

# Journal of the House

TWENTY-FIFTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Monday, February 12, 2007, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Dahl in the chair. The roll was called with 124 members present. Rep. Powers was excused on verified illness.

Prayer by Chaplain Brubaker:

“This is what the Lord says — he who made a way through the sea, a path through the mighty waters, who drew out the chariots and horses, the army and reinforcements together... Forget the former things; do not dwell on the past. See, I am doing a new thing.” (Isaiah 43:16-19)

Dear Lord — this is a new week, give us a fresh new perspective. Keep us from dwelling on past disagreements and debates. Encourage us to work together to do a good new thing this week.

Please continue to place a healing touch on Ted Powers and be with his family.

In Your name I pray. Amen.

The Pledge of Allegiance was led by Rep. Peck.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

**HB 2499**, An act establishing the memorial war on terrorism bridge program, by Committee on Federal and State Affairs.

**HB 2500**, An act concerning property taxation; relating to exemptions; certain housing; amending K.S.A. 2006 Supp. 79-201b and repealing the existing section, by Committee on Taxation.

**HB 2501**, An act concerning sales taxation; relating to exemptions; certain sales of school supplies, computers and clothing; amending K.S.A. 2006 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

**HB 2502**, An act concerning district court judges and district magistrates; relating to the nonpartisan election thereof; amending K.S.A. 20-336 and 25-212 and K.S.A. 2006 Supp. 25-205, 25-206, 25-213 and 25-303 and repealing the existing sections, by Committee on Federal and State Affairs.

**HB 2503**, An act concerning child support enforcement; relating to payments under an insurance policy and workers compensation; perfection of a lien; unlawful acts; amending K.S.A. 39-759, 39-7,138, 39-7,140, 39-7,141, 39-7,147, 39-7,148 and 39-7,150 and K.S.A. 2006 Supp. 23-4,146 and repealing the existing sections, by Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION No. 5015—

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the classification and taxation of watercraft.

*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: Section 1 of article 11 of the constitution of the state of Kansas is hereby amended to read as follows:

“§ 1. **System of taxation; classification; exemption.** (a) The provisions of this subsection shall govern the assessment and taxation of property on and after January 1, ~~1993~~ 2009, and each year thereafter. Except as otherwise hereinafter specifically provided, the legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles *and watercraft*, as defined by the legislature, or may exempt such class from property taxation and impose taxes upon another basis in lieu thereof. The provisions of this subsection shall not be applicable to the taxation of motor vehicles, except as otherwise hereinafter specifically provided, mineral products, money, mortgages, notes and other evidence of debt and grain. Property shall be classified into the following classes for the purpose of assessment and assessed at the percentage of value prescribed therefore:

Class 1 shall consist of real property. Real property shall be further classified into seven subclasses. Such property shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- (1) Real property used for residential purposes including multi-family residential real property and real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are located ..... 11½%
- (2) Land devoted to agricultural use which shall be valued upon the basis of its agricultural income or agricultural productivity pursuant to section 12 of article 11 of the constitution ..... 30%
- (3) Vacant lots ..... 12%
- (4) Real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code, and which is included in this subclass by law..... 12%
- (5) Public utility real property, except railroad real property which shall be assessed at the average rate that all other commercial and industrial property is assessed..... 33%
- (6) Real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use ..... 25%
- (7) All other urban and rural real property not otherwise specifically subclassified..... 30%

Class 2 shall consist of tangible personal property. Such tangible personal property shall be further classified into six subclasses, shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- (1) Mobile homes used for residential purposes ..... 11½%
- (2) Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25%..... 30%
- (3) Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed ..... 33%
- (4) All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985..... 30%
- (5) Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than

seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such property is being used, shall not be less than 20% of the retail cost when new of such property..... 25%

(6) All other tangible personal property not otherwise specifically classified ... 30%

(b) All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation."

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

*“Explanatory statement.* This amendment would allow the legislature to classify and tax watercraft upon a basis different from other property.

“A vote for this proposition would permit the legislature to provide for separate classification and taxation of watercraft and to exempt such property from property taxation and impose taxes in lieu thereof.

“A vote against this proposition would continue the taxation of watercraft in the same manner as all other property.”

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 to be held on the first Tuesday after the first Monday in November 2008.

**REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to committees as indicated:

- Agriculture and Natural Resources: **HB 2487.**
- Appropriations: **SB 21.**
- Commerce and Labor: **HB 2497.**
- Economic Development and Tourism: **HB 2496.**
- Education: **SB 22.**
- Elections and Governmental Organization: **HB 2493, HB 2494; SB 131, SB 135, SB 158, SB 160.**
- Energy and Utilities: **HB 2492.**
- Federal and State Affairs: **HB 2488.**
- Health and Human Services: **SB 104.**
- Insurance and Financial Institutions: **SB 114.**
- Judiciary: **HB 2489, HB 2490.**
- Taxation: **HB 2495.**
- Transportation: **HB 2491.**
- Agriculture and Natural Resources Budget: **HB 2498.**

**CHANGE OF REFERENCE**

Speaker pro tem Dahl announced the withdrawal of **HB 2438** from Committee on Commerce and Labor and referral to Committee on Agriculture and Natural Resources.

**MESSAGE FROM THE GOVERNOR**

February 7, 2007

*Message to the House of Representatives of the State of Kansas:*

Enclosed herewith is Executive Order No. 2007-02 for your information.

## EXECUTIVE ORDER No. 2007-02

Creating the Kansas Health Information Exchange Commission

KATHLEEN SEBELIUS  
*Governor*

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

**COMMUNICATIONS FROM STATE OFFICERS**

From Roger Werholtz, Secretary, Department of Corrections, in accordance with K.S.A. 60-4117, report for the Kansas Department of Corrections State Forfeiture fund for period of December 1, 2005 through December 1, 2006.

From Kathy Greenlee, Secretary, Kansas Department on Aging, Annual Report, SFY 2006, and Client Assessment, Referral and Evaluation (CARE) report for SFY 2006.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

**CONSENT CALENDAR**

Objection was made to **HB 2016** appearing on the Consent Calendar; the bill was placed on the calendar under the heading of General Orders.

No objection was made to **HB 2306** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2081**, **HB 2217** 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 2081**, An act concerning recreation systems; relating to members of recreation commissions; amending K.S.A. 2006 Supp. 12-1926 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treasurer, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: McCray-Miller, Powers.

The bill passed.

**HB 2217**, An act concerning counties; relating to the adoption of certain codes; amending K.S.A. 12-3304 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington,

Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treasurer, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: McCray-Miller, Powers.

The bill passed.

**HB 2033.** An act concerning the state corporation commission; relating to when public utility property is deemed to be completed and dedicated to commercial service; amending K.S.A. 2006 Supp. 66-128 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treasurer, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: McCray-Miller, Powers.

The bill passed, as amended.

**HB 2068.** An act concerning security officers appointed by the adjutant general; relating to powers as law enforcement officers; amending K.S.A. 48-204 and K.S.A. 2006 Supp. 74-5602 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treasurer, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: McCray-Miller, Powers.

The bill passed, as amended.

**HB 2074.** An act concerning juveniles; relating to fingerprints and photographs; amending K.S.A. 2006 Supp. 38-2313 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 107; Nays 16; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlin, Carlson, Colloton, Colyer, Craft, Crum, Dahl, Davis, Donohoe, Faber, Feuerborn, Flaharty, Fund, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelsey, Kiegerl, King, Kinzer, Knox, Landwehr, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Ballard, Burroughs, Crow, Dillmore, Faust-Goudeau, Flora, Frownfelter, Garcia, Henderson, Kelley, Kuether, Lane, Pauls, Ruiz, Wilk, Winn.

