

# Journal of the Senate

FORTY-FIFTH DAY

---

SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, March 14, 2006—2:30 p.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with thirty-eight senators present.  
Senators McGinn and Wilson were excused.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Your servant, James, in his letter to “the twelve tribes” says, “Consider it pure joy, my brothers, whenever you face trials of many kinds, because you know that the testing of your faith develops perseverance. Perseverance must finish its work so that you may be mature and complete, not lacking anything.” (James 1:2-4)

Like everybody else

Lawmakers have their trials,  
But seldom do we assume  
Trials should result in smiles.

But James is quite insistent  
That we really should be glad  
When our faith is tested  
By the trials that we have had.

We hear him saying, Lord,  
When our testing is severe,  
It’s the method that You have  
To make us persevere.

But although perseverance  
Means that we endure;  
Perseverance is designed  
To help us be mature.

So maturity is the goal  
For which trials come to us;  
So help us to be thankful,  
And not fight and fume and fuss.

I pray in the Name of Jesus Christ,

AMEN

## POINT OF PERSONAL PRIVILEGE

Senator Donovan introduced his grandson, Matthew Halfmann and Matthew’s cousin, Kendra Halfmann, who were serving as Senate pages. Also present were his wife, “Sissy” and daughter, Lisa Halfmann from Plano, Texas.

**INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were introduced and read by title:

**SB 590**, An act concerning flavored malt beverages; relating to taxation and labeling, by Committee on Federal and State Affairs.

**SB 591**, An act concerning the state high school activities association; directing the board of directors thereof to conduct a study relating to the governance of such association, by Committee on Federal and State Affairs.

**REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2640**.

Education: **SB 589**.

**COMMUNICATIONS FROM STATE OFFICERS**STATE OF KANSAS  
BOARD OF INDIGENTS' DEFENSE SERVICES

The State of Kansas Board of Indigents' Defense Services submitted its Annual Report for Fiscal Year 2005.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2949**, **HB 2956**.

Passage of **SB 436**.

Also, passage of **SB 418**, as amended.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2949**, **HB 2956** were thereupon introduced and read by title.

**REPORT ON ENGROSSED BILLS**

**SB 418** reported correctly re-engrossed March 14, 2006.

**REPORT ON ENROLLED BILLS**

**SB 275**, **SB 392**, **SB 496** reported correctly enrolled, properly signed and presented to the Governor on March 14, 2006.

**REPORTS OF STANDING COMMITTEES**

Committee on **Assessment and Taxation** recommends **HB 2681** be amended on page 1, after line 13, by inserting the following:

"Section 1. K.S.A. 2005 Supp. 12-187, as amended by section 1 of 2006 House Bill No. 2698, is hereby amended to read as follows: 12-187. (a) (1) No city shall impose a retailers' sales tax under the provisions of this act without the governing body of such city having first submitted such proposition to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. The governing body of any city may submit the question of imposing a retailers' sales tax and the governing body shall be required to submit the question upon submission of a petition signed by electors of such city equal in number to not less than 10% of the electors of such city.

(2) The governing body of any class B city located in any county which does not impose a countywide retailers' sales tax pursuant to paragraph (5) of subsection (b) may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city, county or district hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry

into nursing homes by home health care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(b) (1) The board of county commissioners of any county may submit the question of imposing a countywide retailers' sales tax to the electors at an election called and held thereon, and any such board shall be required to submit the question upon submission of a petition signed by electors of such county equal in number to not less than 10% of the electors of such county who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than  $\frac{2}{3}$  of the membership of the governing body of each of one or more cities within such county which contains a population of not less than 25% of the entire population of the county, or upon receiving resolutions requesting such an election passed by  $\frac{2}{3}$  of the membership of the governing body of each of one or more taxing subdivisions within such county which levy not less than 25% of the property taxes levied by all taxing subdivisions within the county.

(2) The board of county commissioners of Anderson, Atchison, Barton, Butler, Chase, Cowley, Cherokee, Crawford, Ford, Jefferson, Lyon, Montgomery, Neosho, Osage, Ottawa, Riley, Saline, Seward, Sumner, Wabaunsee, Wilson and Wyandotte counties may submit the question of imposing a countywide retailers' sales tax and pledging the revenue received therefrom for the purpose of financing the construction or remodeling of a courthouse, jail, law enforcement center facility or other county administrative facility, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire when sales tax sufficient to pay all of the costs incurred in the financing of such facility has been collected by retailers as determined by the secretary of revenue. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Butler, Chase, Cowley, Lyon, Montgomery, Neosho, Riley, Sumner or Wilson county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189, and amendments thereto.

(3) (A) Except as otherwise provided in this paragraph, the result of the election held on November 8, 1988, on the question submitted by the board of county commissioners of Jackson county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the Banner Creek reservoir project. The tax imposed pursuant to this paragraph shall take effect on the effective date of this act and shall expire not later than five years after such date.

(B) The result of the election held on November 8, 1994, on the question submitted by the board of county commissioners of Ottawa county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the erection, construction and furnishing of a law enforcement center and jail facility.

(C) Except as otherwise provided in this paragraph, the result of the election held on November 2, 2004, on the question submitted by the board of county commissioners of Sedgwick county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be used only to pay the costs of: (i) Acquisition of a site and constructing and equipping thereon a new regional events center, associated parking and infrastructure improvements and related appurtenances thereto, to be located in the downtown area of the city of Wichita, Kansas, (the "downtown arena"); (ii) design for the Kansas coliseum complex and construction of improvements to the pavilions; and (iii) establishing an operating and maintenance reserve for the downtown arena and the Kansas coliseum complex. The tax imposed pursuant to this paragraph shall commence on July 1, 2005, and shall terminate not later than 30 months after the commencement thereof.

