

Journal of the Senate

FIFTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 27, 2007—9:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

You know I wasn't elected,
I'm the President's appointee.
But how legislators decide to vote
Has always interested me.

Do they listen to constituents,
Or which way their party goes?
Do they listen to the lobbyists,
Or what conferees propose?

Do they listen to all the above,
And then make a judgment call?
Or do they vote their conscience
In preference to them all?

A column that I recently read
On this subject took careful aim.
It quoted a famous statesman
Edmund Burke was his name.

Mr. Burke made it clear
That all that legislators owe
Is their enlightened conscience,
And that's the way to go.

He may be right but I contend
To give constituents what they're due,
Is that legislators should ask themselves,
"What would Jesus do?"

I pray in His Name,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **HB 2447**.

Public Health and Welfare: **HB 2097**.

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT OF CREDIT UNIONS

March 23, 2007

As required by Kansas Statutes Annotated 17-2244 (b), John P. Smith, Administrator, reported that a special order has been issued to TECU Credit Union, Wichita, KS, allowing them parity to engage in any activity in which Missouri chartered credit unions operating in Kansas are allowed to perform. Missouri Revised Statute, Chapter 408, Section 408.178 allows Missouri credit unions to collect a payment deferral fee. This activity is not allowed by Kansas law. After authorized by the Administrator, the credit union must offer the payment deferral under the conditions established in the Missouri law.

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

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2295**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend SENATE Substitute for HOUSE BILL No. 2295, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, in line 21, by striking all after "prescribe"; in line 22, by striking all before the period; after line 22, by inserting the following:

"(1) Any applicant who qualifies for licensure as a salesperson shall submit the application accompanied by evidence of compliance with subsection (a) of K.S.A. 58-3046a, and amendments thereto.

(2) Any applicant who qualifies for licensure as a broker shall submit the application accompanied by evidence of compliance with subsection (b) of K.S.A. 58-3046a, and amendments thereto.

(3) Any applicant who qualifies for licensure as a salesperson on or after July 1, 2007, shall submit the application accompanied by evidence of compliance with subsection (c) of K.S.A. 58-3046a, and amendments thereto.

(4) Any applicant who qualifies for licensure as a broker on or after July 1, 2007, shall submit the application accompanied by evidence of compliance with subsection (d) of K.S.A. 58-3046a, and amendments thereto.

(5) All applicants shall submit the application and license fees as prescribed by K.S.A. 58-3063, and amendments thereto.";

On page 2, by striking all in lines 25 through 37 and inserting the following:

"(f) Each applicant for an original license shall be required to pass an examination covering the subject matter which brokers or salespersons generally confront while conducting activities that require a real estate license. The examination shall consist of a general portion that tests the applicant's knowledge of real estate matters that have general application. The state portion of the examination shall test the applicant's knowledge of real estate subject matter applicable to a specific jurisdiction.

(1) Except as provided in K.S.A. 58-3040, and amendments thereto, each applicant for an original license shall be required to pass the general or national portion of the examination.

(2) Each applicant for an original license shall be required to pass the Kansas state portion of the examination.

(3) No license shall be issued on the basis of an examination if either or both portions of the examination were administered more than six months prior to the date that the applicant's application is filed with the commission. The examination may be given by the commission or any person designated by the commission. Each person taking the examination shall pay the examination fee prescribed pursuant to K.S.A. 58-3063, and amendments thereto, which fee the commission may require to be paid to it or directly to the testing service designated by the commission. The examination for a broker's license shall be different from or in addition to that for a salesperson's license.

(g) The commission, prior to granting an original license, shall require proof that the applicant has a good reputation for honesty, trustworthiness, integrity and competence to transact the business of a broker or salesperson in such manner as to safeguard the public interest.

(h) An application for an original license as a salesperson or associate broker shall be accompanied by the recommendation of the supervising broker or branch broker with whom the salesperson or associate broker is to be associated, or by whom the salesperson or associate broker is to be employed, certifying that the applicant is honest, trustworthy and of good reputation.”;

Also on page 2, in line 38, by striking “(g)” and inserting “(i)”;

in line 39, after “act” by inserting “prior to July 1, 2007.”;

On page 3, by striking all in lines 24 through 32 and inserting the following:
 “(j) Each applicant for an original salesperson’s license who meets the requirements of this act on and after July 1, 2007, shall be issued a salesperson’s license. The expiration date of the license shall be determined in accordance with a schedule established by rules and regulations of the commission.”;

On page 4, in line 36, by striking “Ten” and inserting “Fifteen”;

On page 6, after line 24, by inserting the following:

“(e) In all matters pending before the commission, the commission shall have the power to revoke the license of any licensee who voluntarily surrenders such licensee’s license or who does not renew such license pending investigation of misconduct or while charges of misconduct are pending or anticipated.”;

And by redesignating the remaining subsections accordingly;

On page 7, by striking all in lines 17 through 20; in line 43, by striking “(d)” and inserting “(c)”;

On page 8, in line 3, by striking “sub-”; in line 4, by striking “section (e)” and inserting “subsections (d) or (f)”;

On page 9, in line 1, after “5.” by inserting “(a)”;

after line 9, by inserting the following:
 “(b) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers’ and salespersons’ license act.