Present but not voting: None.

Absent or not voting: McCray-Miller, Powers.

The bill passed, as amended.

**HB 2087.** An act concerning criminal justice; relating to the state statistical analysis center; amending K.S.A. 2006 Supp. 74-9101 and 74-9501 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed, as amended.

**HB 2107.** An act concerning insurance; relating to security deposits in financial institutions; amending K.S.A. 40-229a and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers,

Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed, as amended.

**HB 2115**, An act concerning the workers compensation group-funded pool; relating to the collection of the premium tax; amending K.S.A. 2006 Supp. 44-588 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed.

**HB 2116**, An act concerning certain rules and regulations of the commissioner of insurance; amending K.S.A. 40-2252 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 1; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: Landwehr.

Absent or not voting: Powers.

The bill passed, as amended.

**HB 2127**, An act concerning certain electric generation facilities; relating to contracts for parallel generation services; providing for issuance of bonds for certain purposes; amend-

ing K.S.A. 66-1,184 and K.S.A. 2006 Supp. 79-201 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 117; Nays 7; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Humerickhouse, Huntington, Johnson, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Masterson, McCray-Miller, McKinney, McLachlan, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Gordon, Huebert, Kelley, Landwehr, Mast, McLeland, Powell.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. SPEAKER: I cannot in good conscience vote for a bill that will ultimately raise utility rates to my constituents. This is especially hard on those people on fixed incomes. I vote nay on **HB 2127**.—LARRY POWELL, JOE MCLELAND, PEGGY MAST

**HB 2169**, An act concerning the Kansas development finance authority; relating to energy conservation improvements and energy conservation measures; amending K.S.A. 75-37,114 and K.S.A. 2006 Supp. 74-8902 and 75-37,125 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 1; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Flora.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed, as amended.

**HB 2190**, An act concerning the department of corrections; relating to discretion of the secretary of corrections to dismiss violations of conditional release; amending K.S.A. 2006 Supp. 75-5217 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 102; Nays 22; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Donohoe, Faber, Faust-Goudeau, Flaharty, Flora, Fund, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett,



Henderson, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, Kinzer, Knox, Kuether, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Patton, Pauls, Peck, Peterson, Pottorff, Powell, Proehl, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley.

Nays: Burroughs, Davis, Dillmore, Feuerborn, Frownfelter, Goyle, Henry, King, Landwehr, Lane, McKinney, McLachlan, Palmer, Phelps, Rardin, Sharp, Svaty, Ward, Watkins, Wetta, Wilk, Yoder.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed.

**HB 2193**, An act concerning crimes, criminal procedure and punishment; relating to sentencing; amending K.S.A. 2006 Supp. 21-4603d and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed.

**HB 2208**, An act concerning the county fair board of Cloud county; amending K.S.A. 19-2699 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed.

**HB 2230**, An act concerning the department of corrections; relating to program agreements between the secretary and inmates; amending K.S.A. 75-5210a and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed.

**HB 2232**, An act concerning crimes, criminal procedure and punishment; relating to costs in criminal cases; eliminating reimbursement of jury fees by the department of corrections; amending K.S.A. 22-3801 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 113; Nays 11; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Frownfelter, Fund, Garcia, George, Goico, Goyle, Grange, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, Kinzer, Knox, Kuether, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Dillmore, Flora, Gatewood, Gordon, Grant, Horst, King, Landwehr, Lane, Sharp, Wilk.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed.

**HB 2233**, An act concerning the department of corrections; relating to prison-made goods; authorizing sales to state employees; amending K.S.A. 75-5275 and 75-5276 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill,

Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed.

**HB 2240**, An act concerning retailers' sales tax; relating to the exemptions; amending K.S.A. 2006 Supp. 79-3603 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Powers.

The bill passed, as amended.

On motion of Rep. Merrick, the House resolved into Committee of the Whole, with Rep. Siegfried in the chair.

#### COMMITTEE OF THE WHOLE

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

Recommended that on motion of Rep. Carlson, **HB 2031** be amended on page 1, after line 12, by inserting the following:

"Section 1. K.S.A. 2006 Supp. 79-5401 is hereby amended to read as follows: 79-5401.

(a) (1) *Subject to the limitations provided in subsection (g)*, for any foreign or domestic for-profit corporation, or professional corporation or association, duly registered and authorized to do business in Kansas by the secretary of state and which has taxable equity attributable to Kansas of ~~\$100,000~~ \$3,000,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue *for the tax year commencing after December 31, 2006*, at the rate of .125%, *and for the tax year commencing after December 31, 2007*, at the rate of .0625%, of such entity's taxable equity attributable to Kansas, except that such annual franchise tax for any such entity shall not exceed \$20,000.

(2) *Subject to the limitations provided in subsection (g)*, for any foreign or domestic limited liability company, foreign or domestic limited partnership or foreign or domestic limited liability partnership duly registered and authorized to do business in Kansas by the secretary of state and which has net capital accounts located in or used in this state at the end of the taxable year as required to be reported on the federal partnership return of income of ~~\$100,000~~ \$3,000,000 or more, such entity shall pay an annual franchise tax to the secretary

of revenue for the tax year commencing after December 31, 2006, at the rate of .125%, and for the tax year commencing after December 31, 2007, at the rate of .0625%, of the net capital accounts located in or used in this state at the end of the taxable year as required to be reported on the federal partnership return of income, or for a one-member LLC taxed as a sole proprietorship which has net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the taxable year of ~~\$100,000~~ \$3,000,000 or more, for the tax year commencing after December 31, 2006, at the rate of .125%, and for the tax year commencing after December 31, 2007, at the rate of .0625%, of net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the taxable year, except that such annual franchise tax for any such entity shall not exceed \$20,000.

(3) Subject to the limitations provided in subsection (g), for any business trust duly registered and authorized to do business in Kansas by the secretary of state and which has corpus as shown on its balance sheet at the end of the taxable year as required to be reported to the secretary of revenue of ~~\$100,000~~ \$3,000,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue for the tax year commencing after December 31, 2006, at the rate of .125%, and for the tax year commencing after December 31, 2007, at the rate of .0625%, of the corpus as shown on its balance sheet at the end of the taxable year as required to be reported to the secretary of revenue or in the case of a foreign business trust which has a corpus which is located in or which it uses or intends to use in this state as shown on its balance sheet at the end of the taxable year as required to be reported to the secretary of revenue of ~~\$100,000~~ \$3,000,000 or more, for the tax year commencing after December 31, 2006, at the rate of .125%, and for the tax year commencing after December 31, 2007, at the rate of .0625%, of that portion of the corpus which is located in or which it uses or intends to use in this state as shown on its balance sheet at the end of the taxable year as required to be reported to the secretary of revenue, except that the annual franchise tax for any such entity shall not exceed \$20,000. Such balance sheet shall be as of the end of the tax period, certified by the trustee, fairly and truly reflecting the trust assets and liabilities and specifically setting out its corpus, and, in the case of a foreign business trust, fairly and truly reflecting an allocation of its moneys and other assets as between those located, used or to be used, in this state and those located, used or to be used elsewhere.