(4) The board of county commissioners of Finney and Ford counties may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing all or any portion of the cost to be paid by Finney or Ford county for construction of highway projects identified as system

enhancements under the provisions of paragraph (5) of subsection (b) of K.S.A. 68-2314, and amendments thereto, to the electors at an election called and held thereon. Such election shall be called and held in the manner provided by the general bond law. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Finney or Ford county pursuant to this paragraph to exceed the maximum rate prescribed in K.S.A. 12-189, and amendments thereto. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Finney county, the state treasurer shall remit such funds to the treasurer of Finney county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Ford county, the state treasurer shall remit such funds to the treasurer of Ford county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund.

(5) The board of county commissioners of any county may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. Whenever any county imposes a tax pursuant to this paragraph, any tax imposed pursuant to paragraph (2) of subsection (a) by any city located in such county shall expire upon the effective date of the imposition of the countywide tax, and thereafter the state treasurer shall remit to each such city that portion of the countywide tax revenue collected by retailers within such city as certified by the director of taxation. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city or county hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(6) The board of county commissioners of Allen county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% and pledging the revenue received therefrom for the purpose of financing the costs of operation and construction of a solid waste disposal area or the modification of an existing landfill to comply with federal regulations to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs incurred in the financing of the project undertaken. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Allen county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189 and amendments thereto.

(7) The board of county commissioners of Clay, Dickinson and Miami county may submit the question of imposing a countywide retailers' sales tax at the rate of .50% in the case of Clay and Dickinson county and at a rate of up to 1% in the case of Miami county, and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. Except as otherwise provided, the tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected. The result of the election held on November 2, 2004, on the question submitted by the board of county commissioners of Miami county for the purpose of extending for an additional five-year period the countywide retailers' sales tax imposed pursuant to this subsection in Miami county is hereby declared valid. The countywide retailers' sales tax imposed pursuant to this subsection in Clay and Miami county may be extended or reenacted for additional five-year periods upon the board of county commissioners of Clay and Miami county submitting such question to the electors at an election called and held thereon for each additional five-year period as provided by law.

(8) The board of county commissioners of Sherman county may submit the question of imposing a countywide retailers' sales tax at the rate of 1% and pledging the revenue received

therefrom for the purpose of financing the costs of street and roadway improvements to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(9) The board of county commissioners of Cowley, Russell and Woodson county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% in the case of Russell and Woodson county and at a rate of up to .25%, in the case of Cowley county and pledging the revenue received therefrom for the purpose of financing economic development initiatives or public infrastructure projects. The tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected.

(10) The board of county commissioners of Franklin county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing recreational facilities. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such facilities.

(11) The board of county commissioners of Douglas county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purposes of preservation, access and management of open space, and for industrial and business park related economic development.

(12) The board of county commissioners of Shawnee county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom to the city of Topeka for the purpose of financing the costs of rebuilding the Topeka boulevard bridge and other public infrastructure improvements associated with such project to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such project.

(13) The board of county commissioners of Jackson county may submit the question of imposing a countywide retailers' sales tax at a rate of .4% and pledging the revenue received therefrom as follows: 50% of such revenues for the purpose of financing for economic development initiatives; and 50% of such revenues for the purpose of financing public infrastructure projects to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after seven years from the date such tax is first collected.

(14) The board of county commissioners of Neosho county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(15) *The board of county commissioners of Atchison county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing the costs of construction and maintenance of sports and recreational facilities to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such facilities.*

(c) The boards of county commissioners of any two or more contiguous counties, upon adoption of a joint resolution by such boards, may submit the question of imposing a retailers' sales tax within such counties to the electors of such counties at an election called and held thereon and such boards of any two or more contiguous counties shall be required to submit such question upon submission of a petition in each of such counties, signed by a number of electors of each of such counties where submitted equal in number to not less than 10% of the electors of each of such counties who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than  $\frac{2}{3}$  of the membership of the governing body of each of one or more cities within each of such counties which contains a population of not less than 25% of the entire population of each of such counties, or upon receiving resolutions requesting such an election passed by  $\frac{2}{3}$  of the membership of the governing body of each of

one or more taxing subdivisions within each of such counties which levy not less than 25% of the property taxes levied by all taxing subdivisions within each of such counties.

(d) Any city retailers' sales tax in the amount of .5% being levied by a city on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax or until repealed by the adoption of an ordinance so providing. In addition to any city retailers' sales tax being levied by a city on July 1, 1990, any such city may adopt an additional city retailers' sales tax in the amount of .25% or .5%, provided that such additional tax is adopted and approved in the manner provided for the adoption and approval of a city retailers' sales tax. Any countywide retailers' sales tax in the amount of .5% or 1% in effect on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax.

(e) A class D city shall have the same power to levy and collect a city retailers' sales tax that a class A city is authorized to levy and collect and in addition, the governing body of any class D city may submit the question of imposing an additional city retailers' sales tax in the amount of .125%, .25%, .5% or .75% and pledging the revenue received therefrom for economic development initiatives, strategic planning initiatives or for public infrastructure projects including buildings to the electors at an election called and held thereon. Any additional sales tax imposed pursuant to this paragraph shall expire no later than five years from the date of imposition thereof, except that any such tax imposed by any class D city after the effective date of this act shall expire no later than 10 years from the date of imposition thereof.

(f) Any city or county proposing to adopt a retailers' sales tax shall give notice of its intention to submit such proposition for approval by the electors in the manner required by K.S.A. 10-120, and amendments thereto. The notices shall state the time of the election and the rate and effective date of the proposed tax. If a majority of the electors voting thereon at such election fail to approve the proposition, such proposition may be resubmitted under the conditions and in the manner provided in this act for submission of the proposition. If a majority of the electors voting thereon at such election shall approve the levying of such tax, the governing body of any such city or county shall provide by ordinance or resolution, as the case may be, for the levy of the tax. Any repeal of such tax or any reduction or increase in the rate thereof, within the limits prescribed by K.S.A. 12-189, and amendments thereto, shall be accomplished in the manner provided herein for the adoption and approval of such tax except that the repeal of any such city retailers' sales tax may be accomplished by the adoption of an ordinance so providing.

(g) The sufficiency of the number of signers of any petition filed under this section shall be determined by the county election officer. Every election held under this act shall be conducted by the county election officer.

