 2611**. Seventy-one percent of car-crash injuries to 4-8 year olds are to the head and face. Vehicle crashes are the largest killer of children ages 4-8. Booster seats reduce the risk of injury by 59% compared to seat belts only. Booster seats protect against head injury four times better than seat belts. We owe it to children in this group and their parents to ensure the use of booster seats. It's simple, buy this inexpensive life-saver, use it, and we shouldn't have to collect even \$1 in fines.—MICHAEL R. O'NEAL

HB 2732, An act relating to motor vehicles; enacting the unattended and unsupervised children in motor vehicles safety act; amending K.S.A. 8-2106 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 79; Nays 40; Present but not voting: 0; Absent or not voting: 6.

Yeas: Ballard, Bethell, Burgess, Carlin, Colloton, Cox, Craft, Crow, Dillmore, Edmonds, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, George, Goico, Grant, Hawk, Henderson, Henry, Hill, Holland, C. Holmes, Horst, Huff, Huntington, D. Johnson, Kelsey, Kiegerl, Kirk, Krehbiel, Lane, Light, Loganbill, Long, Loyd, Mah, McKinney, Menghini, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, O'Malley, O'Neal, Oharah, Olson, Owens, Pauls, Peck, Phelps, Pottorff, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, B. Sharp, S. Sharp, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yonally.

Nays: Beamer, Brown, Brunk, Burroughs, Carlson, Dahl, Davis, DeCastro, Decker, Faber, Freeborn, Gordon, Grange, Hayzlett, M. Holmes, Huebert, Hutchins, Huy, E. Johnson, Kelley, Kilpatrick, Kinzer, Knox, Landwehr, Lukert, Mast, Masterson, Mays, McCreary,

McLeland, Merrick, Neufeld, Otto, Pilcher-Cook, Powell, Powers, Schwartz, Shultz, Siegfried, Tafanelli.

Present but not voting: None.

Absent or not voting: Aurand, Carter, Humerickhouse, Kuether, Peterson, Yoder.

The bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: **HB 2732** is yet another case of government intrusion into the lives of citizens largely because some citizens fail to step up to their responsibility to ensure that children are safe and protected from potential harm. Although the concern for the safety of children is a good thing, it is never a good thing when the government becomes intrusive by micro-managing how parents protect and raise their children. Government cannot make irresponsible citizens responsible with yet another law. Because **HB 2732** is overly broad with the potential for unintended consequences, Mr. Speaker I vote no.—BONNIE HUY, KASHA KELLY

MR. SPEAKER: I vote no on **HB 2732**. This is yet another case of the government having to involve itself in the lives of citizens largely because some fail to live up to their responsibility as parents. While it's tragic when innocent children suffer because of an adult's irresponsibility, this bill will not resolve the situation. I use the example of the farm family with a sleepy child at the elevator. We should not punish hardworking individuals who try to do the best for their families. Laws designed to protect the wholly innocent shouldn't be subjective. No amount of law can fix the problem of irresponsible parents.—SHARON SCHWARTZ

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. O'Neal, the House nonconcurred in Senate amendments to **HB 2352** and asked for a conference.

Speaker Mays thereupon appointed Reps. O'Neal, Kinzer and Pauls as conferees on the part of the House.

On motion of Rep. McLeland, the House resolved into Committee of the Whole, with Rep. Tafanelli in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2541**, **HB 2585**; **SB 372** be passed.

Committee report to **HB 2669** be adopted; and the bill be passed as amended.

Committee report to **HB 2592** be adopted; and the bill be passed as amended.

Committee report to **SB 269** be adopted; also, on motion of Rep. Dillmore to amend, the motion did not prevail, and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Governmental Organization and Elections** recommends **HB 2676** be passed.

Committee on **Utilities** recommends **HB 2642** be amended on page 1, in line 24, by striking "two" and inserting "three"; in line 25, by striking "three" and inserting "two"; in line 34, by striking "Three" and inserting "Two"; in line 36, by striking "two" and inserting "one"; in line 38, by striking "three" and inserting "two"; in line 39, by striking "two" and inserting "one"; in line 42, by striking "administration" and inserting "transportation"; also in line 42, following the last semicolon, by inserting "and"; in line 43, by striking all following "commission";

On page 2, in line 1, by striking all preceding the period and inserting "or the chairperson's designee"; following line 17, by inserting:

"(e) Establishment of the advisory group shall be effective January 1, 2007.";

Also on page 2, in line 19, by striking all following "director"; in line 20, by striking all preceding the first "and" and inserting ", subject to approval by the governor, "; in line 21, by striking all before "service" and inserting "one research staff member, who may be an

educator. Such employees shall be in the unclassified"; in line 32, by striking "advisory group" and inserting "state corporation commission"; in line 34, following "chairperson", where it appears the first time, by inserting "of the state corporation commission"; in line 36, by striking "such"; in line 37, by striking all following "as"; in line 38, by striking all preceding the period and inserting "needed to support the advisory group staff";