(b) (1) Every corporation or association, business trust, limited liability company, limited partnership or limited liability partnership subject to taxation under this act, regardless of whether such entity has a franchise tax liability, shall make a return, stating specifically such information as may be required by the forms, rules and regulations of the secretary of revenue, which return shall include a balance sheet listing all assets and liabilities as of the end of the tax year, as reported in the federal income tax return on form 1120 or, if no such federal return is required to be filed, such balance sheet information as otherwise required by the secretary, and such further information showing the allocation or apportionment calculations in computing the amount of the franchise tax. The return of a corporation or association shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer so authorized to act. The fact that an individual's name is signed on a return shall be *prima facie* evidence that such individual is authorized to sign such return on behalf of such corporation. In cases where receivers, trustees in bankruptcy or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns shall be collected in the same manner as if collected from the corporation for which the return is made. The returns of a limited liability partnership shall be signed by a partner of the limited liability partnership. The returns of a limited liability company shall be signed by a member of the limited liability company.

(2) All returns shall be filed in the office of the director of taxation on or before the 15th day of the fourth month following the close of the taxable year, except as provided in subsection (b) (3).

(3) The director of taxation may grant a reasonable extension of time for filing returns in accordance with rules and regulations of the secretary of revenue. Whenever any such extension of time to file is requested by a taxpayer and granted by the director, no penalty

authorized by K.S.A. 79-3228, and amendments thereto, shall be imposed if 90% of the liability is paid on or before the original due date.

(c) (1) All taxes imposed under the provisions of the Kansas franchise tax act shall be paid on the 15th day of the fourth month following the close of the taxable year. When the tax as shown to be due on a return is less than \$5, such tax shall be canceled and no payment need be remitted by the taxpayer.

(2) The director of taxation may extend the time for payment of the tax, or any installment thereof, for a reasonable period of time not to exceed six months from the date fixed for payment thereof. Such extension may exceed six months in the case of a taxpayer who is abroad. Interest shall be charged at the rate prescribed by K.S.A. 79-2968, and amendments thereto, for the period of such extension.

(d) The provisions of K.S.A. 79-3226, 79-3228, 79-3228a, 79-3229, 79-3230, 79-3233, 79-3233a, 79-3233b, 79-3233g, 79-3233h, 79-3233i, 79-3234, 79-3235 and 79-3236, and amendments thereto, shall apply to the administration and enforcement of this section.

(e) All taxes paid pursuant to the provisions of this act shall be rounded off to the nearest \$1, and unless other disposition is specifically provided by law, the taxes collected under the provisions of this act and all overpayments which may not be refunded under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. The secretary of revenue shall not refund any overpayment of franchise taxes which is equal to \$5 or less, shall not credit any domestic corporation or foreign corporation, association, business trust, limited liability company, limited partnership or limited liability partnership with any amount which may not be refunded under this section, and shall not require reimbursement for any underpayment of franchise taxes which is less than \$5. Franchise tax refunds shall be paid to the claimant from the income tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation, but no warrant issued hereunder shall be drawn in an amount less than \$5. No interest shall be allowed on any payment made to a claimant pursuant to this act.

(f) As used in this section: (1) "Act" means the Kansas franchise tax act;

(2) "net book value as calculated on an income tax basis located in or used in this state" means the net book value of a limited liability company multiplied by a percentage which is the average of the following three percentages: (A) The average value of the limited liability company's real and tangible personal property owned or rented and used in this state during the tax period divided by the average total value of the limited liability company's real and tangible personal property owned or rented and used during the tax period; (B) the total amount of compensation paid by the limited liability company in this state during the tax period divided by the total amount of compensation paid everywhere by the limited liability company during the tax period; and (C) the total sales of the limited liability company in this state during the tax period divided by the total sales of the limited liability company everywhere during the tax period. If a limited liability company has no real and tangible property owned or rented and used, compensation paid or sales made for the tax period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity;

(3) "net capital accounts located in or used in this state" means the net capital accounts of a limited partnership or limited liability partnership as stated on the federal income tax return multiplied by a percentage which is the average of the following three percentages: (A) The average value of such entity's real and tangible personal property owned or rented and used in this state during the tax period divided by the average total value of such entity's real and tangible personal property owned or rented and used during the tax period; (B) the total amount of compensation paid by such entity in this state during the tax period divided by the total amount of compensation paid everywhere by such entity during the tax period; and (C) the total sales of such entity in this state during the tax period divided by the total sales of such entity everywhere during the tax period. If such entity has no real and tangible personal property owned or rented and used, compensation paid or sales made for the tax period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity;

(4) “shareholder’s equity” means the sum of: (1) Paid-in capital stock, except that paid-in capital stock shall not include any capital stock issued by a corporation and reacquired by such corporation through gift, purchase or otherwise and available for resale or retirement; (2) capital paid in, in excess of par; and (3) retained earnings, all as stated on such corporation’s federal income tax return;

(5) “shareholder’s equity attributable to Kansas” means the shareholder’s equity of a corporation multiplied by a percentage which is the average of the following three percentages: (A) The average value of the corporation’s real and tangible personal property owned or rented and used in this state during the tax period divided by the average total value of the corporation’s real and tangible personal property owned or rented and used during the tax period; (B) the total amount of compensation paid by the corporation in this state during the tax period divided by the total amount of compensation paid everywhere by the corporation during the tax period; and (C) the total sales of the corporation in this state during the tax period divided by the total sales of the corporation everywhere during the tax period. If a corporation has no real and tangible personal property owned or rented and used, compensation paid or sales made for the tax period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity; and

(6) “taxable equity attributable to Kansas” means shareholder’s equity attributable to Kansas.

(g) The provisions of this section shall apply to all tax years commencing after December 31, 2003, *but shall not apply to any tax year commencing after December 31, 2008.*

(h) The provisions of this section shall be known and may be cited as the Kansas franchise tax act.”;

Also on page 1, in line 13, by striking “Section 1” and inserting “Sec. 2”; in line 14, by striking “2” and inserting “3”;

Also on page 1, in the title, in line 9, by striking “repealing K.S.A. 2006 Supp. 79-5401” and inserting “concerning taxation”; in line 10, after “tax” by inserting “; application to certain business entities; rates, phase out; amending K.S.A. 2006 Supp. 79-5401 and repealing the existing section”;

Also, roll call was demanded on motion of Rep. Treaster to amend **HB 2031** after line 12, by inserting the following:

“Section 1. K.S.A. 2006 Supp. 79-5401 is hereby amended to read as follows: 79-5401.

(a) (1) *Except as otherwise provided in subsection (a)(4)*, for any foreign or domestic for profit corporation, or professional corporation or association, duly registered and authorized to do business in Kansas by the secretary of state and which has taxable equity attributable to Kansas of ~~\$100,000~~ \$500,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .125% of such entity’s taxable equity attributable to Kansas, except that such annual franchise tax for any such entity shall not exceed \$20,000.

(2) *Except as otherwise provided in subsection (a)(4)*, for any foreign or domestic limited liability company, foreign or domestic limited partnership or foreign or domestic limited liability partnership duly registered and authorized to do business in Kansas by the secretary of state and which has net capital accounts located in or used in this state at the end of the taxable year as required to be reported on the federal partnership return of income of ~~\$100,000~~ \$500,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .125% of the net capital accounts located in or used in this state at the end of the taxable year as required to be reported on the federal partnership return of income, or for a one-member LLC taxed as a sole proprietorship which has net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the taxable year of ~~\$100,000~~ \$500,000 or more, .125% of net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the taxable year, except that such annual franchise tax for any such entity shall not exceed \$20,000.