Sec. 6. K.S.A. 2006 Supp. 58-3046a is hereby amended to read as follows: 58-3046a.
 (a) Except as provided in K.S.A. 58-3040, and amendments thereto, any person who applies for an original license in this state as a salesperson shall submit evidence, satisfactory to the commission, of attendance of a principles of real estate course, of not less than 30 hours of instruction, approved by the commission and received within the 12 months immediately preceding the filing of application for salesperson’s license. The commission may require the evidence to be furnished to the commission with the original application for license or it may require the applicant to furnish the evidence to the testing service designated by the commission as a prerequisite to taking the examination required by K.S.A. 58-3039 and amendments thereto. If the evidence is furnished to the testing service, the instruction shall have been received within 12 months immediately preceding the date of the examination.

(b) Except as provided in K.S.A. 58-3040, and amendments thereto, any person who applies for an original license in this state as a broker shall submit evidence, satisfactory to the commission, of attendance of 24 hours of instruction, approved by the commission and received within the 12 months immediately preceding the filing of application for broker’s license. Such hours shall be in addition to any hours of instruction used to meet the requirements of subsection (c), (d), (e) or (f). The commission may require the evidence to be furnished to the commission with the original application for license, or it may require the applicant to furnish the evidence to the testing service designated by the commission as a prerequisite to taking the examination provided in K.S.A. 58-3039, and amendments thereto. If the evidence is furnished to the testing service, the instruction shall have been received within 12 months immediately preceding the date of the examination.

(c) *Any person who applies for an original license in this state as a salesperson on or after July 1, 2007, shall submit evidence, satisfactory to the commission, of attendance of a Kansas real estate practice course, of not less than 30 hours of instruction, approved by the commission and received within the six months immediately preceding the filing of the application for licensure.*

(d) Any person who applies for an original license in this state as a broker on or after July 1, 2007, who is a nonresident of Kansas or who is a resident of Kansas applying for licensure pursuant to subsection (e) of K.S.A. 58-3040, and amendments thereto, shall submit evidence, satisfactory to the commission, of attendance of a Kansas real estate course, of not less than four hours of instruction and received within the six months immediately preceding the filing of the application for licensure. Such course shall be approved by the commission and shall be specific to Kansas law with primary emphasis on issues that arise under the brokerage relationships in real estate transactions act, K.S.A. 58-30,101 et seq., and amendments thereto, and rules or regulations adopted thereunder.

~~(c) Except as provided in subsections (d), (e) and (f), (e) At or prior to each renewal date established by the commission, any person who is licensed in this state as a broker or as a salesperson shall submit evidence, satisfactory to the commission, of attendance of not less than 12 hours of additional instruction approved by the commission and received during the renewal period.~~

~~(d) Any person who obtained an original license in this state as a salesperson after July 1, 1988, and before July 1, 1991, shall submit evidence, satisfactory to the commission, of attendance of courses of instruction approved by the commission at or prior to each renewal date established by the commission as follows:~~

~~(1) At or prior to the first license renewal, 50 hours of instruction received after the date of licensure. Such evidence shall not be required until the second license renewal if the original license expires less than six months after issuance.~~

~~(2) At or prior to each license renewal thereafter, 12 hours of additional instruction received during the renewal period.~~

Any salesperson who obtains a broker's license in this state prior to completing the 50 hours of instruction required by this subsection shall submit the same evidence to renew the broker's license that would have been required to renew the salesperson's license.

~~(e) Any person who obtains an original license in this state as a salesperson on or after July 1, 1991 and before October 1, 1997, shall submit evidence, satisfactory to the commission, of attendance of courses of instruction approved by the commission at or prior to each renewal date established by the commission as follows:~~

~~(1) At or prior to the first license renewal, 30 hours of instruction received after the date of licensure. Such evidence shall not be required until the second license renewal if the original license expires less than six months after issuance.~~

~~(2) At or prior to each license renewal thereafter, 12 hours of additional instruction received during the renewal period.~~

Any salesperson who obtains a broker's license in this state prior to completing the 30 hours of instruction required by this subsection shall submit the same evidence to renew the broker's license that would have been required to renew the salesperson's license.

(f) Any person who obtains a temporary license in this state as a salesperson ~~on and after October 1, 1997~~ prior to July 1, 2007, shall submit evidence, satisfactory to the commission, of attendance of courses of instruction approved by the commission as follows:

(1) No later than ten days prior to the expiration date of the temporary license, 30 hours of instruction received after the date of licensure.

