

Journal of the Senate

FIFTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 22, 2007—2:30 p.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with forty senators present.
Vice President Vratil introduced as guest chaplain, Rabbi Debbie Stiel, Temple Beth Shalom, Topeka, who delivered the invocation:

A Prayer for Meaning, Integrity and Passion at Work
God, inspire us to transform our careers into a calling.
Help us, if we so need, to rekindle the flame of passion that once burned so brightly.
Teach us how to turn our labor into meaning and deep satisfaction.

Give us the insight to think in new ways, the confidence to trust our instincts, and the humility to learn from those who are wiser and more experienced. May we find the courage to stand up for what we believe. May we never compromise our integrity in order to get ahead.

Remind us, God, to treat our colleagues and subordinates with patience, kindness and respect. Give us the strength to overcome the envy and resentments that poison the soul and relationships.

Most of all, we pray that our work can help to bring goodness into this world.
Amen

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 386, An act relating to property taxation; providing for the cancellation of certain uncollected taxes, by Committee on Ways and Means.

SB 387, An act concerning the Kansas health policy authority; relating to development and implementation of premium assistance programs; amending K.S.A. 2006 Supp. 75-7408 and repealing the existing section, by Committee on Ways and Means.

SB 388, An act concerning retirement and pensions; relating to the Kansas police and firemen's retirement system; affiliation of attorney general; membership of certain agents and investigators; contributions, by Committee on Ways and Means.

SB 389, An act concerning legislative appointments to certain offices, by Committee on Federal and State Affairs.

SB 390, An act concerning taxation; relating to the creation of the regents county education authority, taxing authority, powers and duties, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated:

Education: **HCR 5016**.

Federal and State Affairs: **HB 2528**.

Judiciary: **Sub HB 2451**.

MESSAGE FROM THE GOVERNOR

March 22, 2007

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

KATHLEEN SEBELIUS
Governor

Member, Employment Security Board of Review, Harry Helser pursuant to the authority vested in me by KSA 44-709, effective upon the date of confirmation by the Senate, to serve a term of 4 years.

Member, Kansas Health Policy Authority, Arneatha Martin pursuant to the authority vested in me by KSA 75-7401, effective upon the date of confirmation by the Senate, to serve a term of 4 years.

SB 58, SB 76, SB 102, SB 111, SB 164, SB 220 approved on March 22, 2007.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2237, HB 2423, HB 2519**.

Also, passage of **SB 95**.

Passage of **SB 114**, as amended; **SB 178**, as amended; **SB 188**, as amended; **SB 202**, as amended.

The House nonconcur in Senate amendments to **Senate Substitute for HB 2031**, requests a conference and has appointed Representatives Wilk, Carlson and Holland as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2044**, requests a conference and has appointed Representatives Wilk, Carlson and Holland as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2140**, requests a conference and has appointed Representatives Myers, Goico and Ruff as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2169**, requests a conference and has appointed Representatives C. Holmes, Olson and Kuether as conferees on the part of the House.

The House nonconcur in Senate amendments to **Senate Substitute for HB 2171**, requests a conference and has appointed Representatives Wilk, Carlson and Holland as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2202**, requests a conference and has appointed Representatives Siegfried, Huebert and Peterson as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2217**, requests a conference and has appointed Representatives Dahl, Powers and Sawyer as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2280**, requests a conference and has appointed Representatives Dahl, Powers and Sawyer as conferees on the part of the House.

The House nonconcur in Senate amendments to **Substitute HB 2310**, requests a conference and has appointed Representatives Aurand, Horst and Storm as conferees on the part of the House.

The House nonconcur in Senate amendments to **Senate Substitute for HB 2485**, requests a conference and has appointed Representatives C. Holmes, Olson and Kuether as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2237, HB 2423, HB 2519 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Teichman moved the Senate concur in house amendments to **SB 137**.

SB 137, An act concerning banks; prohibiting the establishment of branches with commercial affiliates.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **H Sub SB 35** and requested a conference committee be appointed.

The Vice President appointed Senators Vratil, Bruce and Goodwin as a conference committee on the part of the Senate.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2038, An act concerning energy; relating to nuclear power plants, siting permits and providing certain property tax exemptions; production of energy from renewable energy resources or technologies and use of waste energy, income tax credits and deductions and property tax exemptions; certain fuel storage and blending equipment, income tax credits and deductions and property tax exemptions; amending K.S.A. 66-1,158, 66-1,159, 66-1,159a, 66-1,161, 66-1,162, 66-1,169a and 66-1,169b and K.S.A. 2006 Supp. 66-1,160, 74-8949b, 79- 229, 79-32,117, 79-32,120, 79-32,138, 79-32,218, 79-32,224, 79-32,229, 79-32,233, 79-32,234, 79-32,235, 79-32,237 and 79-32,239 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 79-32,1171, was considered on final action.

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

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

Nays: Francisco.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT, I vote "NO" on **House Bill 2038**.

I believe that nuclear power will be part of Kansas' energy future, and I understand that this bill is presented to encourage the construction of a second nuclear power facility at Wolf Creek.

I am concerned with the provision that limits the exemption of a new nuclear generation facility from property taxes to only those facilities within three miles of the reactor of an existing nuclear generation facility. I believe there are more important policy issues for our state with regards to this issue that we have not addressed, such as whether or not the power would be generated for Kansas customers. We also need to be sure that we are keeping Kansas open to competition and new technologies.—MARCI FRANCISCO

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Pine introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1848—

A RESOLUTION congratulating and commending James Bailey for being named one of the top youth volunteers in Kansas for 2007 in the 12th annual Prudential Spirit of Community Awards.

WHEREAS, James Bailey, an esteemed resident of Leavenworth, Kansas, and a senior at Tonganoxie High School, has achieved national recognition for exemplary volunteer service by receiving a 2007 Prudential Spirit of Community Award; and

WHEREAS, James organized a community effort to assemble and ship more than 700 “care packages” to American troops serving in Iraq. After researching soldiers’ needs, James recruited members of his 4-H club to help him launch a community wide collection drive by setting up donation boxes at local businesses. James enlisted support from VFW and American Legion officials, wrote letters to large companies to solicit contributions, and, with the help of his fellow volunteers, emptied their overflowing donation boxes - sometimes several times a day. After storing the collected items in James’ living room, the volunteers invited community members to an all-night “lock in” to assemble the care packages and make pillowcases for the troops. When they were finished, James was able to ship 754 packages weighing more than 2,000 pounds to Iraq, containing personal products, snack items, games, magazines and other supplies, in addition to the pillowcases; and

WHEREAS, Because of his efforts, James was nominated by Tonganoxie High School in Tonganoxie for The Prudential Spirit of Community Award. This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities. As a State Honoree, James will receive \$1,000, an engraved silver medallion and an all-expense paid trip in early May to Washington D.C., where he will join other honorees from each of the other states and the District of Columbia for several days of national recognition events; and

WHEREAS, The success of the State of Kansas, the strength of our communities and the overall vitality of American society depend, in great measure, upon the dedication of young people like James who use their considerable talents and resources to serve others: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend James Bailey for being named a recipient of the Prudential Spirit of Community Award, honor his outstanding record of volunteer service, peer leadership and community spirit, and extend our best wishes for his continued success and happiness; and

Be it further resolved: That the Secretary of the Senate provide ten enrolled copies of this resolution to Senator Pine.

On emergency motion of Senator Pine **SR 1848** was adopted unanimously.

Senator Pine introduced James, who was accompanied by his parents, Pat and Carol Bailey and his grandmother, Barbara Bailey. James was commended for his outstanding record of volunteer service, peer leadership and community spirit and was honored with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2476** be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2476,” as follows:

“SENATE Substitute for HOUSE BILL No. 2476

By Committee on Assessment and Taxation

“AN ACT concerning real property; relating to transfer thereof; amending K.S.A. 2006 Supp. 79-201a and repealing the existing section.”;

and the substitute bill be passed.

Committee on **Commerce** recommends **SB 363** be passed.

Committee on **Education** recommends **SB 384** be amended on page 2, following line 15, by inserting:

“(b) For the purposes of conducting the study required by subsection (a), the commissioner of education, the secretary of the Kansas department of health and environment, the secretary of the state department of social and rehabilitation services and the executive director of the Kansas children’s cabinet shall be ex officio members of the legislative educational planning committee and the 2010 commission.”;

Also on page 2, in line 16, by striking “(b)” and inserting “(c)”; by striking all in lines 23 through 43;

On page 3, by striking all in lines 1 through 15;

By renumbering remaining section; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HB 2528**, as amended by House Committee of the Whole, be amended on page 2, in line 14, by striking “family and”; in line 15, by striking “personal” and inserting “personal and family”; in line 25, by striking “family and personal” and inserting “personal and family”; in line 26, by striking “No” and inserting “Except as provided in subsection (b) of this section and subsection (a) of K.S.A. 2006 Supp. 75-7c11, and amendments thereto, no”;

On page 8, in line 36, after the semicolon by inserting the following:

“(22) any property other than a parking lot which has a permanently enclosed or fenced area in existence on the day preceding the effective date of this act which also has one or more controlled access points through which the public must enter such enclosed or fenced area;

(23) any property other than a parking lot which has an enclosed or fenced area which also has one or more controlled access points through which the public must enter such enclosed or fenced area after paying an admission fee or charge.”;

Also in line 37, by striking “(22)” and inserting “(24)”;

On page 9, in line 5, by striking “in any manner”; in line 8, by striking all after “except”; in line 9, by striking all before “prohibit” and inserting “that no employer may”; in line 14, by striking “in any manner”; in line 16, by striking “business” and inserting “entity”; in line 28, by striking “as required by such subsection” and inserting “in accordance with rules and regulations adopted by the attorney general”; in line 32, by striking “pursuant to”; also in line 32, by striking “subsection (a)” and inserting “where carrying a concealed weapon is prohibited pursuant to subsection (a) of K.S.A. 2006 Supp. 75-7c10 and paragraph (2) of subsection (a) of K.S.A. 2006 Supp. 75-7c11 and amendments thereto”;

On page 10, after line 8, by inserting the following:

“(b) Prosecution of any person licensed under the personal and family protection act, and amendments thereto, for violating any restrictions on licensees will be done through the district court.”;

Also on page 10, in line 9, by striking “(b)” and inserting “(c)”; in line 17, by striking “(c)” and inserting “(d)”;

and the bill be passed as amended.