(h) The governing body of the city or county proposing to levy any retailers' sales tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition.

Sec. 2. K.S.A. 2005 Supp. 12-189, as amended by section 2 of 2006 House Bill No. 2698, is hereby amended to read as follows: 12-189. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class A, class B or class C city retailers' sales tax shall be fixed in the amount of .25%, .5%, .75% or 1% which amount shall be determined by the governing body of the city. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class D city retailers' sales tax shall be fixed in the amount of .10%, .25%, .5%, .75%, 1%, 1.125%, 1.25%, 1.5% or 1.75%. The rate of any countywide retailers' sales tax shall be fixed in an amount of either .25%, .5%, .75% or 1% which amount shall be determined by the board of county commissioners, except that:

(a) The board of county commissioners of Wabaunsee county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%; the board of county commissioners of Osage county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25% or 1.5%; the board of county commissioners of Cherokee, Crawford, Ford, Saline, Seward or Wyandotte county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187,

and amendments thereto, may fix such rate at 1.5%, the board of county commissioners of Atchison county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5% or 1.75% and the board of county commissioners of Anderson, Barton, Jefferson or Ottawa county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(b) the board of county commissioners of Jackson county, for the purposes of paragraph (3) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(c) the boards of county commissioners of Finney and Ford counties, for the purposes of paragraph (4) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at .25%;

(d) the board of county commissioners of any county for the purposes of paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at a percentage which is equal to the sum of the rate allowed to be imposed by a board of county commissioners on the effective date of this act plus .25%, .5%, .75% or 1%, as the case requires;

(e) the board of county commissioners of Dickinson county, for the purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%, and the board of county commissioners of Miami county, for the purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%, 1.5%, 1.75% or 2%;

(f) the board of county commissioners of Sherman county, for the purposes of paragraph (8) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2.25%;

(g) the board of county commissioners of Russell county for the purposes of paragraph (9) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%;

(h) the board of county commissioners of Franklin county, for the purposes of paragraph (10) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.75%;

(i) the board of county commissioners of Douglas county, for the purposes of paragraph (11) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%;

(j) the board of county commissioners of Jackson county, for the purposes of subsection (b)(13) of K.S.A. 12-187 and amendments thereto, may fix such rate at 1.4%;

(k) the board of county commissioners of Sedgwick county, for the purposes of paragraph (3)(C) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(l) the board of county commissioners of Neosho county, for the purposes of paragraph (14) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.0% or 1.5%; or

(m) *the board of county commissioners of Atchison county, for the purpose of paragraph (15) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at a percentage which is equal to the sum of the rate allowed to be imposed by the board of county commissioners of Atchison county on the effective date of this act plus .25%.*

Any county or city levying a retailers' sales tax is hereby prohibited from administering or collecting such tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect such tax. Except as otherwise specifically provided in K.S.A. 12-189a, and amendments thereto, such tax shall be identical in its application, and exemptions therefrom, to the Kansas retailers' sales tax act and all laws and administrative rules and regulations of the state department of revenue relating to the Kansas retailers' sales tax shall apply to such local sales tax insofar as such laws and rules and regulations may be made applicable. The state director of taxation is hereby authorized to administer, enforce and collect such local sales taxes and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement thereof.

Upon receipt of a certified copy of an ordinance or resolution authorizing the levy of a local retailers' sales tax, the director of taxation shall cause such taxes to be collected within or without the boundaries of such taxing subdivision at the same time and in the same manner provided for the collection of the state retailers' sales tax. Such copy shall be submitted to the director of taxation within 30 days after adoption of any such ordinance or resolution. All moneys collected by the director of taxation under the provisions of this section shall be credited to a county and city retailers' sales tax fund which fund is hereby

established in the state treasury. Any refund due on any county or city retailers' sales tax collected pursuant to this act shall be paid out of the sales tax refund fund and reimbursed by the director of taxation from collections of local retailers' sales tax revenue. Except for local retailers' sales tax revenue required to be deposited in the redevelopment bond fund established under K.S.A. 74-8927, and amendments thereto, all local retailers' sales tax revenue collected within any county or city pursuant to this act shall be apportioned and remitted at least quarterly by the state treasurer, on instruction from the director of taxation, to the treasurer of such county or city.

Revenue that is received from the imposition of a local retailers' sales tax which exceeds the amount of revenue required to pay the costs of a special project for which such revenue was pledged shall be credited to the city or county general fund, as the case requires.

The director of taxation shall provide, upon request by a city or county clerk or treasurer or finance officer of any city or county levying a local retailers' sales tax, monthly reports identifying each retailer doing business in such city or county or making taxable sales sourced to such city or county, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month and identifying each business location maintained by the retailer and such retailer's sales or use tax registration or account number. Such report shall be made available to the clerk or treasurer or finance officer of such city or county within a reasonable time after it has been requested from the director of taxation. The director of taxation shall be allowed to assess a reasonable fee for the issuance of such report. Information received by any city or county pursuant to this section shall be confidential, and it shall be unlawful for any officer or employee of such city or county to divulge any such information in any manner. Any violation of this paragraph by a city or county officer or employee is a class A misdemeanor, and such officer or employee shall be dismissed from office. Reports of violations of this paragraph shall be investigated by the attorney general. The district attorney or county attorney and the attorney general shall have authority to prosecute violations of this paragraph.”;

Also on page 1, by striking all in lines 14 through 43;

By striking all on pages 2 through 9;

On page 10, by striking all in lines 1 through 33;

On page 13, in line 11, after “12-187,” by inserting “as amended by section 1 of 2006 House Bill No. 2698,”; also in line 11, after “12-189” by inserting “, as amended by section 2 of 2006 House Bill No. 2698,”;

On page 1, in the title, in line 10, after “12-187,” by inserting “as amended by section 1 of 2006 House Bill No. 2698,”; also in line 10, after “12-189” by inserting “, as amended by section 2 of 2006 House Bill No. 2698,”; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 516** be amended on page 1, in line 22, by striking “road, bridge,”; in line 24, after the period by inserting “Construction shall also include roads and bridges for which payment is not regulated by federal law.”;