(3) *Except as otherwise provided in subsection (a)(4)*, for any business trust duly registered and authorized to do business in Kansas by the secretary of state and which has corpus as shown on its balance sheet at the end of the taxable year as required to be reported to the secretary of revenue of ~~\$100,000~~ \$500,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .125% of the corpus as shown on its balance

sheet at the end of the taxable year as required to be reported to the secretary of revenue or in the case of a foreign business trust which has a corpus which is located in or which it uses or intends to use in this state as shown on its balance sheet at the end of the taxable year as required to be reported to the secretary of revenue of ~~\$100,000~~ \$500,000 or more, .125% of that portion of the corpus which is located in or which it uses or intends to use in this state as shown on its balance sheet at the end of the taxable year as required to be reported to the secretary of revenue, except that the annual franchise tax for any such entity shall not exceed \$20,000. Such balance sheet shall be as of the end of the tax period, certified by the trustee, fairly and truly reflecting the trust assets and liabilities and specifically setting out its corpus, and, in the case of a foreign business trust, fairly and truly reflecting an allocation of its moneys and other assets as between those located, used or to be used, in this state and those located, used or to be used elsewhere.

(4) *Notwithstanding the provisions of subsections (a)(1), (a)(2) and (a)(3), any corporation or association which has taxable equity attributable to Kansas of at least \$500,000 but less than \$3,000,000, any limited liability company, limited partnership or limited liability partnership which has net capital accounts or net book value as described in subsection (a)(2) of at least \$500,000 but less than \$3,000,000, and any business trust which has corpus as shown on its balance sheet as described in subsection (a)(3) of at least \$500,000 but less than \$3,000,000, which contributes to health insurance premiums, a health benefit plan or a health savings account on behalf of an employee, as defined by K.S.A. 40-2239, and amendments thereto, shall not be subject to any franchise tax liability pursuant to this section.*

(b) (1) Every corporation or association, business trust, limited liability company, limited partnership or limited liability partnership subject to taxation under this act, regardless of whether such entity has a franchise tax liability, shall make a return, stating specifically such information as may be required by the forms, rules and regulations of the secretary of revenue, which return shall include a balance sheet listing all assets and liabilities as of the end of the tax year, as reported in the federal income tax return on form 1120 or, if no such federal return is required to be filed, such balance sheet information as otherwise required by the secretary, and such further information showing the allocation or apportionment calculations in computing the amount of the franchise tax. The return of a corporation or association shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer so authorized to act. The fact that an individual's name is signed on a return shall be *prima facie* evidence that such individual is authorized to sign such return on behalf of such corporation. In cases where receivers, trustees in bankruptcy or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns shall be collected in the same manner as if collected from the corporation for which the return is made. The returns of a limited liability partnership shall be signed by a partner of the limited liability partnership. The returns of a limited liability company shall be signed by a member of the limited liability company.

(2) All returns shall be filed in the office of the director of taxation on or before the 15th day of the fourth month following the close of the taxable year, except as provided in subsection (b) (3).

(3) The director of taxation may grant a reasonable extension of time for filing returns in accordance with rules and regulations of the secretary of revenue. Whenever any such extension of time to file is requested by a taxpayer and granted by the director, no penalty authorized by K.S.A. 79-322S, and amendments thereto, shall be imposed if 90% of the liability is paid on or before the original due date.

(c) (1) All taxes imposed under the provisions of the Kansas franchise tax act shall be paid on the 15th day of the fourth month following the close of the taxable year. When the tax as shown to be due on a return is less than \$5, such tax shall be canceled and no payment need be remitted by the taxpayer.

(2) The director of taxation may extend the time for payment of the tax, or any installment thereof, for a reasonable period of time not to exceed six months from the date fixed for payment thereof. Such extension may exceed six months in the case of a taxpayer who is

abroad. Interest shall be charged at the rate prescribed by K.S.A. 79-2968, and amendments thereto, for the period of such extension.

(d) The provisions of K.S.A. 79-3226, 79-3228, 79-3228a, 79-3229, 79-3230, 79-3233, 79-3233a, 79-3233b, 79-3233g, 79-3233h, 79-3233i, 79-3234, 79-3235 and 79-3236, and amendments thereto, shall apply to the administration and enforcement of this section.

(e) All taxes paid pursuant to the provisions of this act shall be rounded off to the nearest \$1, and unless other disposition is specifically provided by law, the taxes collected under the provisions of this act and all overpayments which may not be refunded under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. The secretary of revenue shall not refund any overpayment of franchise taxes which is equal to \$5 or less, shall not credit any domestic corporation or foreign corporation, association, business trust, limited liability company, limited partnership or limited liability partnership with any amount which may not be refunded under this section, and shall not require reimbursement for any underpayment of franchise taxes which is less than \$5. Franchise tax refunds shall be paid to the claimant from the income tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation, but no warrant issued hereunder shall be drawn in an amount less than \$5. No interest shall be allowed on any payment made to a claimant pursuant to this act.

(f) As used in this section: (1) "Act" means the Kansas franchise tax act;

(2) "net book value as calculated on an income tax basis located in or used in this state" means the net book value of a limited liability company multiplied by a percentage which is the average of the following three percentages: (A) The average value of the limited liability company's real and tangible personal property owned or rented and used in this state during the tax period divided by the average total value of the limited liability company's real and tangible personal property owned or rented and used during the tax period; (B) the total amount of compensation paid by the limited liability company in this state during the tax period divided by the total amount of compensation paid everywhere by the limited liability company during the tax period; and (C) the total sales of the limited liability company in this state during the tax period divided by the total sales of the limited liability company everywhere during the tax period. If a limited liability company has no real and tangible property owned or rented and used, compensation paid or sales made for the tax period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity;

(3) "net capital accounts located in or used in this state" means the net capital accounts of a limited partnership or limited liability partnership as stated on the federal income tax return multiplied by a percentage which is the average of the following three percentages: (A) The average value of such entity's real and tangible personal property owned or rented and used in this state during the tax period divided by the average total value of such entity's real and tangible personal property owned or rented and used during the tax period; (B) the total amount of compensation paid by such entity in this state during the tax period divided by the total amount of compensation paid everywhere by such entity during the tax period; and (C) the total sales of such entity in this state during the tax period divided by the total sales of such entity everywhere during the tax period. If such entity has no real and tangible personal property owned or rented and used, compensation paid or sales made for the tax period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity;

(4) "shareholder's equity" means the sum of: (1) Paid-in capital stock, except that paid-in capital stock shall not include any capital stock issued by a corporation and reacquired by such corporation through gift, purchase or otherwise and available for resale or retirement; (2) capital paid in, in excess of par; and (3) retained earnings, all as stated on such corporation's federal income tax return;

(5) "shareholder's equity attributable to Kansas" means the shareholder's equity of a corporation multiplied by a percentage which is the average of the following three percentages: (A) The average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period divided by the average total



value of the corporation's real and tangible personal property owned or rented and used during the tax period; (B) the total amount of compensation paid by the corporation in this state during the tax period divided by the total amount of compensation paid everywhere by the corporation during the tax period; and (C) the total sales of the corporation in this state during the tax period divided by the total sales of the corporation everywhere during the tax period. If a corporation has no real and tangible personal property owned or rented and used, compensation paid or sales made for the tax period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity; and

(6) "taxable equity attributable to Kansas" means shareholder's equity attributable to Kansas.

(g) The provisions of this section shall apply to all tax years commencing after December 31, ~~2003~~ 2006.

(h) The provisions of this section shall be known and may be cited as the Kansas franchise tax act.";

Also on page 1, in line 13, by striking "Section 1" and inserting "Sec. 2"; in line 14, by striking "2" and inserting "3";

Also on page 1, in the title, in line 9, by striking "repealing K.S.A. 2006 Supp. 79-5401" and inserting "concerning taxation"; in line 10, after "tax" by inserting "; application to certain business entities; amending K.S.A. 2006 Supp. 79-5401 and repealing the existing section";

On roll call, the vote was: Yeas 48; Nays 73; Present but not voting: 0; Absent or not voting: 4.