Also, **HB 2561**, as amended by House Committee, be amended on page 1, by striking all in lines 16 through 43;

By striking all on pages 2 through 17 and inserting the following:

“Section 1. K.S.A. 1-302b is hereby amended to read as follows: 1-302b. (a) No applicant who holds a Kansas certificate issued by the board shall receive a permit to practice in this state as a certified public accountant until the applicant submits evidence satisfactory to the board of having completed one year of accounting experience. This experience shall include providing any type of service or advice involving the use of attest or nonattest skills all of which was verified by a certified public accountant holding an active license to practice, meeting requirements prescribed by the board by rule. This experience would be acceptable if it was gained through employment in government, industry, academia or public practice.

(b) Any individual permit holder who is responsible for supervising attest or compilation services and signs or authorizes someone to sign the accountant’s report on any ~~audit, review, attest or compilation or the examination of prospective financial information~~ *service* on behalf of the firm, shall meet the experience or competency requirements, as adopted by the board through rules and regulations.

(c) Any individual permit holder who signs or authorizes someone to sign the accountant’s report on any ~~audit, review, attest or compilation or the examination of prospective financial information~~ *service* on behalf of the firm, shall meet the experience or competency requirement of subsection (b).

(d) As an alternative to the requirements of subsection (a), an individual with an active license issued by another state who establishes such individual’s principal place of business in this state shall request the issuance of both a certificate and a permit to practice from the board prior to establishing such principal place of business. The board may issue both a certificate and permit to such individual who obtains from the NASBA national qualification appraisal service verification that such individual’s ~~C.P.A.~~ *CPA* qualifications are substantially equivalent to the ~~C.P.A.~~ *CPA* licensure requirements of the uniform

accountancy act. An application under this section may be made through the NASBA qualifications appraisal service or similar organization approved by the board. Any individual meeting the requirements set forth in this subsection who is denied a certificate and a permit to practice shall have the opportunity to be heard pursuant to the Kansas administrative procedures act.

Sec. 2. K.S.A. 2006 Supp. 1-304 is hereby amended to read as follows: 1-304. (a) Each examination provided for by this act shall take place as often as may be necessary in the opinion of the board, but not less frequently than once each year. ~~A candidate who passes the examination in at least two subjects shall be deemed to have a conditional status and shall have the right to be re-examined in the remaining subjects only if a minimum grade of 50 was received in each of the failed subjects, at subsequent examinations held by the board, and if the candidate passes in the remaining subjects within a period of time specified in the rules and regulations of the board, such candidate shall be considered to have passed the examination. Upon the implementation of a computer-based examination, a candidate who has conditional status on the launch date of the computer-based examination shall be given a transition period to complete any remaining examination sections under conditions to be determined by rules and regulations of the board.~~

(b) After considering the need for uniformity with other states, the board may prescribe, by rule and regulation, the examination process, including but not limited to, the administration of the examination, application process, methods of grading, credit and determining a passing grade.

(c) The board may contract with third parties to perform administrative services with respect to the examination.

Sec. 3. K.S.A. 1-308 is hereby amended to read as follows: 1-308. (a) Notwithstanding any other provision of Kansas law, ~~any individual who operates as a sole practitioner and who issues reports subject to peer review, any general partnership, limited liability partnership, general corporation, professional corporation or limited liability company, hereafter referred to as a "firm" may be organized for the practice of certified public accountancy and a firm may engage in the practice of certified public accountancy in this state only if it the firm registers annually with the board, it complies with requirements established by rules and regulations adopted by the board for such registration, and it meets the following requirements:~~

(1) At least one general partner, shareholder or member thereof must be a certified public accountant of this state holding a valid permit to practice;

(2) each partner, shareholder or member who is a certified public accountant thereof personally engaged within this state in a practice of certified public accounting must be a certified public accountant of this state holding a valid permit to practice;

(3) each partner, shareholder or member who is a certified public accountant thereof must be a certified public accountant in some state in good standing;

(4) each resident manager in charge of an office of the firm in this state must be a certified public accountant of this state holding a valid permit to practice; and

(5) at least a simple majority of the ownership of the firm, in the terms of equity capital and voting rights of all partners, shareholders and/or members, belongs to the holders of valid licenses to practice as certified public accountants in some state. All nonlicensee owners must be of good moral character and must be natural persons actively participating in the business of the firm or entities, such as partnerships, corporations or other business associations, that are affiliated with the firm, provided that each ultimate beneficial owner of an equity interest in such an affiliated entity shall be a natural person actively participating in the business of the firm or affiliated entity. Although firms may include nonlicensee owners *there shall be at least one certified public accountant who has ultimate responsibility for all the services provided by the firm and*, the firm and its ownership must comply with rules and regulations promulgated by the board. Any firm which is denied registration pursuant to this section shall be entitled to notice and an opportunity to be heard pursuant to the Kansas administrative procedures act.

(b) ~~Nothing in this section shall prohibit a~~ A professional corporation ~~from practicing in~~ partnership with one or more corporations or individuals ~~and being shall not be~~ registered

with the board as a partnership ~~under this section~~ *unless such a partnership was registered prior to January 1, 2007.*

(c) The term "resident" as used in this section, shall include a person engaged in practice as a certified public accountant in this state, who spends all or the greater part of such person's time during business hours in this state, but who resides in another state.

(d) ~~The~~ *Each firm shall register prior to engaging in the practice of certified public accountancy in this state and shall renew the firm's registration annually.* Each firm shall designate a permit holder of this state who is responsible for the proper registration of the firm and shall identify that individual to the board by affidavit of a general partner, manager or officer of the firm. A fee may be charged for the registration of a firm.

(e) A firm ~~which is so that is not~~ registered in accordance with this section ~~may shall not~~ use the words "certified public accountants" or the abbreviation "~~C.P.A.~~" CPA in connection with its name. Notification shall be given the board, within one month, after the admission or withdrawal of a partner, shareholder or member from any firm so registered. Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as determined by the board will result in the suspension or revocation of the firm permit. ~~A firm that does not do business in Kansas shall register with the board prior to the date the firm opens a Kansas office.~~

Sec. 4. K.S.A. 1-310 is hereby amended to read as follows: 1-310. (a) Permits to engage in the practice of certified public accountancy in this state shall be issued by the board to persons who have met the requirements under K.S.A. 1-302b, and amendments thereto.

(b) Each holder of a Kansas certificate, which is numbered with an odd number, who is qualified under K.S.A. 1-302b, and amendments thereto, shall have a permit to practice issued or renewed on a biennial basis which shall expire on the next July 1 which occurs after the date the permit was issued or renewed and which occurs in an odd-numbered year.

(c) Each holder of a Kansas certificate, which is numbered with an even number, who is qualified under K.S.A. 1-302b, and amendments thereto, shall have a permit to practice issued or renewed on a biennial basis which shall expire on the next July 1 which occurs after the date the permit was issued or renewed and which occurs in an even-numbered year.

(d) A person may renew a permit within 12 months of its expiration date if such person submits a complete and sufficient renewal application together with the fee prescribed by K.S.A. 1-301, and amendments thereto.

(e) As a condition for renewal of a permit to practice, the board shall require all permit holders to furnish with such applicant's renewal application, evidence of participation in continuing education in accounting, auditing, or related areas of at least 80 hours during the two-year period for renewal unless the board waives all or a portion of the continuing education requirements. ~~As a condition for renewal of a permit to practice, the board shall require permit holders who do not have their principal place of business in Kansas and who are not required to register pursuant to K.S.A. 1-308, and amendments thereto, to furnish with such applicant's renewal application evidence of participation in a peer review program unless waived for good cause as determined by the board.~~

(f) The board may exempt from the continuing education requirements an individual who holds a permit from another state if:

(1) The permit holder has a principal place of business located outside the state of Kansas;

(2) the permit holder verifies to the board's satisfaction that such person has met the continuing education requirements of the state in which the principal place of business is located;

(3) the board considers the continuing education requirements of the state in which the principal place of business is located to be substantially equivalent to those of Kansas; and

(4) the state in which the principal place of business is located extends the same exemption to Kansas permit holders who practice in that state.

(g) A person who fails to renew a permit within 12 months after its expiration may apply for reinstatement by making application on a form provided by the board, submitting a

reinstatement fee as prescribed by K.S.A. 1-301 and amendments thereto, and submitting proof that such person has obtained 40 hours of qualifying continuing education within the preceding 12 months prior to applying for reinstatement.