On page 2, after line 1, by inserting the following:

“(h) “Substantial completion” means the stage of a construction project where the project, or a designated portion thereof, is sufficiently complete in accordance with the contract, so that the owner can occupy or utilize the constructed project for its intended use.”;

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

in line 11, by striking all before “nonbinding”;

in line 33, before the period by inserting “, unless extenuating circumstances exist which would preclude approval of payment within 30 days. If such extenuating circumstances exist, then payment shall be made within 45 days after the owner receives such payment request”;

after line 33, by inserting the following:

“(e) The architect or engineer of record shall review, approve and forward undisputed requests for payment to the owner within seven business days.”;

And by renumbering the remaining subsections accordingly;

On page 3, in line 5, by striking “(f) and (g)” and inserting “(g) and (h)”;

in line 9, by striking all after “due”;

in line 10, by striking all before the period and inserting “, unless the owner and the architect or engineer determine that a higher rate of retainage is required to ensure performance of the contract. Retainage, however, shall not exceed 10% of the value of the contract. An owner must release the retainage on any undisputed payment due on a construction project within 30 days after substantial completion of the project; however,



if any subcontractor is still performing work on the project under its subcontract, an owner may withhold that portion of the retainage attributable to such subcontract until 30 days after such work is completed"; after line 18, by inserting the following:

"(c) Nothing in this section shall prevent early release of retainage if it is determined by the owner, the contractor and the project architect or engineer, that a subcontractor has completed performance satisfactorily and that the subcontractor can be released prior to substantial completion of the entire project without risk to the owner. The contractor shall request such adjustment in retainage, if any, from the owner as necessary to enable the contractor to pay the subcontractor in full, and the owner shall, as part of the next contractual payment cycle, release the subcontractor's retainage to the contractor, who shall, as part of the next contractual payment cycle, release such retainage as is due to the subcontractor.";

Also on page 3, in line 37, by striking the first "for"; after line 40, by inserting the following: "Sec. 8. K.S.A. 75-6402 is hereby amended to read as follows: 75-6402. As used in the Kansas prompt payment act, unless the context clearly requires otherwise, the following words and phrases shall have the meanings respectively ascribed thereto.

(a) "State agency" means the state and any state agency, department, division or authority thereof.

(b) "Government agency" means any state agency, library, community college or unified school district.

(c) "Vendor" means any person, corporation, association or other business concern engaged in a trade or business, either on a profit or not-for-profit basis, and providing any goods or services to a government agency.

(d) "Goods" means any goods, supplies, materials, equipment or other personal property, but does not mean any real property.

(e) "Services" means any contractual services including architectural, engineering, medical, financial, consulting or other professional services, any construction services and any other personal services, but does not mean any services performed as an officer or employee of any government agency. *Services shall not include construction contracts addressed in sections 1 through 7, and amendments thereto.*

(f) "Bill" means a proper billing which requests payment and which contains or is accompanied by such substantiating documentation as may be required for payment for the goods or services.

(g) "Community college" means any community college organized and operating under the laws of this state.

(h) "Library" means a library which serves the general public and is supported in whole or in part with tax money.

Sec. 9. K.S.A. 75-6402 is hereby repealed.";

And by renumbering the remaining section accordingly;

In the title, in line 10, before the period by inserting "; amending K.S.A. 75-6402 and repealing the existing section"; and the bill be passed as amended.

Also, **HB 2658**, as amended by House Committee, be amended on page 1, in line 23, by striking all following "(c)"; in line 24, by striking "or gift card.";

On page 2, by striking all in lines 4 and 5;

By renumbering the remaining subsections accordingly;

Also on page 2, in line 12, following "for" by inserting "full or discounted"; also in line 12, following "payment" by inserting ", or without any money or other thing of value being given in exchange,"; in line 19, by striking all following "both"; in line 20, by striking all preceding the period; and the bill be passed as amended.

Committee on **Education** recommends **HB 2604**, as amended by House Committee; **Substitute HB 2695** be passed.

Also, **SB 584** be amended on page 1, by striking all in lines 22 through 43;

By striking all on page 2;

On page 3, by striking all in lines 1 through 12 and inserting the following:

"New Sec. 2. (a) (1) In school year 2006-2007, the board of education of every district shall adopt, by resolution, a mandatory student performance improvement budget which shall be equal to 2.5% of the state financial aid of the district for school year 2006-2007.

(2) In school year 2007-2008, the board of education of every district shall adopt, by resolution, a mandatory student performance improvement budget which shall be equal to 5% of the state financial aid of the district for school year 2007-2008.

(3) In school year 2008-2009 and each school year thereafter, the board of education of every district shall adopt, by resolution, a mandatory student performance improvement budget which shall be equal to 6% of the state financial aid of the district for the current school year.

(b) In each school year, the board of every district shall levy an ad valorem tax on the taxable tangible property of the district for the purpose of financing that portion of the district's mandatory student performance improvement budget which is not financed from any other source provided by law and for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district. The phrase "any other source provided by law" shall not include amounts received as supplementary mandatory student performance improvement state aid.

(c) There is hereby established in every school district a fund which shall be called the "mandatory student performance improvement fund". The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the mandatory student performance improvement fund of the district.

(d) (1) In each school year, each district shall be provided mandatory student performance improvement state aid. Entitlement of a district to mandatory student performance improvement state aid shall be determined by the state board as provided in this subsection. The state board shall:

(A) Determine the amount of the assessed valuation per pupil in the preceding school year of each district in the state;

(B) rank the districts from low to high on the basis of the amounts of assessed valuation per pupil determined under (A);

(C) identify the amount of assessed valuation per pupil located at the 81.2 percentile of the amounts ranked under (B);

(D) divide the assessed valuation per pupil of the district in the preceding school year by the amount identified under (3);

(E) subtract the ratio obtained under (D) from 1.0. If the resulting ratio equals zero or is a negative number, the district is not entitled to mandatory student performance improvement state aid. If the resulting ratio is greater than zero, the district is entitled to receive mandatory student performance improvement state aid in an amount which shall be determined by the state board by multiplying the amount of the mandatory student performance improvement budget of the district by such ratio. The product is the amount of mandatory student performance improvement state aid the district is entitled to receive for the school year.