Yeas: Ballard, Burroughs, Carlin, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Garcia, Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Holland, Kuether, Lane, Loganbill, Long, Lukert, Mah, McCray-Miller, McKinney, McLachlan, Menghini, Neighbor, Owens, Palmer, Pauls, Phelps, Rardin, Ruff, Ruiz, Sawyer, Storm, Svaty, Swenson, Tietze, Treaster, Trimmer, Ward, Wetta, Williams, Winn.

Nays: Aurand, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlson, Colloton, Colyer, Craft, Crum, Dahl, Donohoe, Faber, Fund, George, Goico, Gordon, Grange, Hayzlett, Hill, Hodge, C. Holmes, M. Holmes, Horst, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Landwehr, Light, Mast, Masterson, McLeland, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neufeld, O'Neal, Olson, Otto, Patton, Peck, Pottorff, Powell, Proehl, Rhoades, Roth, Schroeder, Schwartz, Sharp, Shultz, Sloan, Spalding, Swanson, Tafanelli, Vickrey, Watkins, Whitham, Wilk, B. Wolf, K. Wolf, Worley, Yoder.

Present but not voting: None.

Absent or not voting: Huebert, Peterson, Powers, Siegfried.

The motion of Rep. Treaster did not prevail.

Also, on motion of Rep. Henry to amend **HB 2031** on page 1, after line 12, by inserting the following:

"Section 1.

DEPARTMENT OF ADMINISTRATION

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

State debt reduction fund  
For the fiscal year ending June 30, 2008 ..... \$0

*Provided*, That all expenditures from the state debt reduction fund during fiscal year 2008 shall be for the purposes of providing funding for retirement or defeasement of pension bonds issued for the Kansas public employees retirement system which bonds become defeasible or callable during fiscal year 2008 or to otherwise offset outstanding state debt to be retired from payments from the state general fund therefor and for which debt service is currently paid from the KPERS bond debt service account of the department of administration: *Provided further*, That all such expenditures shall be made by the secretary of administration in consultation with the board of trustees of the Kansas public employees

retirement system and the Kansas development finance authority and shall be in addition to any expenditure limitation imposed on the state debt reduction fund for fiscal year 2008: *And provided further*, That, except as specifically authorized by this proviso or by other appropriation act of the legislature, no moneys shall be transferred or expended from the state debt reduction fund during fiscal year 2008: *And provided further*, That, except as specifically authorized by this proviso or by other appropriation act of the legislature, notwithstanding the provisions of K.S.A. 75-3711c and amendments thereto, any other appropriation act of the legislature or any other statute, the state finance council shall have no authority to increase the expenditure limitation on the state debt reduction fund for fiscal year 2008 or to otherwise authorize or provide for any expenditures from the state debt reduction fund for fiscal year 2008.

For the fiscal year ending June 30, 2009 ..... \$0  
*Provided*, That all expenditures from the state debt reduction fund during fiscal year 2009 shall be for the purposes of providing funding for retirement or defeasement of pension bonds issued for the Kansas public employees retirement system which bonds become defeasible or callable during fiscal year 2009 or to otherwise offset outstanding state debt to be retired from payments from the state general fund therefor and for which debt service is currently paid from the KPEERS bond debt service account of the department of administration: *Provided further*, That all such expenditures shall be made by the secretary of administration in consultation with the board of trustees of the Kansas public employees retirement system and the Kansas development finance authority and shall be in addition to any expenditure limitation imposed on the state debt reduction fund for fiscal year 2009: *And provided further*, That, except as specifically authorized by this proviso or by other appropriation act of the legislature, no moneys shall be transferred or expended from the state debt reduction fund during fiscal year 2009: *And provided further*, That, except as specifically authorized by this proviso or by other appropriation act of the legislature, notwithstanding the provisions of K.S.A. 75-3711c and amendments thereto, any other appropriation act of the legislature or any other statute, the state finance council shall have no authority to increase the expenditure limitation on the state debt reduction fund for fiscal year 2009 or to otherwise authorize or provide for any expenditures from the state debt reduction fund for fiscal year 2009.

(b) On July 1, 2007, and January 1, 2008, or as soon after each such date as practicable, the secretary of revenue shall certify to the director of accounts and reports the amount equal to 25% of the aggregate amount received as receipts from franchise taxes and income taxes imposed on corporations during the preceding six-month period and deposited in the state treasury to the credit of the state general fund. Upon the receipt of each such certification, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$40,000,000 from the state general fund to the state debt reduction fund: *Provided*, That the aggregate amount transferred from the state general fund to the state debt reduction fund pursuant to this subsection shall not exceed \$80,000,000.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in the title, in line 9, after “ACT” by inserting “concerning taxation; relating to taxation of business entities; franchise tax; disposition of certain income tax proceeds for debt reduction;”; also in line 9, by striking all after “79-5401”; in line 10, by striking all before the period, Rep. Carlson requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane. Rep. Henry challenged the ruling, the question being, “Shall the Rules Chair be sustained?” Roll call was demanded.

On roll call, the vote was: Yeas 75; Nays 46; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlson, Colloton, Colyer, Craft, Crum, Dahl, Donohoe, Faber, Fund, George, Goico, Gordon, Grange, Hayzlett, Hill, Hodge, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Landwehr, Light, Mast, Masterson, McLeland, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neufeld, Olson, Otto, Owens, Patton, Peck, Pottorff, Powell, Proehl, Rhoades, Roth, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Swanson, Tafanelli, Vickrey, Watkins, Whitham, Wilk, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Ballard, Burroughs, Carlin, Crow, Davis, Dillmore, Feuerborn, Flaharty, Flora, Frownfelter, Garcia, Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Holland, Kuether, Lane, Loganbill, Long, Lukert, Mah, McCray-Miller, McKinney, McLachlan, Menghini, Neighbor, Palmer, Pauls, Phelps, Rardin, Ruff, Ruiz, Sawyer, Storm, Svaty, Swenson, Tietze, Treaster, Trimmer, Ward, Wetta, Williams, Winn.

Present but not voting: None.

Absent or not voting: Faust-Goudeau, O'Neal, Peterson, Powers.

The Rules Chair was sustained and the amendment by Rep. Henry was not germane.

Also, on motion of Rep. Mah to amend **HB 2031** on page 1, after line 12, by inserting the following:

“Section 1. K.S.A. 2006 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) “Income” means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments ~~and all payments received under the federal social security act except disability payments~~, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of “loss of time” insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not include veterans disability pensions. *Income does not include payments received under the federal social security act.*

(b) “Household” means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) “Household income” means all income received by all persons of a household in a calendar year while members of such household.

(d) “Homestead” means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. “Owned” includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(e) “Claimant” means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older or (3) a person other than a person included under (1) or (2) having one or more dependent children under 18 years of age residing at the person’s homestead during the calendar year immediately preceding the year in which a claim is filed under this act.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

(f) “Property taxes accrued” means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant’s homestead in 1979 or any calendar year thereafter by the state of Kansas and the political and taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant’s household, “property taxes accrued” is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant’s household. For purposes of this act, property taxes are “levied” when the tax roll is delivered to the local treasurer with the treasurer’s warrant for collection. When a claimant and household own their homestead part of a calendar year, “property taxes accrued” means only taxes levied on the

homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

(g) "Disability" means:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of 20/200 or less.

(i) "Rent constituting property taxes accrued" means ~~20%~~ 15% of the gross rent actually paid in cash or its equivalent in ~~1979~~ 2007 or any taxable year thereafter by a claimant and claimant's household solely for the right of occupancy of a Kansas homestead on which ad valorem property taxes were levied in full for that year. When a household occupies two or more different homesteads in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the household while occupied by the household as its homestead during the year.