Sec. 5. K.S.A. 1-311 is hereby amended to read as follows: 1-311. (a) The board may deny an application for a Kansas certificate, revoke or suspend any certificate issued under the laws of this state or may revoke, suspend or refuse to renew any permit issued under K.S.A. 1-310 and amendments thereto, and any notification issued pursuant to K.S.A. 1-322 and amendments thereto, may censure the holder of any such permit, certificate or notification, limit the scope of practice of any permit holder, and may impose an administrative fine not exceeding \$2,000, for any one or any combination of the following causes:

(1) Fraud, *dishonesty* or deceit in obtaining a certificate, permit, firm registration or notification;

(2) cancellation, revocation, suspension or refusal to renew a person's authority to practice for disciplinary reasons in any other jurisdiction for any cause;

(3) failure, on the part of a holder of a permit to practice or notification to maintain compliance with the requirements for issuance or renewal of such permit or notification;

(4) revocation or suspension of the right to practice ~~before by the PCAOB~~ or any state or federal agency;

(5) dishonesty, fraud or gross negligence in the practice of certified public accountancy ~~or in the filing or failure to file the certificate holder's own income tax returns;~~

(6) ~~failure to comply with applicable federal or state requirements regarding the timely filing of the person's personal tax returns, the tax returns of the person's firm or the timely remittance of payroll and other taxes collected on behalf of others;~~

~~(7)~~ (7) violation of any provision of this act or rule and regulation of the board except for a violation of a rule of professional conduct;

~~(7)~~ (8) willful violation of a rule of professional conduct;

~~(8)~~ (9) violation of any order of the board;

~~(9)~~ (10) conviction of any felony, or of any crime an element of which is dishonesty, *deceit* or fraud, under the laws of the United States, of Kansas or of any other state, if the acts involved would have constituted a crime under the laws of Kansas;

~~(10)~~ (11) performance of any fraudulent act while holding a Kansas certificate;

~~(11)~~ (12) making any false or misleading statement or verification, in support of an application for a certificate, permit, notification or firm registration filed by another;

~~(12)~~ (13) failure to establish timely compliance with peer review pursuant to K.S.A. 1-501, and amendments thereto; and

~~(13)~~ (14) any conduct reflecting adversely on a ~~permit holder's~~ person's fitness to practice certified public accountancy.

(b) In lieu of or in addition to any remedy specifically provided in subsection (a), the board may require of a permit holder satisfactory completion of such continuing education programs as the board may specify.

(c) All administrative proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and the act for judicial review and civil enforcement of agency actions.

Sec. 6. K.S.A. 1-312 is hereby amended to read as follows: 1-312. (a) Except as provided in subsection (b), the board may deny an application to register a firm, revoke or suspend a firm's registration, censure a firm, limit the scope of practice of a firm or impose such remedial action as it deems necessary to protect the public interest, or both, and impose an administrative fine not exceeding \$2,000 for any one or any combination of the following causes:

(1) Failure to meet the requirements of K.S.A. 1-308 and amendments thereto;

(2) fraud, *dishonesty* or deceit in obtaining a registration;

(3) revocation or suspension of a firm's right to practice ~~before by the PCAOB~~ or any state or federal agency;

(4) dishonesty, fraud or gross negligence in the practice of certified public accountancy;

(5) violation of any provision of chapter 1 of the Kansas Statutes Annotated and rules and regulations promulgated by the board except for a violation of a rule of professional conduct;

(6) willful violation of a rule of professional conduct;

- (7) violation of any order of the board;
- (8) cancellation, revocation, suspension or refusal to renew the authority of a firm to practice certified public accountancy in any other state;
- (9) conviction ~~of a firm~~ of any felony, or of any crime an element of which is dishonesty, *deceit* or fraud, under the laws of the United States, of Kansas or of any other state, if the acts involved would have constituted a crime under the laws of Kansas; or
- (10) failure to establish timely compliance with peer review pursuant to K.S.A. 1-501 and amendments thereto;

(b) In actions arising under peer review for reports modified for matters relating to attest services, the board may take such remedial action as it deems necessary to protect the public interest. However, the board may not limit the scope of practice of attest services of a firm or limit the scope of practice of attest services of any permit holder under K.S.A. 1-311, and amendments thereto, for failure to comply with generally accepted accounting principles, generally accepted auditing standards and other similarly recognized authoritative technical standards unless:

- (1) The firm has received at least two modified peer review reports during 12 consecutive years relating to attest services and the board finds that the firm has exhibited a course of conduct that reflects a pattern of noncompliance with applicable professional standards and practices; or
- (2) the firm has failed to abide by remedial measures required by a peer review committee or the board.

(c) Nothing in subsection (b) shall be construed to preclude the board from: Limiting the scope of practice of attest services of a firm or limiting the scope of practice of attest services of a permit holder under K.S.A. 1-311, and amendments thereto; or taking such remedial action as the board deems necessary to protect the public interest, after a review of an adverse peer review report based on matters relating to attest services if the board determines that the firm failed to comply with generally accepted accounting principles, generally accepted auditing standards and other similarly recognized authoritative technical standards.

(d) *After considering AICPA standards on peer review, the board may define, by rules and regulations, the terms "modified" and "adverse."*

(e) *At the time of suspension or revocation of a firm's registration, the board may suspend or revoke the permit to practice of a member, shareholder or partner of a firm if the permit holder is the only Kansas member, shareholder or partner of the firm. The permit shall be reinstated upon reinstatement of the firm's registration.*

(f) All administrative proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and the act for judicial review and civil enforcement of agency actions.

~~(g)~~ (g) The board shall not have the power to assess fines under this section if a fine has been assessed for the same or similar violation under the provisions of subsection (a) of K.S.A. 1-311 and amendments thereto.

Sec. 7. K.S.A. 1-316 is hereby amended to read as follows: 1-316. (a) It is unlawful for any person to practice certified public accountancy unless the person holds a *Kansas certificate and a valid permit to practice issued by the board pursuant to K.S.A. 1-310, and amendments thereto, or is entitled to practice pursuant to K.S.A. 1-322 and amendments thereto.*

(b) It is unlawful for any firm to practice certified public accountancy as a certified public accounting firm or ~~C.P.A.~~ CPA firm unless the firm is registered with the board pursuant to K.S.A. 1-308 and amendments thereto.

(c) It is unlawful for any person, except the holder of a valid ~~Kansas~~ certificate, to use or assume the title "certified public accountant" or to use the abbreviation "~~C.P.A.~~" CPA or any other title, designation, words, letters, abbreviation, sign, card or device likely to be confused with "certified public accountant." The use of the term "public accountant" without the word "certified" shall not be interpreted as implying that one is a certified public accountant.

(d) Except as provided by this subsection, no person holding a permit or firm holding a registration under this act shall use a professional or firm name or designation that is

misleading as to: (1) The legal form of the firm; (2) the persons who are partners, officers, members, managers or shareholders of the firm; or (3) any other matter. The names of one or more former partners, members or shareholders may be included in the name of a firm or its successor unless the firm becomes a sole proprietorship because of the death or withdrawal of all other partners, officers, members or shareholders. The use of a fictitious name by a firm is permissible if the fictitious name is registered with the board and is not otherwise misleading. The name of a firm may not include the name of an individual who is neither a present nor a past partner, member or shareholder of the firm or its predecessor. The name of the firm may not include the name of an individual who is not a certified public accountant.

(e) It is unlawful for any person, except the holder of a *Kansas* permit to practice, or a valid *Kansas* firm registration, to issue a report ~~on financial statements with regard to any attest or compilation service~~ that references the ~~American institute of certified public accountants AICPA or the PCAOB, or both.~~ The practice of public accountancy by persons not required to hold a *Kansas* permit to practice, including public accountants, is not prohibited or regulated by the provisions of this act, except for the provisions of this section, K.S.A. 1-308 ~~and amendments thereto~~, K.S.A. 1-318 ~~and amendments thereto~~ and K.S.A. 1-319, and amendments thereto. The title "enrolled agent" may only be used by individuals so designated by the federal internal revenue service.

(f) Any person who violates any provision of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$1,000, or to imprisonment for not more than one year, or by both such fine and imprisonment.

Sec. 8. K.S.A. 1-318 is hereby amended to read as follows: 1-318. Whenever in the judgment of the board any person *or firm, or both*, has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of K.S.A. 1-316 and amendments thereto, or any valid rules and regulations of the board, the board may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the board that such person *or firm, or both*, has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court without bond.

Sec. 9. K.S.A. 1-319 is hereby amended to read as follows: 1-319. (a) The display or ~~uttering~~ *assertion* in any media form or public communication of a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof shall be prima facie evidence in any action for an injunction brought under K.S.A. 1-318, and amendments thereto, that the person whose name is so displayed or ~~uttered~~ *asserted* caused or procured the display or ~~utterance~~ *assertion* and that such person is holding such person out to be the holder of a *Kansas* certificate ~~issued pursuant to K.S.A. 1-302 and amendment thereto~~ or the holder of a permit to practice issued under K.S.A. 1-310 and amendments thereto.

(b) In any action under K.S.A. 1-318, and amendments thereto, evidence of the commission of a single act prohibited by this act or the act of which this section is amendatory shall be sufficient to justify an injunction without evidence of a general course of conduct.