(2) In each school year, each district shall be provided supplementary mandatory student performance improvement state aid. Entitlement of a district to supplementary mandatory student performance improvement state aid shall be determined by the state board as provided in this subsection. The state board shall:

(A) Identify the amount of assessed valuation per pupil located at the 100th percentile of the amounts ranked under (d)(1)(b);

(B) divide the assessed valuation per pupil of the district in the preceding school year by the amount identified under (d)(2)(A);

(C) subtract the ratio obtained under (d)(2)(B) from 1.0.

(3) If the resulting ratio determined under subsection (d)(2)(C) is greater than zero, the state board shall:

(A) Multiply the amount of the mandatory student performance improvement budget by such ratio determined under subsection (d)(2)(C);

(B) Subtract the amount determined under (d)(1)(C) from the amount determined under (d)(3)(A). The difference is the amount of supplemental mandatory student performance improvement state aid the district is entitled to receive for the school year.

(4) If the resulting ratio equals zero determined under subsection (d)(2)(C), the district is not entitled to supplementary mandatory student performance improvement state aid.

(e) If the amount of appropriations for mandatory student performance improvement state aid or supplementary mandatory student performance improvement state aid is less than the total amount all districts are entitled to receive for the school year, the state board shall prorate the amount appropriated among the districts in proportion to the amount each district is entitled to receive.

(f) The state board shall prescribe the dates upon which the distribution of payments of mandatory student performance improvement state aid and supplementary mandatory student performance improvement state aid to school districts shall be due. Payments of mandatory student performance improvement state aid and supplementary mandatory student performance improvement state aid shall be distributed to districts on the dates prescribed by the state board. The state board shall certify to the director of accounts and reports the amount due each district, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the district. Upon receipt of the warrant, the treasurer of the district shall credit the amount thereof to the mandatory student performance improvement fund of the district.

(g) If any amount of mandatory student performance improvement state aid or supplementary mandatory student performance improvement state aid that is due to be paid during the month of June of a school year is not paid on or before June 30 of such school year, then such payment shall be paid on or after the ensuing July 1, as soon as moneys are available therefor. Any payment of mandatory student performance improvement state aid or supplementary mandatory student performance improvement state aid that is due to be paid during the month of June of a school year and that is paid to school districts on or after the ensuing July 1 shall be recorded and accounted for by school districts as a receipt for the school year ending on the preceding June 30.

(h) All moneys in the mandatory student performance improvement fund shall be transferred to the general fund of the district and shall be expended on programs mandated by state law or other programs or services which improve student performance.

New Sec. 3. (a) Amounts a school district receives from the at-risk pupil weighting and the high at-risk pupil weighting may be expended by school districts to pay for the costs of providing full-day kindergarten to any pupil enrolled in the district whether or not such pupil is an at-risk pupil.

(b) Nothing in this section shall be construed as requiring school districts to provide full-day kindergarten nor as requiring any pupil to attend full-day kindergarten.”;

And by renumbering sections accordingly;

On page 25, after line 18, by inserting the following:

“Sec. 14. K.S.A. 2005 Supp. 72-6414a is hereby amended to read as follows: 72-6414a.

(a) There is hereby established in every district a fund which shall be called the at-risk education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. ~~Notwithstanding any other provision of law, all moneys received by the district from whatever source for at-risk assistance plans or programs shall be credited to the at-risk education fund established by this section.~~ The expenses of a district directly attributable to providing at-risk assistance or programs shall be paid from the at-risk education fund.

(b) Any balance remaining in the at-risk education fund at the end of the budget year shall be carried forward into the at-risk education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the at-risk education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

*(c) Each year the board of education of each school district shall prepare and submit to the state board a report on the at-risk program or assistance provided by the district. Such report shall include information specifying the number of pupils who were served or provided assistance, the type of service provided, the research upon which the district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.*

Sec. 15. K.S.A. 2005 Supp. 72-6414b is hereby amended to read as follows: 72-6414b. (a) There is hereby established in every district a fund which shall be called the preschool-aged at-risk education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. ~~Notwithstanding any other provision of law, all moneys received by the district from whatever source for preschool-aged at-risk assistance plans or programs shall be credited to the preschool-aged at-risk education fund established by this section.~~ The expenses of a district directly attributable to providing preschool-aged at-risk assistance or programs shall be paid from the preschool-aged at-risk education fund.

(b) Any balance remaining in the preschool-aged at-risk education fund at the end of the budget year shall be carried forward into the preschool-aged at-risk education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the preschool-aged at-risk education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

*(c) Each year the board of education of each school district shall prepare and submit to the state board a report on the preschool-aged at-risk program or assistance provided by the district. Such report shall include information specifying the number of pupils who were served or provided assistance, the type of service provided, the research upon which the district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.*

Sec. 16. K.S.A. 2005 Supp. 72-6421 is hereby amended to read as follows: 72-6421. (a) There is hereby established in every district a fund which shall be called the vocational education fund. ~~All moneys received by a district for any course or program authorized and approved under the provisions of article 44 of chapter 72 of Kansas Statutes Annotated, except for courses and programs conducted in an area vocational school, shall be credited to the vocational education fund.~~ All moneys received by the district from tuition, fees or charges or from any other source for vocational education courses or programs, ~~except for courses and programs conducted in an area vocational school, shall be credited to the vocational education fund.~~ ~~The expenses of a district directly attributable to vocational education~~ *Only those expenses of a district directly attributable to vocational education courses offered at grade-levels 10, 11 or 12 for which the course-content is the same as the course-content of vocational educational courses offered at an area vocational-technical school, technical college or other postsecondary educational institution as defined by K.S.A. 74-3201b, and amendments thereto, shall be paid from the vocational education fund.*

(b) Obligations of a district pursuant to lawful agreements made under K.S.A. 72-4421, and amendments thereto, shall be paid from the vocational education fund established by this section. If any such agreement expresses an obligation of a district in terms of a mill levy, such obligation shall be construed to mean an amount equal to that which would be produced by the levy.