(j) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a homestead or space rental paid to a landlord for the parking of a mobile home, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arms length and that the gross rent charge was excessive, the director may adjust the gross rent to a reasonable amount for the purposes of the claim.

New Sec. 2. A person owning or occupying a homestead that is not rental property and for which the appraised valuation for property tax purposes exceeds \$300,000 in any year shall not be entitled to claim a refund of property taxes under the homestead property tax refund act for any such year. The provisions of this section shall be part of and supplemental to the homestead property tax refund act.;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 13, after "Supp." by inserting "79-4502 and"; also in line 13, by striking "is" and inserting "are";

Also on page 1, in the title, in line 9, after "ACT" by inserting "concerning taxation; relating to homestead property tax refunds; amending K.S.A. 2006 Supp. 79-4502 and repealing the existing section; also"; also in line 9, by striking all after "79-5401"; in line 10, by striking "franchise tax", Rep. Carlson requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane. Rep. Mah challenged the ruling, the question being "Shall the Rules Chair be sustained?" Roll call was demanded.

On roll call, the vote was: Yeas 73; Nays 48; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlson, Colloton, Colyer, Crum, Dahl, Donohoe, Faber, Fund, Goico, Gordon, Grange, Hayzlett, Hill, Hodge, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Landwehr, Light, Mast, Masterson, McLeland, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neufeld, Olson, Otto, Owens, Patton, Peck, Pottorff, Powell, Proehl, Rhoades, Roth, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Swanson, Tafanelli, Vickrey, Watkins, Whitham, Wilk, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Ballard, Burroughs, Carlin, Craft, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Garcia, Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Holland, Kuether, Lane, Loganbill, Long, Lukert, Mah, McCray-Miller, McKinney, McLachlan, Menghini, Neighbor, Palmer, Pauls, Phelps, Rardin, Ruff, Ruiz, Sawyer, Storm, Svaty, Swenson, Tietze, Treaster, Trimmer, Ward, Wetta, Williams, Winn.

Present but not voting: None.

Absent or not voting: George, O'Neal, Peterson, Powers.

The Rules Chair was sustained and the amendment by Rep. Mah was not germane.

Also, roll call was demanded on motion of Rep. Holland to amend **HB 2031** as amended on February 12, 2007, by amendment offered by Representative Carlson, by striking all of section 1 of such amendment, and by inserting the following in lieu thereof:

"Section 1. K.S.A. 2006 Supp. 79-5401 is hereby amended to read as follows: 79-5401.

(a) (1) For any foreign or domestic for profit corporation, or professional corporation or association, duly registered and authorized to do business in Kansas by the secretary of state and which has taxable equity attributable to Kansas of ~~\$100,000~~ \$1,200,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .125% of such entity's taxable equity attributable to Kansas, except that such annual franchise tax for any such entity shall not exceed \$20,000.

(2) For any foreign or domestic limited liability company, foreign or domestic limited partnership or foreign or domestic limited liability partnership duly registered and authorized to do business in Kansas by the secretary of state and which has net capital accounts located in or used in this state at the end of the taxable year as required to be reported on the federal partnership return of income of ~~\$100,000~~ \$1,200,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .125% of the net capital accounts located in or used in this state at the end of the taxable year as required to be reported on the federal partnership return of income, or for a one-member LLC taxed as a sole proprietorship which has net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the taxable year of ~~\$100,000~~ \$1,200,000 or more, .125% of net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the taxable year, except that such annual franchise tax for any such entity shall not exceed \$20,000.

(3) For any business trust duly registered and authorized to do business in Kansas by the secretary of state and which has corpus as shown on its balance sheet at the end of the taxable year as required to be reported to the secretary of revenue of ~~\$100,000~~ \$1,200,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .125% of the corpus as shown on its balance sheet at the end of the taxable year as required to be reported to the secretary of revenue or in the case of a foreign business trust which has a corpus which is located in or which it uses or intends to use in this state as shown on its balance sheet at the end of the taxable year as required to be reported to the

secretary of revenue of ~~\$100,000~~ \$1,200,000 or more, .125% of that portion of the corpus which is located in or which it uses or intends to use in this state as shown on its balance sheet at the end of the taxable year as required to be reported to the secretary of revenue, except that the annual franchise tax for any such entity shall not exceed \$20,000. Such balance sheet shall be as of the end of the tax period, certified by the trustee, fairly and truly reflecting the trust assets and liabilities and specifically setting out its corpus, and, in the case of a foreign business trust, fairly and truly reflecting an allocation of its moneys and other assets as between those located, used or to be used, in this state and those located, used or to be used elsewhere.

(b) (1) Every corporation or association, business trust, limited liability company, limited partnership or limited liability partnership subject to taxation under this act, regardless of whether such entity has a franchise tax liability, shall make a return, stating specifically such information as may be required by the forms, rules and regulations of the secretary of revenue, which return shall include a balance sheet listing all assets and liabilities as of the end of the tax year, as reported in the federal income tax return on form 1120 or, if no such federal return is required to be filed, such balance sheet information as otherwise required by the secretary, and such further information showing the allocation or apportionment calculations in computing the amount of the franchise tax. The return of a corporation or association shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer so authorized to act. The fact that an individual's name is signed on a return shall be *prima facie* evidence that such individual is authorized to sign such return on behalf of such corporation. In cases where receivers, trustees in bankruptcy or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns shall be collected in the same manner as if collected from the corporation for which the return is made. The returns of a limited liability partnership shall be signed by a partner of the limited liability partnership. The returns of a limited liability company shall be signed by a member of the limited liability company.

(2) All returns shall be filed in the office of the director of taxation on or before the 15th day of the fourth month following the close of the taxable year, except as provided in subsection (b) (3).

(3) The director of taxation may grant a reasonable extension of time for filing returns in accordance with rules and regulations of the secretary of revenue. Whenever any such extension of time to file is requested by a taxpayer and granted by the director, no penalty authorized by K.S.A. 79-3228, and amendments thereto, shall be imposed if 90% of the liability is paid on or before the original due date.

(c) (1) All taxes imposed under the provisions of the Kansas franchise tax act shall be paid on the 15th day of the fourth month following the close of the taxable year. When the tax as shown to be due on a return is less than \$5, such tax shall be canceled and no payment need be remitted by the taxpayer.

(2) The director of taxation may extend the time for payment of the tax, or any installment thereof, for a reasonable period of time not to exceed six months from the date fixed for payment thereof. Such extension may exceed six months in the case of a taxpayer who is abroad. Interest shall be charged at the rate prescribed by K.S.A. 79-2968, and amendments thereto, for the period of such extension.

(d) The provisions of K.S.A. 79-3226, 79-3228, 79-3228a, 79-3229, 79-3230, 79-3233, 79-3233a, 79-3233b, 79-3233g, 79-3233h, 79-3233i, 79-3234, 79-3235 and 79-3236, and amendments thereto, shall apply to the administration and enforcement of this section.

(e) All taxes paid pursuant to the provisions of this act shall be rounded off to the nearest \$1, and unless other disposition is specifically provided by law, the taxes collected under the provisions of this act and all overpayments which may not be refunded under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. The secretary of revenue shall not refund any overpayment of franchise taxes which is equal to \$5 or less, shall not credit any domestic corporation or foreign corporation, association,

business trust, limited liability company, limited partnership or limited liability partnership with any amount which may not be refunded under this section, and shall not require reimbursement for any underpayment of franchise taxes which is less than \$5. Franchise tax refunds shall be paid to the claimant from the income tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation, but no warrant issued hereunder shall be drawn in an amount less than \$5. No interest shall be allowed on any payment made to a claimant pursuant to this act.