Sec. 10. K.S.A. 1-321 is hereby amended to read as follows: 1-321. When used in ~~this act~~ *chapter 1 of the Kansas Statutes Annotated, and amendments thereto*, the following terms shall have the meanings indicated:

(a) "Actively participate" means participation that is continuous as one's primary occupation.

(b) "Affiliated entity" means one that provides services to the CPA firm or provides services to the public that are complementary to those provided by the CPA firm.

(c) "AICPA" means the American institute of certified public accountants.

(d) "Attest" means providing the following financial statement services:

(1) Any audit or other engagement to be performed in accordance with the statements on auditing standards (SAS);

(2) any audit to be performed in accordance with the Kansas municipal audit guide;

(3) any review of a financial statement to be performed in accordance with the statements on standards for accounting and review services (SSARS); ~~and~~

(4) any engagement, except a compilation, to be performed in accordance with the statements on standards for attestation engagements (SSAE); and

(5) any engagement to be performed in accordance with the standards of the PCAOB.

(e) "Board" means the Kansas board of accountancy established under K.S.A. 1-201 and amendments thereto.

(f) "Certificate" means a certificate as a certified public accountant issued under K.S.A. 1-302 and amendments thereto, or a certificate as a certified public accountant issued after examination under the law of any other state.

(g) "Client" means a person or entity that agrees with a permit holder to receive any professional service.

(h) "Compilation" means providing a service to be performed in accordance with the statements on standards for accounting and review services (SSARS) or performed in accordance with the statements on standards for attestation engagements (SSAE) that is presented in the form of financial statements or information that is the representation of management, or both, without undertaking to express any assurance on the statements.

(i) "Equity capital" means (1) capital stock, capital accounts, capital contributions or undistributed earnings of a registered firm as referred to in K.S.A. 1-308 and amendments thereto; and (2) loans and advances to a registered firm made or held by its owners. "Equity capital" does not include an interest in bonuses, profit sharing plans, defined benefit plans or loans to a registered firm from banks, financial institutions or other third parties that do not actively participate in such registered firm.

(j) "Firm" means:

(1) An individual who operates as a sole practitioner and who issues reports subject to peer review; or

(2) any business organization including, but not limited to, a general partnership, limited liability partnership, general corporation, professional corporation or limited liability company.

(k) "Good moral character" means lack of a history of professional dishonesty or other felonious acts.

(l) "Active license" means a certificate or a permit to practice issued by another state that is currently in force and authorizes the holder to practice certified public accountancy.

(m) "Licensee" means the holder of a certificate or a permit to practice issued by this state or another state.

(n) "Manager" means a manager of a limited liability company.

(o) "Member" means a member of a limited liability company.

(p) "NASBA" means the national association of state boards of accountancy.

(q) "Nonattest" means providing the following services:

(1) The preparation of tax returns and providing advice on tax matters;

(2) the preparation of any compilation;

(3) management advisory, consulting, litigation support and assurance services, except for attest services;

(4) financial planning; and

(5) any other financial service not included in the statements on auditing standards, the statements on standards for accounting and review services, the standards for attestation engagements as developed by the American institute of certified public accountants or as defined by the board.

(r) "PCAOB" means the public company accounting oversight board created by the Sarbanes-Oxley act of 2002.

(s) "Practice of certified public accountancy" means performing or offering to perform attest or nonattest services for the public while using the designation "certified public accountant" or "C.P.A." CPA in conjunction with such services.

(t) "Practice of public accountancy" means performing or offering to perform attest or nonattest services for the public by a person not required to have a permit to practice or a firm not required to register with the board.

(u) "Professional" means arising out of or related to the specialized knowledge or skills associated with CPAs.

(v) "Report," when used with reference to financial statements, means an opinion, report or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use, by the issuer of the report, of names or titles indicating that the person or firm is an accountant or auditor or from the language of the report itself. The term report includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.

(w) "Rule" means any rule or regulation adopted by the board.

(x) "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state" means the state of Kansas.

(y) "Substantial equivalency" is a determination by the board of accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed the education, examination and experience requirements contained in the uniform accountancy act or that an individual CPA's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in the uniform accountancy act.

(z) "Uniform accountancy act" means model legislation issued by the AICPA and NASBA in existence on July 1, 2000.

Sec. 11. K.S.A. 1-501 is hereby amended to read as follows: 1-501. ~~Commencing with firm registrations scheduled for renewal on December 31, 2001, and thereafter.~~

(a) The board of accountancy may require as a condition for renewal of a firm registration that a firm that provides attest services undergo a peer review and submit evidence of such so that the board may determine the degree of the firm's compliance with generally accepted accounting principles, generally accepted auditing standards and other similarly recognized authoritative technical standards. The reviews shall occur at least once every three years with the cost of such review to be borne by the firm.

(b) ~~The firms' A firm's~~ completion of a peer review program endorsed or supported by the American institute of certified public accountants AICPA or other substantially similar programs shall satisfy the requirements of this section. The board shall provide for oversight of these programs by adoption of rules and regulations.

(c) A firm at the time of application, may request in writing upon forms provided by the board, a waiver from the review requirement. The board may grant a waiver if the firm does not perform or has not performed any attest services during the twelve-month period preceding the date of application or for good cause as determined by the board.

A firm granted a waiver on the basis that the firm does not perform or intend to perform attest services shall immediately notify the board if the firm engages in such practice and thus becomes subject to the review.

(d) Except as provided by K.S.A. 60-437, and amendments thereto, and subsections (e) and (g) of this section, any reports, statements, memoranda, transcripts, findings, records, or working papers prepared and any opinions formulated, in connection with any peer review shall be privileged and shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible in evidence in any judicial or administrative proceeding, except that such privilege shall not exist when the material in question is involved in a dispute between a reviewer and the person or firm being reviewed.

(e) Nothing in subsection (d) shall limit the authority of the board to require a person whose work is the subject of a peer review or a firm to provide a copy of an adverse or modified peer review report and any ~~documents that contain comments from peer reviewers,~~ responses to ~~comments report deficiencies~~ from the person or firm and any document identifying follow-up requirements for the purpose of determining the person's or firm's compliance with generally accepted accounting principles, generally accepted auditing

standards and other similarly recognized authoritative technical standards, provided however, the board may not request or require a person or firm subject to a peer review to provide a peer review report or any other document contained in this section unless the peer review report has been accepted by a report acceptance committee under the peer review program after December 31, 2001.

(f) *After considering AICPA standards on peer review, the board may define, by rules and regulations, the terms “modified” and “adverse.”*

(g) In any proceeding before the board in which discussion or admission into evidence of peer review report documents identified in subsection (e) is proposed, the board or presiding officer shall conduct that portion of the proceeding in closed session. In closing a portion of such proceeding, the board or presiding officer may exclude any person from the proceeding except the person whose work is the subject of peer review, members of the permit holder's firm, the attorneys representing the parties, the board's attorneys, necessary witnesses and a court reporter. The board or presiding officer shall make the portions of the agency record in which such documents are disclosed subject to a protective order prohibiting further disclosure. Documents that are privileged under subsection (d) and that are considered during a closed proceeding shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity. No person in attendance at a closed portion of such proceeding shall at a subsequent civil, criminal or administrative hearing, be required to testify regarding the existence or content of a document privileged under subsection (d) which was disclosed in a closed portion of a proceeding, nor shall such testimony be admitted into evidence in any subsequent civil, criminal or administrative hearing. All other evidence shall be presented as part of the proceeding in an open meeting. Offering any testimony or records in the open portion of a proceeding shall not be deemed a waiver of the peer review privilege created in subsection (d).

~~(g)~~ (h) No person who participates in the conduct of any peer review within the scope of this section shall be liable in damages to any person for any action taken or recommendation made in connection with the peer review process.

Sec. 12. K.S.A. 1-302b, 1-308, 1-310, 1-311, 1-312, 1-316, 1-318, 1-319, 1-321 and 1-501 and K.S.A. 2006 Supp. 1-304 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the Kansas register.”;

On page 1, in the title, by striking all in lines 10 through 13 and inserting “AN ACT concerning licensure, examination and registration of certified public accountants; relating to the board of accountancy; amending K.S.A. 1-302b, 1-308, 1-310, 1-311, 1-312, 1-316, 1-318, 1-319, 1-321 and 1-501 and K.S.A. 2006 Supp. 1-304 and repealing the existing sections.”; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2046** be passed.

Also, **HB 2437** be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2437,” as follows:

“SENATE Substitute for HOUSE BILL No. 2437

By Committee on Natural Resources

“AN ACT relating to wildlife; concerning big game permits; amending K.S.A. 32-947, 32-965 and 32-966 and K.S.A. 2006 Supp. 32-937, 32-938, 32-969 and 32-988 and repealing the existing sections.”;

and the substitute bill be passed.

Committee on **Judiciary** recommends **HB 2318** be passed.

Also, **SB 376** be amended on page 2, in line 18, by striking “a” and inserting “for a second or subsequent”; in line 23, by striking “or”; in line 24, after the second comma, by inserting “for violations other than violations of K.S.A. 8-1567 or 8-1567a, and amendments thereto”; in line 29, before the period, by inserting “; or

(5) such person has had their driving privileges revoked for violations of K.S.A. 8-1567 or 8-1567a, and amendments thereto, and has served at least a one year suspension in which case the division may issue such person a class C license which clearly indicates such license is valid only for operation of motorized bicycles”;

Also on page 2, in line 36, after “(d)(4)” by inserting “or (5)”; in line 39, after “(d)(4)” by inserting “or (5)”;

On page 3, in line 14, after “(d)(4)” by inserting “or (5)”; and the bill be passed as amended.