(c) Any balance remaining in the vocational education fund at the end of the budget year shall be carried forward into the vocational education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the vocational education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

*(d) Each year the board of education of each school district shall prepare and submit to the state board a report on the vocational education program and courses provided by the*

*district. Such report shall include information specifying the number of pupils who were enrolled in the vocational education program and in each vocational education course offered by the district, an itemization of the cost of each vocational education course provided by the district, the research upon which the district relied in determining that a need for the course or program existed, the results of providing such course or program and any other information required by the state board.*

Sec. 17. K.S.A. 2005 Supp. 72-9509 is hereby amended to read as follows: 72-9509. (a) There is hereby established in every school district a fund which shall be called the "bilingual education fund," which fund shall consist of all moneys deposited therein or transferred thereto according to law. ~~Notwithstanding any other provision of law, all moneys received by the school district from whatever source for bilingual education programs established under this act shall be credited to the fund established by this section.~~ The expenses of a district directly attributable to such bilingual education programs shall be paid from the bilingual education fund.

(b) Any balance remaining in the bilingual education fund at the end of the budget year shall be carried forward into the bilingual education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the bilingual education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

(c) *Each year the board of education of each school district shall prepare and submit to the state board a report on the bilingual education program and assistance provided by the district. Such report shall include information specifying the number of pupils who were served or provided assistance, the type of service provided, the research upon which the district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.*;

And by renumbering sections accordingly;

Also on page 25, in line 20, after "72-6414," by inserting "72-6414a, 72-6414b,;" also in line 20, after "72-6415b," by inserting "72-6421,;" also in line 20, by striking "and 72-6442b" and inserting ", 72-6442b and 72-9509";

In the title, in line 11, after "72-6414," by inserting "72-6414a, 72-6414b,;" also in line 11, after "72-6415b," by inserting "72-6421,;" also in line 11, by striking "and 72-6442b" and inserting ", 72-6442b and 72-9509"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 587** be amended on page 6, in line 21, by striking "42" and inserting "44";

On page 9, in line 5, by striking all after "the"; in line 6, by striking all before "and" and inserting "Kansas education opportunity trust fund established by section 39, and amendments thereto,;" also in line 6, by striking all after "the"; in line 7, by striking all before the comma, and inserting "Kansas gaming revenue property tax relief fund established by section 38";

On page 10, in line 13, by striking "and"; in line 22, before the period, by inserting the following: "; and

(20) include enforceable provisions: (A) Prohibiting the state, until July 1, 2011, from (i) entering into management contracts for more than two lottery gaming facilities or similar gaming facilities, one to be located in the northeast Kansas gaming zone and one to be located in the southeast Kansas gaming zone, (ii) designating additional areas of the state where operation of lottery gaming facilities or similar gaming facilities would be authorized or (iii) operating an aggregate of more than 5,000 electronic gaming machines at all pari-mutuel locations; and (B) requiring the state to repay to the racetrack gaming facility manager an amount equal to the privilege fee paid by such racetrack gaming facility manager, plus interest on such amount, compounded annually at the rate of 10%, if the state violates the prohibition provision described in (A)";

Also on page 10, after line 25, by inserting the following:

"(j) A person who is the manager of the racetrack gaming facility in a nonexclusive gaming zone shall not be eligible to be the manager of the lottery gaming facility in such zone.";

And by relettering the remaining subsections accordingly;

On page 16, in line 20, by striking all after "thereto,"; in line 21, by striking all before "and";

On page 17, in line 32, by striking "and"; in line 36, before the period, by inserting "; and (4) enforceable provisions: (A) Prohibiting the state, until July 1, 2011, from (i) entering into management contracts for more than two lottery gaming facilities or similar gaming facilities, one to be located in the northeast Kansas gaming zone and one to be located in the southeast Kansas gaming zone, (ii) designating additional areas of the state where operation of lottery gaming facilities or similar gaming facilities would be authorized or (iii) operating an aggregate of more than 5,000 electronic gaming machines at all parimutuel locations; and (B) requiring the state to repay to the racetrack gaming facility manager an amount equal to the privilege fee paid by such racetrack gaming facility manager, plus interest on such amount, compounded annually at the rate of 10%, if the state violates the prohibition provision described in (A)";

On page 18, after line 15, by inserting the following:

"(j) A person who is the manager of a lottery gaming facility in a nonexclusive gaming zone shall not be eligible to be the manager of the racetrack gaming facility in such zone.";

And by relettering the remaining subsections accordingly;

On page 20, in line 17, by striking "7,000" and inserting "5,000";

On page 24, in line 2, by striking all after "the"; in line 3, by striking all before the first comma and inserting "Kansas gaming revenue property tax relief fund established by section 38"; in line 4, by striking "state general fund" and inserting "Kansas education opportunity trust fund established by section 39, and amendments thereto"; in line 11, by striking "state general"; in line 12, by striking all before "fund", where it appears the second time, and inserting "Kansas education opportunity trust fund and the Kansas gaming revenue property tax relief"; in line 21, by striking "state gen-"; in line 22, by striking all before "fund", where it appears the second time, and inserting "Kansas education opportunity trust fund and the Kansas gaming revenue property tax relief";

On page 33, by striking all in lines 37 through 43;

On page 34, by striking all in lines 1 through 14 and inserting the following:

"New Sec. 31. (a) Except as provided in subsection (c), it is a class A nonperson misdemeanor for any person specified in subsection (b) to:

(1) Hold any paid position with: (A) Any lottery gaming facility manager or racetrack gaming facility manager; (B) any subcontractor or agent of any lottery gaming facility manager or racetrack gaming facility manager; or (C) any ancillary lottery gaming facility operations;

(2) have any financial interest, directly or indirectly, in: (A) Any lottery gaming facility manager or racetrack gaming facility manager; or (B) any subcontractor or agent of a lottery gaming facility manager or racetrack gaming facility manager; or

(3) enter into any business dealing, venture or contract, including a contract for lobbying, with a lottery gaming facility manager or racetrack gaming facility manager.