On page 3, in line 1, by striking "re-"; in line 2, by striking "port" and inserting "plan"; in line 7, by striking all following "The"; by striking all in lines 8 through 12; in line 13, by striking "and (B) identify" and inserting "executive director shall propose and the energy policy advisory group shall approve an annual work plan to:

(1) Identify";

Also on page 2, in line 40, by striking "agencies" and inserting "organizations"; preceding line 41, by inserting:

"(d) Plans, reports or recommendations of any nature adopted by the energy policy advisory group shall be considered advice to the governor and legislature and shall not be construed as official policy, position or interpretation of laws or rules and regulations by the state corporation commission, nor shall the commission be bound in any manner to consider any such advice when conducting the commission's advisory and regulatory responsibilities.";

On page 4, in line 3 by striking "(b)"; in line 5, following the stricken material, by inserting: "(b) coordinate existing and create new databases as necessary to identify and predict trends in energy consumption by Kansans in such a manner as will facilitate the making of public policy recommendations which will reduce energy costs, conserve resources and benefit the residential, agricultural, commercial and industrial sectors of the population;

(c)";

Also on page 4, in line 8, by striking the comma and inserting "and"; also in line 8, by striking all following the last "program"; in line 9, by striking all before the semicolon; in line 10, by striking "(c)" and inserting "(d)"; by striking all in lines 11 through 18; in line 19, by striking "(f)" and inserting:

"(e) seek and accept grants and other financial assistance which the federal government and other public or private sources make available and utilize the same for the purposes of the advisory group;

(f) contract with public agencies or with qualified private persons or organizations to accomplish the purposes of the advisory group;

(g)";

Also on page 4, also in line 19, by striking all following "any"; in line 20, by striking all preceding "which" and inserting "energy resources emergency management plan or program"; by striking all in lines 22 and 23; in line 24 by striking all preceding "and"; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2657** be amended on page 1, in line 17, by striking "by such"; by striking all in lines 18 through 37; in line 38, by striking all before the period and inserting ", and on applicable incentives, pursuant to subsection (e) of K.S.A. 66-117, and amendments thereto, by such utility in energy efficiency and conservation programs for customers.

(b) In evaluating and approving proposed energy efficiency and conservation programs, the commission shall consider:

(1) The proposed time period for the program and how that period addresses initiation, promotion, implementation and evaluation of program effectiveness;

(2) the cost-effectiveness and the reliability of technologies employed;

(3) the percentage of proposed program expenditures devoted to residential programs which directly address energy efficiency and conservation for residential rental property and low-income persons;

(4) the mechanism or process for an independent audit of the utility's programs, investments, expenditures and energy savings; and

(5) any other factors or criteria which the commission deems relevant.

(c) The commission may propose an electric or natural gas public utility make investments and expenditures in energy efficiency and conservation programs.

(d) The commission may establish a list of programs, and may from time to time change such list, which may be offered as energy efficiency and conservation programs by any electric or natural gas public utility.

(e) The commission may contract with any qualified entity to review public utility and commission proposed energy efficiency and conservation programs.

(f) Nothing in this section shall preclude the commission and a public utility from entering into energy efficiency and conservation agreements not undertaken pursuant to this section or preclude the commission from exercising its authority pursuant to subsection (e) of K.S.A. 66-117, and amendments thereto”;

In the title, in line 10, by striking “for certain customers; providing for” and inserting “and”; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2703** be amended on page 2, in line 42, by striking all after “(d)”; in line 43, by striking all before “justified” and inserting “No armed nuclear security guard, employer of an armed nuclear security guard or owner of a nuclear generating facility shall be subject to civil liability for conduct of an armed nuclear security guard which is”;

On page 3, in line 9, after “guard” by inserting “, such guard’s employer or any owner of the nuclear generating facility where such guard is employed”; and the bill be passed as amended.

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were thereupon introduced and read by title:

HB 2893, An act concerning offenders in custody; relating to health care costs, by Committee on Judiciary.

HB 2894, An act concerning hunting and fishing; relating to licenses for veterans; amending K.S.A. 32-919 and K.S.A. 2005 Supp. 32-906 and repealing the existing sections, by Representative Brown.

HB 2895, An act concerning prescription drugs, creating the prescription drug ethical marketing act, by Representative Swenson.

HB 2896, An act concerning wildlife and parks; relating to conservation officers; also relating to information gathered, by Committee on Appropriations.

HB 2897, An act concerning the Kansas civil service act; relating to the pay plan for the classified service and to regular step movement thereunder; amending K.S.A. 75-2938 and repealing the existing section, by Representative Powers.

HB 2898, An act concerning public utilities and common carriers; relating to damages sustained by aggrieved parties; amending K.S.A. 66-176 and repealing the existing section, by Committee on Judiciary.

On motion of Rep. McLeland, the House adjourned until 11:00 a.m., Tuesday, February 14, 2006.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