SB 379 be amended on page 1, in line 43, before the period, by inserting “, except that the provisions of this subsection shall not apply to a construction contract between the owner of the property and the general contractor”; and the bill be passed as amended.

HB 2062, as amended by House Committee of the Whole, be amended on page 1, in line 35, before the comma, by inserting “, as defined in 27 C.F.R. 555.11, in effect on the effective date of the act”;

On page 2, after line 16, by inserting the following:

Sec. 2. K.S.A. 2006 Supp. 21-4704 is hereby amended to read as follows: 21-4704. (a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	28 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

LEGEND
Presumptive Prohibition
Probation
Presumptive Imprisonment

(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3411, and amendments thereto, aggravated assault against a law enforcement officer or K.S.A. 21-3415, and amendments thereto, aggravated battery against a law enforcement officer and amendments thereto which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall be as provided by the specific mandatory

sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 21-4707, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 21-3710, and amendments thereto. Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who: (A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (ii) at the time of the conviction under paragraph (A) (i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government; or (B) (i) has been convicted of rape, K.S.A. 21-3502, and amendments thereto; and (ii) at the time of the conviction under paragraph (B) (i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in paragraph (2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto, or any substantially similar offense from another jurisdiction.

(l) (1) The sentence for a violation of subsection (a) of K.S.A. 21-3715 and amendments thereto when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716 and amendments thereto shall be presumed imprisonment.

(2) *The sentence for a violation of K.S.A. 21-3715, and amendments thereto, when such person being sentenced has two or more prior convictions for violations of either K.S.A. 21-3715 or 21-3716, and amendments thereto, or a prior conviction of K.S.A. 21-3715 and 21-3716, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section. Such sentence shall not be considered a departure and shall not be subject to appeal.*

(m) The sentence for a violation of K.S.A. 22-4903 or subsection (d) of K.S.A. 21-3812, and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism, such program is available and the offender can be admitted to such program within a reasonable period of time; or

(2) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence pursuant to this section shall not be considered a departure and shall not be subject to appeal.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 17, by striking “is” and inserting “and 21-4704 are”;

On page 1, in the title, in line 15, by striking “and” and inserting a comma; also in line 15, before the semicolon by inserting “and criminal procedure”; also in line 15, by striking all after the semicolon; in line 16, by striking “explosives;”; also in line 16, after “and” by inserting “21-4704 and”; in line 17, by striking “section” and inserting “sections”; and the bill be passed as amended.

HB 2073, as amended by House Committee of the Whole, be amended on page 1, by striking all in lines 17 through 43;

On page 2, by striking all in lines 1 through 43;

On page 3, by striking all in lines 1 through 30; preceding line 31, by inserting the following:

“Section 1. K.S.A. 2006 Supp. 74-3254 is hereby amended to read as follows: 74-3254.

(a) The state board of regents is hereby authorized to sell ~~and~~, convey, *transfer title to the investing agent of a state educational institution* or otherwise dispose of any devise received by the board or a state educational institution subject to its supervision and control without further legislative authorization, subject to any conditions imposed by the testator. The proceeds of any such sale and conveyance may be invested in accordance with K.S.A. 76-156a, and amendments thereto.

(b) *As used in this section, “investing agent” means the entity authorized to act as the investing agent of a state educational institution pursuant to K.S.A. 76-156a, and amendments thereto.*

Sec. 2. K.S.A. 2006 Supp. 74-3254 is hereby repealed.”;

By renumbering the remaining section accordingly;

In the title, in line 12, by striking all following “concerning”; by striking all in line 13; in line 14, by striking all preceding the period and inserting “postsecondary educational institutions; relating to the powers and duties of the board of regents; amending K.S.A. 2006 Supp. 74-3254 and repealing the existing section”; and the bill be passed as amended.

HB 2359, as amended by House Committee, be amended on page 1, after line 15, by inserting the following:

“Section 1. K.S.A. 2006 Supp. 22-4902 is hereby amended to read as follows: 22-4902.

As used in this act, unless the context otherwise requires:

- (a) “Offender” means: (1) A sex offender as defined in subsection (b);
- (2) a violent offender as defined in subsection (d);
- (3) a sexually violent predator as defined in subsection (f);
- (4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:
 - (A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;
 - (B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or
 - (C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;
- (5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:
 - (A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;
 - (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;
 - (C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;
 - (D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto;
or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;

(7) any person who, on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(8) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4), (5) ~~or~~, (7) or (10), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4), (5) ~~or~~, (7) or (10); ~~or~~

(9) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4), (5) or 7; or

(10) any person who has been convicted of: (A) Unlawful manufacture or attempting such of any controlled substance as defined by K.S.A. 65-4159, and amendments thereto;

(B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by K.S.A. 65-7006, and amendments thereto; or

(C) K.S.A. 65-4161, and amendments thereto.

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;

(6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;

(8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;

(9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;

(10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;

(11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or

(12) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

(13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section;
or

(14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) “Violent offender” includes any person who, after the effective date of this act, is convicted of any of the following crimes:

- (1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;
- (2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;
- (3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;
- (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;
- (5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto; or
- (6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or
- (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) “Law enforcement agency having jurisdiction” means the sheriff of the county in which the offender expects to reside upon the offender’s discharge, parole or release.

(f) “Sexually violent predator” means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq. and amendments thereto.

(g) “Nonresident student or worker” includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) “Aggravated offenses” means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

- (1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;
 - (2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and
 - (3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.
- (i) “Institution of higher education” means any post-secondary school under the supervision of the Kansas board of regents.

Sec. 2. K.S.A. 2006 Supp. 22-4904 is hereby amended to read as follows: 22-4904. (a) (1) Except as provided in subsection (a)(2), within 10 days of the offender coming into any county in which the offender resides or is temporarily domiciled for more than 10 days, the offender shall register with the sheriff of the county.

(2) Within 10 days of the offender coming into any county in which the offender resides or temporarily resides for more than 10 days, any offender who has provided the information and completed and signed the registration form as required in K.S.A. 22-4905 and amendments thereto, shall verify with the sheriff of the county that the sheriff has received such offender’s information and registration form.

(3) Upon registration with a school or educational institution, a nonresident student attending such school or educational institution shall register with the sheriff within 10 days of the commencement of the school term.

(4) Upon commencement of employment, a nonresident worker shall register with the sheriff within 10 days of the commencement date of employment.

(5) For persons required to register as provided in subsections (a)(1), (a)(3) and (a)(4), the sheriff shall: (A) Explain the duty to register and the procedure for registration;

(B) obtain the information required for registration as provided in K.S.A. 22-4907 and amendments thereto;

(C) inform the offender that the offender must give written notice of any change of address within 10 days of a change in residence to the law enforcement agency where last registered and the Kansas bureau of investigation;

(D) inform the nonresident student offender that the offender must give written notice to the sheriff and the Kansas bureau of investigation of any change or termination of

attendance at the school or educational institution the offender is attending, within 10 days of such change or termination;

(E) inform the nonresident worker offender that the offender must give written notice to the sheriff and the Kansas bureau of investigation of any termination of employment at the offender's place of employment, within 10 days of such termination;

(F) inform the offender that if the offender changes residence to another state, the offender must inform the law enforcement agency where last registered and the Kansas bureau of investigation of such change in residence and must register in the new state within 10 days of such change in residence;

(G) inform the offender that the offender must also register in any state or county where the offender is employed, carries on a vocation or is a student;

(H) inform the offender that if the offender expects to or subsequently becomes enrolled in any institution of higher education in the state of Kansas on a full-time or part-time basis or have any full-time or part-time employment at an institution of higher education in the state of Kansas, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in one calendar year, the offender must provide written notice to the Kansas bureau of investigation within 10 days upon commencement of enrollment or employment;

(I) inform the offender that if there is any change or termination in attendance or employment at an institution of higher education, the offender must provide written notice to the Kansas bureau of investigation within 10 days of the change or termination;

(J) inform the offender of the requirement of an annual driver's license renewal pursuant to K.S.A. 8-247, and amendments thereto, and an annual identification card renewal pursuant to K.S.A. 2006 Supp. 8-1325a, and amendments thereto; and

(K) require the offender to read and sign the registration form which shall include a statement that the requirements provided in this subsection have been explained to the offender.

(6) Such sheriff, within three days of receipt of the initial registration shall forward this information to the Kansas bureau of investigation.

(7) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act then all provisions of that act shall apply, except that the term of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

(b) If any person required to register as provided in this act changes the address of the person's residence, the offender, within 10 days, shall inform in writing the law enforcement agency where such offender last registered of the new address.

(c) For any person required to register as provided in this act, every 90 days after the person's initial registration date during the period the person is required to register, the following applies:

(1) The Kansas bureau of investigation shall mail a nonforwardable verification form to the last reported address of the person.

(2) The person shall mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form.

(3) The verification form shall be signed by the person and shall provide the following information, as applicable, to the Kansas bureau of investigation: (A) Whether the person still resides at the address last reported; (B) whether the person still attends the school or educational institution last reported; (C) whether the person is still employed at the place of employment last reported; and (D) whether the person's vehicle registration information is the same as last reported.

(4) If the person fails to mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form, the person shall be in violation of the Kansas offender registration act.