(f) As used in this section: (1) "Act" means the Kansas franchise tax act;

(2) "net book value as calculated on an income tax basis located in or used in this state" means the net book value of a limited liability company multiplied by a percentage which is the average of the following three percentages: (A) The average value of the limited liability company's real and tangible personal property owned or rented and used in this state during the tax period divided by the average total value of the limited liability company's real and tangible personal property owned or rented and used during the tax period; (B) the total amount of compensation paid by the limited liability company in this state during the tax period divided by the total amount of compensation paid everywhere by the limited liability company during the tax period; and (C) the total sales of the limited liability company in this state during the tax period divided by the total sales of the limited liability company everywhere during the tax period. If a limited liability company has no real and tangible property owned or rented and used, compensation paid or sales made for the tax period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity;

(3) "net capital accounts located in or used in this state" means the net capital accounts of a limited partnership or limited liability partnership as stated on the federal income tax return multiplied by a percentage which is the average of the following three percentages: (A) The average value of such entity's real and tangible personal property owned or rented and used in this state during the tax period divided by the average total value of such entity's real and tangible personal property owned or rented and used during the tax period; (B) the total amount of compensation paid by such entity in this state during the tax period divided by the total amount of compensation paid everywhere by such entity during the tax period; and (C) the total sales of such entity in this state during the tax period divided by the total sales of such entity everywhere during the tax period. If such entity has no real and tangible personal property owned or rented and used, compensation paid or sales made for the tax period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity;

(4) "shareholder's equity" means the sum of: (1) Paid-in capital stock, except that paid-in capital stock shall not include any capital stock issued by a corporation and reacquired by such corporation through gift, purchase or otherwise and available for resale or retirement; (2) capital paid in, in excess of par; and (3) retained earnings, all as stated on such corporation's federal income tax return;

(5) "shareholder's equity attributable to Kansas" means the shareholder's equity of a corporation multiplied by a percentage which is the average of the following three percentages: (A) The average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period divided by the average total value of the corporation's real and tangible personal property owned or rented and used during the tax period; (B) the total amount of compensation paid by the corporation in this state during the tax period divided by the total amount of compensation paid everywhere by the corporation during the tax period; and (C) the total sales of the corporation in this state during the tax period divided by the total sales of the corporation everywhere during the tax period. If a corporation has no real and tangible personal property owned or rented and used, compensation paid or sales made for the tax period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity; and

(6) "taxable equity attributable to Kansas" means shareholder's equity attributable to Kansas.

(g) The provisions of this section shall apply to all tax years commencing after December 31, ~~2003~~ 2006.

(h) The provisions of this section shall be known and may be cited as the Kansas franchise tax act.”;

Also on page 1, in the amendment to the title, offered by Representative Carlson, in line 10, by striking “phase out.”;

On roll call, the vote was: Yeas 48; Nays 74; Present but not voting: 0; Absent or not voting: 3.

Yeas: Ballard, Burroughs, Carlin, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Garcia, Gatewood, George, Goyle, Grant, Hawk, Henderson, Henry, Holland, Kuether, Lane, Loganbill, Long, Lukert, Mah, McCray-Miller, McKinney, McLachlan, Menghini, Neighbor, Palmer, Pauls, Phelps, Rardin, Ruff, Ruiz, Sawyer, Storm, Svaty, Swenson, Tietze, Treaster, Trimmer, Ward, Wetta, Williams, Winn.

Nays: Aurand, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlson, Colleton, Colyer, Craft, Crum, Dahl, Donohoe, Faber, Fund, Goico, Gordon, Grange, Hayzlett, Hill, Hodge, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Landwehr, Light, Mast, Masterson, McLeland, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neufeld, Olson, Otto, Owens, Patton, Peck, Pottorff, Powell, Proehl, Rhoades, Roth, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Swanson, Tafanelli, Vickrey, Watkins, Whitham, Wilk, B. Wolf, K. Wolf, Worley, Yoder.

Present but not voting: None.

Absent or not voting: O’Neal, Peterson, Powers.

The motion of Rep. Holland did not prevail, and **HB 2031** be passed as amended.

#### REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2246** be passed.

Committee on **Education** recommends **HB 2093** be amended on page 1, in line 25, by striking “licensure as a teacher” and inserting “full endorsement as a special education teacher”; in line 28, by striking “licensure” and inserting “full endorsement”; in line 34, by striking “licensure in the” and inserting “a”; by striking all of line 36 and inserting the following:

Sec. 2. K.S.A. 2006 Supp. 74-32,202 is hereby amended to read as follows: 74-32,202. As used in K.S.A. 2006 Supp. 74-32,201 through 74-32,208, and amendments thereto:

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

(b) “qualified student” means a person who: (1) Is a resident of the state of Kansas; (2) is licensed as a teacher; (3) has been accepted for admission to or is enrolled in an approved course of instruction leading to ~~licensure and~~ full endorsement as a special education teacher; and (4) has qualified for the award of a scholarship under the special education teacher service scholarship program on the basis of having demonstrated scholastic ability, or who has previously so qualified and remains qualified for renewal of the scholarship on the basis of remaining in good standing and making satisfactory progress toward completion of the requirements of the course of instruction in which enrolled;

(c) “special education teacher” means a person who is licensed and fully-endorsed to ~~provide special education to exceptional children who are children with disabilities teach~~ *special education*;

(d) “special education,” “exceptional children” and “children with disabilities” have the meanings ascribed thereto in K.S.A. 72-962, and amendments thereto.

(d) “special education” has the meaning ascribed thereto in K.S.A. 72-962, and amendments thereto.

Sec. 3. K.S.A. 2006 Supp. 74-32,204 is hereby amended to read as follows: 74-32,204. (a) An applicant for designation as a qualified student and for the award of a scholarship under the special education teacher service scholarship program shall provide to the executive officer, on forms supplied by the executive officer, information required by the executive officer.

(b) As a condition to awarding a scholarship under this act, the executive officer and the applicant shall enter into an agreement which shall require the applicant to:



- (1) Complete the required course of instruction leading to ~~licensure~~ and full endorsement as a special education teacher;
- (2) engage in teaching special education ~~to children with disabilities~~ in Kansas and comply with such other terms and conditions as may be specified by such agreement;
- (3) commence teaching special education ~~of children with disabilities~~ on a full-time basis in Kansas in an accredited public or private school in accordance with the agreement and continue such teaching on a full-time basis for a period of not less than three years or commence teaching special education ~~of children with disabilities~~ on a part-time basis in Kansas in an accredited public or private school in accordance with the agreement and continue such teaching on a part-time basis for a period of time that is equivalent to teaching on a full-time basis for a period of not less than three years, as determined by the state board of regents;
- (4) commence teaching special education ~~of children with disabilities~~ in Kansas on a full-time or part-time basis within six months after ~~licensure~~ *receiving endorsement as a special education teacher* and continue such teaching for the period of time required by the agreement;
- (5) maintain records and make reports to the executive officer as required by the executive officer to document the satisfaction of the obligations under this act and the agreement; and
- (6) repay to the state amounts as provided in K.S.A. 2006 Supp. 74-32,205, and amendments thereto if the person fails to satisfy the obligation under any agreement.