(b) Except as provided by subsection (c), the provisions of subsection (a) shall apply to:

(1) A person who is currently or has been during the preceding five years governor, lieutenant governor, attorney general or a member of the Kansas legislature;

(2) a person who is: (A) The spouse of a person who is currently or has been during the preceding five years governor, lieutenant governor, attorney general or a member of the Kansas legislature; or (B) one of the following blood-relatives, half-relatives or step-relatives of a person who is currently or has been during the preceding five years governor, lieutenant governor, attorney general or a member of the Kansas legislature: Parent, grandparent, brother, sister, child, son-in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-law, brother-in-law or sister-in-law;

(3) a person who is currently or has been during the preceding five years a member of the lottery gaming facility review board; or

(4) a person who is: (A) The spouse of a person who is currently or has been during the preceding five years a member of the lottery gaming facility review board; or (B) one of the following blood-relatives, half-relatives or step-relatives of a person who is currently or has been during the preceding five years a member of the lottery gaming facility review board:

Parent, grandparent, brother, sister, child, son-in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-law, brother-in-law or sister-in-law.

(c) Subsection (a) shall not apply to any governor, lieutenant governor, attorney general or legislator, or any relative thereof, who has not served as governor, lieutenant governor, attorney general or legislator after December 31, 2005.”;

And by renumbering sections accordingly;

On page 35, in line 15, by striking all before “fund”, where it appears the last time, and inserting “Kansas education opportunity trust fund and the Kansas gaming revenue property tax relief”;

On page 38, after line 3, by inserting the following:

“New Sec. 38. (a) There is hereby established in the state treasury the Kansas gaming revenue property tax relief fund. All moneys transferred or credited to such fund under the provisions of this act or any other law shall be apportioned and distributed in the manner provided by this section.

(b) The state treasurer shall apportion and pay the amounts in the Kansas gaming revenue property tax relief fund to county treasurers on January 15 and on July 15 in each year in the same manner as provided by subsection (c) of K.S.A. 79-2959, and amendments thereto, for distributions of moneys in the local ad valorem tax reduction fund.

(c) Upon receipt of payment from the state treasurer pursuant to subsection (b), the county treasurer shall distribute the entire amount paid among the county and all cities and community colleges in the county in the same manner as provided by subsection (a) of K.S.A. 79-2961, and amendments thereto, for distribution of moneys paid to county treasurers from the local ad valorem tax reduction fund.

(d) The director of accounts and reports shall draw warrants on the state treasurer in favor of the several county treasurers on the dates and in the amounts apportioned to the several counties as provided in this section. Each such warrant shall be paid directly by the state treasurer to the county treasurer of the county in whose favor the warrant is drawn.

New Sec. 39. (a) There is hereby established in the state treasury the Kansas education opportunity trust fund. Amounts deposited in such fund shall be expended solely for the purpose of supplementing the state’s obligation to fund preschool, kindergarten, elementary, secondary and postsecondary education programs. Expenditures from the Kansas education opportunity trust fund shall be made pursuant to appropriations acts.

(b) Such funding shall be supplemental to, and not in lieu of, any state revenues appropriated during the 2006 regular legislative session to fund educational programs for the fiscal year ending June 30, 2007.

(c) Unless the payment or transfer has been authorized pursuant to a separate appropriations act which has been approved by a majority vote of the members of the house of representatives and a majority vote of the members of the senate, the state treasurer shall not make transfers or payments pursuant to an appropriation for any purpose other than supplementing the funding of education programs as described in subsection (a). Such payment or transfer shall be made only upon certification of the governor that such payment meets the requirements of this section.”;

And by renumbering the remaining sections accordingly; and the bill, as amended, be reported without recommendation.

Committee on **Financial Institutions and Insurance** recommends **HB 2669**, as amended by House Committee, **HB 2858**, as amended by House Committee, be passed.

Also, **HB 2824**, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Judiciary** recommends **SB 323** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 323,” as follows:

“Substitute for SENATE BILL No. 323

By Committee on Judiciary

“AN ACT concerning eminent domain; relating to restriction of government authority to take property; amending K.S.A. 26-501 and 26-513 and K.S.A. 2005 Supp. 12-1773, 19-101a and 26-504 and repealing the existing sections.”;

and the substitute bill be passed.

Committee on **Transportation** recommends **HB 2878** be amended on page 1, in line 17, by striking "trip" and inserting "24-hour motor fuel permit or a 72-hour motor fuel"; also in line 17, by striking "will" and inserting "shall"; in line 18, following "of" by inserting "24-hours or"; also in line 18, by striking "within this state" and inserting "; respectively."; in line 21, by striking "trip" and inserting "24-hour motor fuel permit issued under this section shall be \$13. The fee for each 72-hour motor fuel"; in line 23, by striking "Trip" and inserting "Motor fuel"; in line 26, by striking "trip" and inserting "motor fuel"; in line 28, by striking "trip" and inserting "motor fuel"; preceding line 30, by inserting:

"Sec. 2. K.S.A. 2005 Supp. 79-34,122 is hereby amended to read as follows: 79-34,122.

(a) Any person who willfully makes a false statement orally, or in writing, or knowingly presents a fraudulent receipt for the sale of motor fuel, for the purpose of obtaining or attempting to obtain or to assist any other person, partnership or corporation to obtain or attempt to obtain a credit or refund or reduction of liability for taxes under this act shall be guilty of a misdemeanor, and: (1) For a first conviction thereof shall be fined not more than \$500 or imprisoned in the county jail for not more than 30 days, or by both such fine and imprisonment; and (2) for a second or subsequent conviction thereof, within two years thereafter, shall be fined not more than \$1,000 or imprisoned in the county jail for not more than 30 days, or by both such fine and imprisonment.