(5) Nothing contained in this section shall be construed to alleviate any person required to register as provided in this act from meeting the requirements prescribed in subsections (a)(1), (a)(2) and (b).

(d) Any person who is required to register under this act shall report in person each year during the month of the person's birthday and during the sixth month following the person's birthday to the sheriff's office in the county in which the person resides or is otherwise located. The sheriff's office may determine the appropriate times and days for reporting by the person, consistent with this subsection. If any information reported by the person has changed and has not otherwise been updated, the person shall report those changes.

(e) Every person who is required to register under this act shall submit to the taking of an updated photograph by the sheriff's office on each occasion when the person reports to the sheriff's office in the county in which the person resides or is otherwise located.

(f) Every person who is required to register under this act shall remit payment to the sheriff in the amount of \$20 on each occasion when the person reports to the sheriff's office in the county in which the person resides or is otherwise located. *All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office which shall be used solely for law enforcement and criminal prosecution purposes and which shall not be used as a source of revenue to reduce the amount of funding otherwise made available to the sheriff's office.*;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 25, by striking the comma and inserting "or"; in line 30, after "substance" by inserting "and";

On page 2, in line 14, by striking the comma and inserting "or";

On page 4, in line 29, by striking "designed for use or";

On page 6, after line 31, by inserting the following:

"New Sec. 8. (a) The legislature recognizes the important public health benefits of the appropriate and legal medical use of controlled substances, and also the significant risk to public health that can arise due to the illegal diversion or abuse of such substances. The legislature finds that an electronic controlled substances prescription monitoring system could be a timely resource for physicians and other practitioners to assist them in the delivery of appropriate health care services, and also to be an investigative resource for law enforcement agencies to assist their efforts to discourage illegal diversion of controlled substances.

(b) In order to promote the public health and discourage the abuse of controlled substances, there is hereby established a controlled substances monitoring task force which shall develop a plan for the creation and implementation of: (1) A controlled substances prescription monitoring program; and (2) an electronic purchase log, which shall be capable of, in real-time, checking compliance with all state, federal and local laws concerning the sale of ephedrine and pseudoephedrine. Such plan shall include suggestions for future action by the legislature in regard to the prescription monitoring program and electronic purchase log. It is not the intent of the legislature, nor shall the prescription monitoring program developed by the task force be used to discourage or interfere with the prescribing of controlled substances by physicians and other practitioners for legitimate medical purposes.

(c) The task force shall consist of 11 members as follows: The attorney general or the attorney general's designee, one member appointed by the Kansas health policy authority, one member appointed by the director of the Kansas bureau of investigation, two members appointed by the board of pharmacy, one member appointed by the board of healing arts, one member appointed by the Kansas medical society, one member appointed by the Kansas association of osteopathic medicine, one member appointed by the Kansas pharmacists' association, one member appointed by the Kansas state dental association and one member appointed by the Kansas hospital association.

(d) The appointments shall be made within 30 days after the effective date of this act. The initial meeting of the task force shall be convened within 90 days after the effective date of this act by the board of pharmacy at a time and place designated by the board. The task force shall elect a chairperson and may elect any additional officers from among its members necessary to discharge its duties. All task force members shall serve without compensation.

(e) The task force shall report its findings and conclusions to the legislature on or before January 14, 2008.";

And by renumbering the remaining sections accordingly;

Also on page 6, in line 32, after "Supp." by inserting "22-4902, 22-4904,";

On page 1, in the title, in line 11, before "amending" by inserting "creating controlled substances monitoring task force;"; in line 12, after "Supp." by inserting "22-4902, 22-4904,"; and the bill be passed as amended.

HB 2393, as amended by House Committee, be amended on page 1, in line 14, preceding "Section" by inserting "New"; in line 39, by striking "judgment" and inserting "judge";

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

"(c) Municipal courts are authorized to utilize the collection services of contracting agents pursuant to this section for the purpose of collecting all outstanding debts owed the municipal courts.";

By relettering the remaining subsections accordingly;

Also on page 2, in line 14, preceding "clerk" by inserting "court"; in line 27, preceding "(d)" by inserting "(c) and"; also in line 27, by striking "and (e)";

On page 3, following line 39, by inserting the following:

"Sec. 2. K.S.A. 12-4104 is hereby amended to read as follows: 12-4104. (a) The municipal court of each city shall have jurisdiction to hear and determine cases involving:

(1) Violations of the ordinances of the city; and

(2) *in cities with a population of 50,000 or less, cases involving juveniles who are 10 or more years of age but less than 18 years of age who have violated a city ordinance that proscribes an act that is not prohibited by state law.*

(b) Search warrants shall not issue out of a municipal court.

Sec. 3. K.S.A. 2006 Supp. 38-2302 is hereby amended to read as follows: 38-2302. As used in this code, unless the context otherwise requires:

(a) "Commissioner" means the commissioner of juvenile justice.

(b) "Conditional release" means release from a term of commitment in a juvenile correctional facility for an aftercare term pursuant to K.S.A. 2006 Supp. 38-2369, and amendments thereto, under conditions established by the commissioner.

(c) "Court-appointed special advocate" means a responsible adult, other than an attorney appointed pursuant to K.S.A. 2006 Supp. 38-2306, and amendments thereto, who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2006 Supp. 38-2307, and amendments thereto, in a proceeding pursuant to this code.

(d) "Educational institution" means all schools at the elementary and secondary levels.

(e) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsections (a)(1) through (5) of K.S.A. 72-89b03, and amendments thereto.

(f) "Institution" means the following institutions: the Atchison juvenile correctional facility, the Beloit juvenile correctional facility, the Larned juvenile correctional facility, the Topeka juvenile correctional facility and the Kansas juvenile correctional complex.

(g) "Investigator" means an employee of the juvenile justice authority assigned by the commissioner with the responsibility for investigations concerning employees at the juvenile correctional facilities and juveniles in the custody of the commissioner at a juvenile correctional facility.

(h) "Jail" means: (1) An adult jail or lockup; or

(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(i) "Juvenile" means a person to whom one or more of the following applies, the person: (1) Is 10 or more years of age but less than 18 years of age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as a juvenile offender and continues to be subject to the jurisdiction of the court.

(j) "Juvenile correctional facility" means a facility operated by the commissioner for the commitment of juvenile offenders.

(k) "Juvenile corrections officer" means a certified employee of the juvenile justice authority working at a juvenile correctional facility assigned by the commissioner with responsibility for maintaining custody, security and control of juveniles in the custody of the commissioner at a juvenile correctional facility.

(l) "Juvenile detention facility" means a public or private facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, which is used for the lawful custody of alleged or adjudicated juvenile offenders.

(m) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(n) "Juvenile offender" means a person who commits an offense while 10 or more years of age but less than 18 years of age which if committed by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105, and amendments thereto, or who violates the provisions of K.S.A. 21-4204a or 41-727 or subsection (j) of K.S.A. 74-8810, and amendments thereto, but does not include: (1) A person 14 or more years of age who commits a traffic offense, as defined in subsection (d) of K.S.A. 8-2117, and amendments thereto;

(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

(3) a person under 18 years of age who previously has been:

(A) Convicted as an adult under the Kansas criminal code;

(B) sentenced as an adult under the Kansas criminal code following termination of status as an extended jurisdiction juvenile pursuant to K.S.A. 2006 Supp. 38-2364, and amendments thereto; or

(C) convicted or sentenced as an adult in another state or foreign jurisdiction under substantially similar procedures described in K.S.A. 2006 Supp. 38-2347, and amendments thereto, or because of attaining the age of majority designated in that state or jurisdiction;

(4) *in cities with a population of 50,000 or less, a person under 18 years of age who has violated a city ordinance that proscribes an act that is not prohibited by state law.*

(o) "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(p) "Parent" when used in relation to a juvenile, includes a guardian and every person who is, by law, liable to maintain, care for or support the juvenile.

(q) "Risk assessment tool" means an instrument administered to juveniles which delivers a score, or group of scores, describing, but not limited to describing, the juvenile's potential risk to the community.

(r) "Sanctions house" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control the behavior of its residents. Upon an order from the court, a licensed juvenile detention facility may serve as a sanctions house.