Sec. 4. K.S.A. 2006 Supp. 74-32,206 is hereby amended to read as follows: 74-32,206. (a) Except as otherwise specified in the agreement, an obligation under any agreement entered into under the teacher service scholarship program shall be postponed: (1) During any required period of active military service; (2) during any period of service as a part of volunteers in service to America (VISTA); (3) during any period of service in the peace corps; (4) during any period of service commitment to the United States public health service; (5) during any period of religious missionary work conducted by an organization exempt from tax under section 501(c)(3) of the federal internal revenue code as in effect on December 31, 2000; (6) during any period of time the person obligated is unable because of temporary medical disability to teach; (7) during any period of time the person obligated is enrolled and actively engaged on a full-time basis in a course of study leading to a degree in the field of education which is higher than that formerly attained; (8) during any period of time the person obligated is on job-protected leave under the federal family and medical leave act of 1993; or (9) during any period of time the state board of regents determines that the person obligated is unable because of special circumstances to teach. Except for clauses (6), (8) and (9), an obligation under any agreement entered into as provided in the special education teacher service scholarship program shall not be postponed more than five years from the time the obligation was to have been commenced under such agreement. An obligation under any agreement entered into as provided in the special education teacher service scholarship program shall be postponed under clause (6) during the period of time the medical disability exists. An obligation under any agreement entered into as provided in the special education teacher service scholarship program shall be postponed under clause (8) during the period of time the person obligated remains on FMLA leave. An obligation to be fully-endorsed and engage in teaching in accordance with an agreement under the special education teacher service scholarship program shall be postponed under clause (9) during the period of time the state board of regents determines that the special circumstances exist. The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for determination of the existence of special circumstances causing an inability to teach or to be fully-endorsed, and shall determine the documentation required to prove the existence of such circumstances.

(b) An obligation under any agreement entered into as provided in the special education teacher service scholarship program shall be satisfied: (1) If the obligation has been completed in accordance with the agreement; (2) if the person obligated dies; (3) if, because of permanent physical disability, the person obligated is unable to satisfy the obligation; (4) if the person obligated fails to satisfy the requirements for a graduation from a special education teacher education program after making the best effort possible; (5) if the person

obligated fails to satisfy all requirements for licensure to teach special education to children with disabilities in Kansas or has been denied licensure after applying for a license to teach special education to children with disabilities and making the best effort possible to obtain such license endorsement as a special education teacher in Kansas or has been denied such endorsement after making the best effort possible to obtain such endorsement; or (6) if the person obligated is unable to obtain employment as a special education teacher after making the best effort possible to obtain such employment and the person obligated otherwise completes the terms, conditions and obligations of the agreement.

Sec. 5. K.S.A. 2006 Supp. 74-32,202, 74-32,203, 74-32,204 and 74-32,206 are hereby repealed.”

By renumbering the remaining section;

In the title, by striking all in lines 9, 10 and 11 and inserting: “An Act concerning the special education teacher service scholarship; amending K.S.A. 2006 Supp. 74-32,202, 74-32,203, 74-32,204 and 74-32,206 and repealing the existing sections.”; and the bill be passed as amended.

Committee on **Energy and Utilities** recommends **HB 2035** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2035,” as follows:

“Substitute for HOUSE BILL No. 2035

By Committee on Energy and Utilities

“AN ACT concerning scrap metal dealers; relating to the theft of certain metals; amending K.S.A. 50-619, 50-620, 50-621 and 50-622 and repealing the existing sections.”; and the substitute bill be passed.

(**Sub. HB 2035** was thereupon introduced and read by title.)

Committee on **Taxation** recommends **HB 2171** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2171,” as follows:

“Substitute for HOUSE BILL No. 2171

By Committee on Taxation

“AN ACT concerning sales taxation; relating to refund claims; requirements and procedures; penalties; amending K.S.A. 2006 Supp. 79-3609, 79-3615, 79-3650 and 79-3702 and repealing the existing sections.”; and the substitute bill be passed.

(**Sub. HB 2171** was thereupon introduced and read by title.)

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 and concurrent resolution were thereupon introduced and read by title:

**HB 2504**, An act concerning membership on the joint committee on economic development; amending K.S.A. 46-1604 and repealing the existing section, by Committee on Calendar and Printing.

**HB 2505**, An act concerning insurance; providing reimbursement for certain services; amending K.S.A. 40-2,114 and repealing the existing section, by Committee on Appropriations.

**HB 2506**, An act relating to vehicles; concerning the maximum length; amending K.S.A. 2006 Supp. 8-1904 and repealing the existing section, by Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION No. 5016—

By Committee on Education

A CONCURRENT RESOLUTION directing the State Board of Education to monitor the re-authorization of the Elementary and Secondary Education Act especially in relation to the provisions of that act known as the No Child Left Behind Act.

WHEREAS, The No Child Left Behind Act is contained within the Elementary and Secondary Education Act; and

WHEREAS, The Legislature of the state of Kansas believes that the mandate of the No Child Left Behind Act has caused undue pressure and unfair criticism of the school districts, schools, students, teachers and administrators in Kansas; and

WHEREAS, It is the hope and goal of the Legislature of the state of Kansas that every student will attain 100% proficiency in their studies, yet it is the belief of the Legislature that the requirement of 100% proficiency by all students is statistically impossible to attain; and

WHEREAS, All public schools in Kansas are accredited; and

WHEREAS, Progress has been made in closing achievement gaps; and

WHEREAS, The No Child Left Behind Act applies to all states that accept federal Title I education funds; and

WHEREAS, The State of Kansas receives federal Title I education funds and therefore is subject to the requirements of the No Child Left Behind Act; and

WHEREAS, The federal government, under the No Child Left Behind Act, has created a system under which the state, school districts, schools, teachers and students are perceived as failing; and

WHEREAS, While significant improvement in student proficiency is being made in Kansas schools, the No Child Left Behind Act identifies an entire school as not making adequate yearly progress in improvement in any school year whether it is the school as a whole or a single subgroup within that school which fails to make adequate yearly progress; and

WHEREAS, It will be extremely difficult for the subgroup of students with disabilities to make adequate yearly progress because of significant educational challenges which adversely affect their capacities to achieve proficiency in the measured areas; and

WHEREAS, It will be extremely difficult for the subgroup of students with limited English proficiency to make adequate yearly progress in the areas of reading and language arts because those students are required to be tested in English after only one year of school attendance; and

WHEREAS, Once a student has been identified as not being proficient, the No Child Left Behind Act requires schools to help the student to become proficient which may involve tutoring, mentoring, summer school or other costly programs that provide for more instructional time; and

WHEREAS, The Elementary and Secondary Education Act and the No Child Left Behind Act are currently being considered for re-authorization by the United States Congress: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That we urge the State Board of Education to closely monitor the actions of the United States Congress as it considers the re-authorization of the Elementary and Secondary Education Act especially in relation to the provisions of the No Child Left Behind Act; and

*Be it further resolved:* That the State Board of Education submit a report to the legislature on the actions of the United States Congress in its re-authorization of the Elementary and Secondary Education Act especially in relation to the provisions of the No Child Left Behind Act; and

*Be it further resolved:* That the State Board of Education submit a report to the legislature on the effects on the state if the United States Congress fails to re-authorize the Elementary and Secondary Education Act or the provisions of the No Child Left Behind Act; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to the Chairperson of the Kansas State Board of Education.

#### **REPORT ON ENGROSSED BILLS**

**HB 2068, HB 2074, HB 2087, HB 2116, HB 2169, HB 2240** reported correctly engrossed February 9, 2007.

#### **REPORT ON ENROLLED BILLS**

**HB 2039, HB 2303** reported correctly enrolled, properly signed and presented to the governor on February 12, 2007.

On motion of Rep. Merrick, the House adjourned until 10:30 a.m., Tuesday, February 13, 2007.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