(b) Any interstate motor fuel user who engages in operations within this state without a valid license, ~~trip motor fuel~~ permit or temporary authorization issued by the director shall pay a fine in accordance with K.S.A. 8-2118, and amendments thereto."

By renumbering the remaining sections accordingly;

Also on page 1, in line 30, by striking "is" and inserting "and 79-34,122 are";

In the title, in line 9, by striking "trip"; also in line 9, following "for" by inserting "24-hour or"; in line 10, preceding "and" by inserting "and 79-34,122"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

#### COMMITTEE OF THE WHOLE

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

On motion of Senator Schodorf the following report was adopted:

Recommended **HB 2705**, **HB 2716**, **HB 2758**, **HB 2830**, **HB 2835**, **HB 2927**, **HB 2951** be passed.

The committee report on **SB 539** recommending a **Sub SB 539** be adopted, and the substitute bill be passed.

**SCR 1624** be adopted.

**SB 382**, **SB 575**; **HB 2104**, **HB 2616**, **HB 2786**, **HB 2833** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SCR 1623** be amended by adoption of the committee amendments, and the resolution be adopted as amended.

A motion by Senator Francisco to amend **SCR 1623** failed and the following amendment was rejected: on page 1, line 36, by striking religious

**SB 585** be amended by adoption of the committee amendments, be further amended by motion of Senator Huelskamp, as amended by Senate Committee, on page 20, in line 37, before "hereinafter" by inserting "catholic charities or youthville."; also in line 37, by striking "TLC" where it appears for the last time and inserting "charitable family providers"; in line 43, by striking "TLC" and inserting "charitable family providers";

On page 21, in line 3, by striking "TLC" and inserting "charitable family providers"; in line 5, by striking "TLC" and inserting "charitable family providers"; in line 8, by striking "TLC" where it appears for the first time, and inserting "charitable family providers"; also in line 8, by striking "TLC" where it appears for the last time, and inserting "charitable family providers"; in line 16, by striking "TLC" and inserting "charitable family providers"; in line 28, by striking "TLC" and inserting "charitable family providers"

Senator Pyle moved to amend **SB 585**, as amended by Senate Committee, on page 20, in line 35, by striking "and" where it appears for the last time;

On page 21, in line 37, by striking the period and inserting: "; and



(jjj) all sales of tangible personal property and services purchased by a pregnancy maintenance center which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing pregnancy maintenance services as described under subsection (c) of K.S.A. 2005 Supp. 65-1,159a, and amendments thereto, and all sales of any such property by or on behalf of such pregnancy maintenance center for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for such pregnancy maintenance center for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by such pregnancy maintenance center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for such pregnancy maintenance center. When such pregnancy maintenance center contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such pregnancy maintenance center a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such pregnancy maintenance center shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto.”

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

On roll call, the vote was: Yeas 16, Nays 20, Present and Passing 0, Absent or Not Voting 4.

Yeas: Barnett, Barone, Brownlee, Donovan, Gilstrap, Huelskamp, Jordan, Journey, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Steineger, Taddiken, Wagle.

Nays: Allen, Apple, Betts, Bruce, Brungardt, Francisco, Goodwin, Haley, Hensley, Kelly, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wysong. Absent or Not Voting: Emler, Lee, McGinn, Wilson.

The motion failed and the amendment was rejected.

The Committee recommended **SB 585** be passed as further amended.

**SB 549** be amended by adoption of the committee amendments, be further amended by motion of Senator Apple, as amended by Senate Committee, on page 8, in line 23, after “be” by inserting “based upon the certified preliminary abstract of property values submitted to the director of property valuation pursuant to K.S.A. 79-1604, and amendments thereto, and shall be”;

On page 10, after line 25, by inserting:

“Sec. 13. K.S.A. 79-2930 is hereby amended to read as follows: 79-2930. (a) Two copies of the budget certificate giving the amount of ad valorem tax to be levied and the total amount of the adopted budget of expenditures by fund, along with itemized budget forms

for each and every fund and proof of publication of the notice of budget hearing containing the budget summary shall be presented to the county clerk within the time prescribed by K.S.A. 79-1801 ~~as amended and amendments thereto~~. Where action has been taken under any statute to increase the amount of tax to be levied authorized by law, a statement showing the increased amount or tax levy rate voted, or a copy of the charter resolution or ordinance making the change, shall be attached to the budget each year the change is in effect.

(b) The county clerk shall make any reductions to the ad valorem tax to be levied, compute the tax levy rates based on the final equalized assessed valuation, and enter such on the budget certificate before attesting the budget, *except that with regard to levies made under K.S.A. 75-2551, and amendments thereto, such levies shall be based upon the certified preliminary abstract of property values submitted to the director of property valuation pursuant to K.S.A. 79-1604, and amendments thereto*. A copy of all budgets for taxing subdivisions of the county, properly attested, shall be filed with the director of accounts and reports, along with a copy of the tax levy rate summary required of the county treasurer by K.S.A. 79-2002, and amendments thereto.

(c) Each fund of the adopted budget certified to the county clerk in no event shall exceed the amount of ad valorem tax to be levied and the proposed expenditures of such fund in the proposed budget as originally published. The governing body of each taxing subdivision shall not certify an amount of ad valorem taxes to be levied that is in excess of any tax levy rate or amount limitations or any aggregate tax levy limitations. The governing bodies, in fixing the amount may take into consideration and make allowance for the taxes which may not be paid, such allowance, however, shall not exceed by more than 5% the percentage of delinquency for the preceding tax year.”;

By renumbering the remaining sections accordingly;

Also on page 10, in line 28, by striking “and 75-2586” and inserting “, 75-2586 and 79-2930”;

In the title, in line 12, after the semicolon, by inserting “concerning the basis for property tax levies of public libraries;”; in line 14, by striking “and 75-2577” and inserting “, 75-2577 and 79-2930”, and **SB 549** be passed as further amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, March 15, 2006.

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

PAT SAVILLE, *Secretary of the Senate*.