(s) "Warrant" means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

(t) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 4. K.S.A. 12-4104 and K.S.A. 2006 Supp. 38-2302 are hereby repealed." And by renumbering the remaining section accordingly;

In the title, in line 11, preceding the period by inserting "; concerning jurisdiction; amending K.S.A. 12-4104 and K.S.A. 2006 Supp. 38-2302 and repealing the existing sections"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2483**, as amended by House Committee, be amended on page 2, in line 7, after the comma, by inserting "(b)(4) and (b)(5)"; in line 9, by striking "li-"; in line 10, by striking "censed"; also in line 10, by

striking "licensed"; in line 11, by striking "licensed"; in line 12, by striking "person li-"; in line 13, by striking all before the comma and inserting "physician"; also in line 13, by striking "licensed"; in line 14, by striking "licensed"; also in line 14, by striking "a therapeutic licensed" and inserting "an"; in line 15, by striking all after "optometrist"; in line 16, by striking all before the period and inserting ", provided that any such approval was made by a person with the appropriate license, registration or certification required for the respective practice in the jurisdiction regulating such practice"; in line 20, by striking "licensed" where it appears first; also in line 20, by striking "licensed" where it appears second; in line 21, by striking "licensed"; in line 23, by striking "person licensed to practice medicine and surgery" and inserting "physician"; also in line 23, before "chiro-" by striking "licensed"; in line 24, by striking "licensed"; also in line 24, by striking "therapeu-"; in line 25, by striking all before "optometrist" and inserting "an"; also in line 25, by striking all after "optometrist"; in line 26, by striking all before the semicolon and inserting ", provided that such referral was made by a person with the appropriate license, registration or certification required for the respective practice in the jurisdiction regulating such practice"; in line 35, by striking "licensed" where it appears first; also in line 35, by striking "licensed" where it appears second"; in line 36, by striking "licensed"; in line 38, by striking "person licensed to practice medicine and surgery" and inserting "physician"; also in line 38, before "chiro-" by striking "licensed"; in line 39, by striking "licensed"; also in line 39, by striking "a therapeu-"; in line 40, by striking all before "optometrist" and inserting "an"; also in line 40, by striking all after "optometrist"; in line 41, by striking all before the period;

On page 2, following line 41, by inserting:

"(4) Physical therapists may provide, without a referral, physical therapy services which do not constitute treatment for a specific condition, disease or injury to: (A) Employees solely for the purpose of education and instruction related to workplace injury prevention; or (B) the public for the purpose of fitness, health promotion and education.

(5) Physical therapists may provide physical therapy services without a referral to special education students who need physical therapy services to fulfill the provisions of their individualized education plan (IEP) or individualized family service plan (IFSP).";

On page 3, in line 10, by striking "by the board";

On page 4, in line 4, by striking "or" and inserting a comma; in line 5, by striking "or both," and inserting "(b)(4) or (b)(5)"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 381** be passed.

Also, **HB 2539**, as amended by House Committee, be amended on page 6, in line 43, by striking "of" where it appears for the last time;

On page 7, in line 1, by striking all before "of"; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 219 reported correctly engrossed March 21, 2007.

SB 180, SB 189; Sub SB 215; SB 267, SB 327, SB 347, SB 358, SB 359, SB 382 reported correctly engrossed March 22, 2007.

COMMITTEE OF THE WHOLE

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

On motion of Senator Apple the following report was adopted:

Recommended **SB 373; HB 2087, HB 2475** be passed.

SB 338; HB 2267, HB 2283, HB 2316 be amended by adoption of the committee amendments, and the bills be passed as amended.

HCR 5018 be amended by adoption of the committee amendments, and the resolution be adopted as amended.

SB 366 be amended by motion of Senator Haley on page 1, in line 25, by striking "or give"; in line 26, by striking ", or both,"; in line 28, by striking "or giving"; in line 29, after the period, by inserting "The district or municipal court may charge an additional fee of \$5 for mailing such notice."; in line 30, before the comma, by inserting "of mailing notice"; On page 2, after line 33, by inserting the following:

“Sec. 2. K.S.A. 8-2106 is hereby amended to read as follows: 8-2106. (a) A law enforcement officer may prepare and deliver to a person a written traffic citation on a form approved by the division of motor vehicles, if the law enforcement officer stops the person for a violation of:

(1) The uniform act regulating traffic on highways, which violation is a misdemeanor or a traffic infraction;

(2) K.S.A. 8-262, 8-287, 8-2,144, 21-3610, 21-3610a, 21-3722, 21-3724, 21-3725, 21-3728, 21-4101, 40-3104, 40-3106, 41-715, 41-724, 41-727, 47-607, 66-1,111, 66-1,129, 66-1,139, 66-1,140, 66-273, 66-1314, 66-1324, 66-1330, 66-1331, 66-1332, 68-2104, 68-2106, subsection (b) of K.S.A. 79-34,122, or K.S.A. 8-1599, and amendments thereto;

(3) K.S.A. 31-155 and amendments thereto involving transportation of bottle rockets;

(4) K.S.A. 66-1314 or 66-1328, and amendments thereto, and any rules and regulations adopted pursuant thereto;

(5) any rules and regulations adopted pursuant to K.S.A. 2-1212, 68-2001 or 31-146, and amendments thereto;

(6) any rules and regulations adopted pursuant to K.S.A. 31-133 and amendments thereto relating to transportation of materials or fuel; or

(7) K.S.A. 8-1343 through 8-1347 and amendments thereto relating to the child passenger safety act; or

(8) K.S.A. 8-2501 through 8-2507 and amendments thereto relating to the safety belt use act.

(b) The citation shall contain a notice to appear in court, the name and address of the person, the type of vehicle the person was driving, whether hazardous materials were being transported, whether an accident occurred, the state registration number of the person's vehicle, if any, a statement whether the vehicle is a commercial vehicle, whether the person is licensed to drive a commercial motor vehicle, the offense or offenses charged, the time and place when and where the person shall appear in court, the signature of the law enforcement officer, and any other pertinent information.

(c) The time specified in the notice to appear shall be at least five days after the alleged violation unless the person charged with the violation demands an earlier hearing.

(d) The place specified in the notice to appear shall be before a judge of the district court within the county in which the offense is alleged to have been committed.

(e) Except in the circumstances to which subsection (a) of K.S.A. 8-2104, and amendments thereto, apply, in the discretion of the law enforcement officer, a person charged with a misdemeanor may give written promise to appear in court by signing at least one copy of the written citation prepared by the law enforcement officer, in which event the law enforcement officer shall deliver a copy of the citation to the person and shall not take the person into physical custody.

(f) When a person is charged with a traffic infraction, the notice to appear shall provide a place where the person may make a written entry of appearance, waive the right to a trial and plead guilty or no contest. *Such notice to appear shall contain a provision that the person's failure to either pay such fine and court costs or appear at the specified time may result in suspension of the person's drivers' license as provided in K.S.A. 8-2110, and amendments thereto.* The notice to appear shall provide a space where the law enforcement officer shall enter the appropriate fine specified in the uniform fine schedule contained in K.S.A. 8-2118, and amendments thereto, for the violation charged and court costs in the amount provided by law. If the notice to appear does not do so, the law enforcement officer shall provide a person charged with a traffic infraction a form explaining the person's right to appear and right to a trial; ~~and the person's right to pay the appropriate fine and court costs prior to the appearance date, and that failure to either pay such fine and court costs or appear at the specified time may result in suspension of the person's driver's license.~~ The law enforcement officer shall provide the person with the address of the court to which the written entry of appearance, waiver of trial, plea of guilty or no contest and payment of fine and court costs shall be mailed.

(g) Any officer violating any of the provisions of subsection (f) is guilty of misconduct in office and shall be subject to removal from office.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 34, before "K.S.A." by inserting "K.S.A. 8-2106 and"; also in line 34, by striking "is" and inserting "are";

On page 1, in line 10, after "amending" by inserting "K.S.A. 8-2106 and"; in line 11, by striking "section" and inserting "sections";

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

On roll call, the vote was: Yeas 21, Nays 18, Present and Passing 1, Absent or Not Voting 0.

Yeas: Barone, Betts, Brownlee, Emler, Francisco, Gilstrap, Haley, Hensley, Huelskamp, Journey, Kelly, Lee, Lynn, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Steineger, Wagle.

Nays: Allen, Apple, Bruce, Brungardt, Donovan, Goodwin, Jordan, McGinn, Morris, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.
Present and Passing: Barnett.

The motion carried and the amendment was adopted and **SB 366** be passed as amended.

The following amendment offered by Senator Journey to **SB 366** was rejected: on page 1, in line 25, by striking "or give"; in line 26, by striking " , or both, "; in line 28, by striking "or giving"; in line 29, after the period, by inserting "The district or municipal court may charge an additional fee of \$20 for mailing such notice."; in line 30, before the comma, by inserting "of mailing notice"; On page 2, after line 33, by inserting the following:

"Sec. 2. K.S.A. 8-2106 is hereby amended to read as follows: 8-2106. (a) A law enforcement officer may prepare and deliver to a person a written traffic citation on a form approved by the division of motor vehicles, if the law enforcement officer stops the person for a violation of:

(1) The uniform act regulating traffic on highways, which violation is a misdemeanor or a traffic infraction;

(2) K.S.A. 8-262, 8-287, 8-2,144, 21-3610, 21-3610a, 21-3722, 21-3724, 21-3725, 21-3728, 21-4101, 40-3104, 40-3106, 41-715, 41-724, 41-727, 47-607, 66-1,111, 66-1,129, 66-1,139, 66-1,140, 66-273, 66-1314, 66-1324, 66-1330, 66-1331, 66-1332, 68-2104, 68-2106, subsection (b) of K.S.A. 79-34,122, or K.S.A. 8-1599, and amendments thereto;

(3) K.S.A. 31-155 and amendments thereto involving transportation of bottle rockets;

(4) K.S.A. 66-1314 or 66-1328, and amendments thereto, and any rules and regulations adopted pursuant thereto;

(5) any rules and regulations adopted pursuant to K.S.A. 2-1212, 68-2001 or 31-146, and amendments thereto;

(6) any rules and regulations adopted pursuant to K.S.A. 31-133 and amendments thereto relating to transportation of materials or fuel; or

(7) K.S.A. 8-1343 through 8-1347 and amendments thereto relating to the child passenger safety act; or

(8) K.S.A. 8-2501 through 8-2507 and amendments thereto relating to the safety belt use act.

(b) The citation shall contain a notice to appear in court, the name and address of the person, the type of vehicle the person was driving, whether hazardous materials were being transported, whether an accident occurred, the state registration number of the person's vehicle, if any, a statement whether the vehicle is a commercial vehicle, whether the person is licensed to drive a commercial motor vehicle, the offense or offenses charged, the time and place when and where the person shall appear in court, the signature of the law enforcement officer, and any other pertinent information.

(c) The time specified in the notice to appear shall be at least five days after the alleged violation unless the person charged with the violation demands an earlier hearing.

(d) The place specified in the notice to appear shall be before a judge of the district court within the county in which the offense is alleged to have been committed.

(e) Except in the circumstances to which subsection (a) of K.S.A. 8-2104, and amendments thereto, apply, in the discretion of the law enforcement officer, a person charged with a misdemeanor may give written promise to appear in court by signing at least one copy of the written citation prepared by the law enforcement officer, in which event the law enforcement officer shall deliver a copy of the citation to the person and shall not take the person into physical custody.

(f) When a person is charged with a traffic infraction, the notice to appear shall provide a place where the person may make a written entry of appearance, waive the right to a trial and plead guilty or no contest. *Such notice to appear shall contain a provision that the person's failure to either pay such fine and court costs or appear at the specified time may result in suspension of the person's drivers' license as provided in K.S.A. 8-2110, and amendments thereto.* The notice to appear shall provide a space where the law enforcement officer shall enter the appropriate fine specified in the uniform fine schedule contained in K.S.A. 8-2118, and amendments thereto, for the violation charged and court costs in the amount provided by law. If the notice to appear does not do so, the law enforcement officer shall provide a person charged with a traffic infraction a form explaining the person's right to appear and right to a trial; *and the person's right to pay the appropriate fine and court costs prior to the appearance date, and that failure to either pay such fine and court costs or appear at the specified time may result in suspension of the person's driver's license.* The law enforcement officer shall provide the person with the address of the court to which the written entry of appearance, waiver of trial, plea of guilty or no contest and payment of fine and court costs shall be mailed.

(g) Any officer violating any of the provisions of subsection (f) is guilty of misconduct in office and shall be subject to removal from office.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 34, before “K.S.A.” by inserting “K.S.A. 8-2106 and”; also in line 34, by striking “is” and inserting “are”;

On page 1, in line 10, after “amending” by inserting “K.S.A. 8-2106 and”; in line 11, by striking “section” and inserting “sections”

HB 2033 be amended by adoption of the committee amendments, be further amended by motion of Senator Petersen as amended by Senate Committee, on page 1, in line 38, by striking all after “(C)”; by striking all in line 39, in line 40, by striking all before “the”; in line 43, by striking “(E)” and inserting “(D)”;

On page 2, in line 4, by striking “(b)(2)(D)” and inserting “(b)(2)(C)”; also in line 4, by striking “(b)(2)(E)” and inserting “(b)(2)(D)” and **HB 2033** be passed as further amended.

HB 2113 be amended by adoption of the committee amendments, be further amended by motion of Senator Vratil as amended by Senate Committee, on page 3, in line 37, by striking all after “2009”; by striking all in lines 38 through 43;

On page 4, by striking all in lines 1 and 2; in line 3, by striking all before the comma; in line 4, by striking “Kansas administrative procedure act hearings” and inserting “state agencies, boards or commissions” and **HB 2113** be passed as further amended.

S Sub for HB 2145 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Bruce on page 6, in line 5, preceding the period by inserting “except that in the case of renewable generators with a capacity of 200 kilowatts or less, such compensation shall be not less than 150% of the utility’s monthly system average cost of energy per kilowatt hour” and **S Sub for HB 2145** be passed as amended.

The following amendment offered by Senator Francisco to **S Sub for HB 2145** was rejected:

on page 4, line 25, by striking \$50,000 and inserting \$150,000 in its place, and on line 26 by striking \$50,000 and inserting \$150,000 in its place

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 338, SB 366, SB 373; HB 2033, HB 2087, HB 2113; S Sub for HB 2145; HB 2267, HB 2283, HB 2316, HB 2475; HCR 5018** were advanced to Final Action and roll call.

SB 338, An act concerning the Kansas state schools for the blind and the deaf; relating to the rates of compensation for certain employees employed thereby.

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

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

Absent or Not Voting: Vratil.

The bill passed, as amended.

SB 366, An act concerning traffic citations; pertaining to giving notice of failure to comply; amending K.S.A. 8-2106 and K.S.A. 2006 Supp. 8-2110 and repealing the existing sections.

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

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

Absent or Not Voting: Vratil.

The bill passed, as amended.

SB 373, An act establishing the office of inspector general; providing for the appointment of the inspector general and the powers, duties and functions thereof; amending K.S.A. 46-2601 and K.S.A. 2006 Supp. 75-4319 and 75-2973 and repealing the existing sections.

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

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

Absent or Not Voting: Vratil.

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.

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

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

Nays: Francisco, Hensley, Kelly.

Absent or Not Voting: Vratil.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT, I vote "NO" on **HB 2033**.

The Kansas Corporation Commission now has the discretion to allow a utility to charge the construction costs for a power plant in consumer rates before the plant is operational and has used. This bill replaces that discretion with a mandate that construction costs "shall" be placed in consumer rates.

Proponents have argued this will lower future rates by avoiding interest costs. However since, over the ensuing years, the construction costs will be added directly onto the bills of current customers, it will increase interest costs or reduce investment opportunities for those individuals and businesses. Those same current customers will be taking on some of the construction risk without realizing any of the return. Rather than encouraging energy conservation, alternative energy and wise energy use, this bill provides a further incentive and protection for utilities who are building large power plants that require years for construction.

I believe Kansans would be better protected by trusting the state corporation commission to review the evidence before it, and be given the chance to use its discretion wisely.—

MARCI FRANCISCO

Senators Hensley and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Francisco on **HB 2033**.

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.

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

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

Absent or Not Voting: Vratil.

The bill passed.

HB 2113, An act concerning credit unions; pertaining to administrative hearings; amending K.S.A. 17-2242 and K.S.A. 2006 Supp. 75-37,121 and repealing the existing sections.

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

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

Absent or Not Voting: Vratil.

The bill passed, as amended.

S Sub for HB 2145, An act relating to energy; relating to petroleum products; concerning electric generation facilities; relating to contracts for parallel generation services, providing for the issuance of bonds; authorizing a wind generation education pilot project and providing funding therefor; amending K.S.A. 55-422, 55-426, 55-427, 66-1,184, 83-221 and 83-401 and repealing the existing sections.

On roll call, the vote was: Yeas 33, Nays 3, Present and Passing 3, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Huelskamp, Jordan, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson, Wysong.

Nays: Hensley, Journey, Pyle.

Present and Passing: Barone, Francisco, Kelly.

Absent or Not Voting: Vratil.

The substitute bill passed, as amended.

HB 2267, An act concerning annexation of land by cities; amending K.S.A. 2006 Supp. 12-520 and repealing the existing section.

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

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

Absent or Not Voting: Vratil.

The bill passed, as amended.

HB 2283, An act concerning security interest; relating to certificates of title; amending K.S.A. 58-4204 and K.S.A. 2006 Supp. 8-135 and 84-9-311 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 8-135e.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee,

Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson, Wysong.

Absent or Not Voting: Vratil.

The bill passed, as amended.

HB 2316, An act relating to employment; concerning certain methods of payments; amending K.S.A. 44-314 and K.S.A. 2006 Supp. 44-712 and repealing the existing sections; also repealing K.S.A. 75-5540.

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

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

Absent or Not Voting: Vratil.

The bill passed, as amended.

HB 2475, An act concerning fireworks; enacting the Kansas fireworks act.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Goodwin, Hensley, Jordan, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Wagle, Wilson, Wysong.

Nays: Gilstrap, Haley, Huelskamp, Journey, Palmer, Petersen, Pine, Pyle, Steineger.

Absent or Not Voting: Vratil.

The bill passed.

HCR 5018, A concurrent resolution urging the United States Congress to propose a bill requesting the President of the United States to authorize the striking of a special U.S. Atomic Service Medal to honor Atomic Veterans.

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

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

Absent or Not Voting: Vratil.

The resolution was adopted as amended.

ORIGINAL MOTION

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **S Sub for HB 2031**.

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

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2044**.

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

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **HB 2140**.

The President appointed Senators Brungardt, Reitz and Gilstrap as conferees on the part of the Senate.

On motion of Senator Brownlee, the Senate acceded to the request of the House for a conference on **HB 2169**.

The President appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **S Sub for HB 2171**.

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

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **HB 2202**.

The President appointed Senators Brungardt, Reitz and Gilstrap as conferees on the part of the Senate.

On motion of Senator Huelskamp, the Senate acceded to the request of the House for a conference on **HB 2217**.

The President appointed Senators Huelskamp, Reitz and Betts as conferees on the part of the Senate.

On motion of Senator Huelskamp, the Senate acceded to the request of the House for a conference on **HB 2280**.

The President appointed Senators Huelskamp, Reitz and Betts as conferees on the part of the Senate.

On motion of Senator Schodorf, the Senate acceded to the request of the House for a conference on **Sub HB 2310**.

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

On motion of Senator Emler, the Senate acceded to the request of the House for a conference on **S Sub for HB 2485**.

The President appointed Senators Emler, Apple and Lee as conferees on the part of the Senate.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, March 23, 2007.

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

PAT SAVILLE, *Secretary of the Senate*.