(2) At or prior to the first renewal of a license issued pursuant to ~~subsection (f)(2) or (4)~~ of K.S.A. 58-3039, and amendments thereto, 12 hours of additional instruction received during the renewal period. Such evidence shall not be required until the second license renewal if the license expires less than six months after issuance.

(3) At or prior to each license renewal thereafter, 12 hours of additional instruction received during the renewal period.

(g) Any person who qualifies for original licensure as a salesperson pursuant to K.S.A. 58-3039, and amendments thereto, on or after July 1, 2007, shall not be required to comply with subsection (e) until the second license renewal period if the license expires less than six months after it is issued.

~~(j) (h) Except for courses reviewed pursuant to subsection (j) (k), on and after January 1, 1994,~~ courses of instruction required by this section shall be courses approved by the commission and offered by:

(1) An institution which is accredited by the north central association of colleges and secondary schools accrediting agency;

(2) an area vocational or vocational-technical school as defined by K.S.A. 72-4412, and amendments thereto;

(3) a private or out-of-state postsecondary educational institution which has been issued a certificate of approval pursuant to the Kansas private and out-of-state postsecondary educational institution act;

(4) any agency of the state of Kansas; or

(5) a similar institution, approved by the commission, in another state.

~~(h)~~ (i) The commission shall adopt rules and regulations to: (1) Prescribe minimum curricula and standards for all courses offered to fulfill education requirements of this act, (2) designate a course of study to fulfill any specific requirement, which may include requiring that licensees pass a test as prescribed by the commission for any course designated by the commission in rules and regulations as a mandatory core requirement, (3) prescribe minimum qualifications for instructors of approved courses and (4) establish standards and procedures for approval of courses and instructors, monitoring courses, advertising, registration and maintenance of records of courses, and withdrawal of approval of courses and instructors.

~~(i)~~ (j) The commission may approve ~~nontraditional distance education~~ courses consisting solely or primarily of ~~home study, videotaped or computer-assisted instruction~~ *instruction provided online or in other computer-assisted formats, or by correspondence, audiotape, videotape or other media.* For the ~~purpose~~ *purposes* of this section, attendance of one hour of instruction shall mean 50 minutes of classroom instruction or the equivalent thereof in ~~nontraditional distance education~~ study as determined by the commission.

~~(j)~~ (k) Courses of instruction required by this section shall be courses approved by the commission either before or after their completion. The commission may give credit toward the 12 hours of additional instruction required by subsection ~~(c), (d);~~ (e) or (f) to any licensee who submits an application for course review obtained from the commission and pays the fee prescribed by K.S.A. 58-3063, and amendments thereto, if, in the judgment of the commission, the course meets the objectives of continuing education.

~~(k)~~ (l) The commission shall publish annually a list of educational institutions and entities and the courses offered by them in this state which are approved by the commission.

~~(l)~~ (m) No license shall be issued or renewed unless the applicable requirements set forth in this section are met within the time prescribed.

Sec. 7. K.S.A. 58-3045 is hereby amended to read as follows: 58-3045. (a) Except for a temporary salesperson's license issued pursuant to subsection ~~(h)~~ (i) of K.S.A. 58-3039, and amendments thereto, each license issued or renewed by the commission shall expire on a date determined in accordance with a schedule established by rules and regulations of the commission, which date shall be not more than two years from the date of issuance or renewal. Except as otherwise provided by this act, applicants for issuance or renewal of a license must satisfy all applicable requirements prior to issuance or renewal of the license.

(b) (1) Except for a temporary salesperson's license issued pursuant to subsection ~~(h)~~ (i) of K.S.A. 58-3039, and amendments thereto, each license shall be renewable upon the filing of a renewal application on or before the renewal date, which is the last calendar day of the month preceding the license expiration date. Such application shall be made on a form provided by the commission and accompanied by (A) the renewal fee prescribed by K.S.A. 58-3063, and amendments thereto, and (B) evidence of compliance with the requirements of K.S.A. 58-3046a and amendments thereto or the licensee's license with the licensee's request that the license be deactivated on the renewal date pursuant to K.S.A. 58-3049, and amendments thereto.

(2) Failure to comply with paragraph (1) on or before the renewal date will automatically cancel the license on the license expiration date unless the license is renewed pursuant to subsection (c) prior to the expiration date.

(c) The commission may reinstate and renew the license of a licensee who has failed to comply with the requirements of subsection (b)(1) if within six months following the date of the expiration of the license, the licensee submits to the commission an application for late renewal. Such application shall be made on a form provided by the commission and

shall be signed by the licensee. Except for late renewal of a license on deactivated status pursuant to K.S.A. 58-3049, and amendments thereto, such application also shall be signed by the licensee's supervising broker or branch broker, if applicable. Such application shall be accompanied by (1) evidence of compliance with K.S.A. 58-3046a, and amendments thereto, or a written request that such license be renewed on deactivated status pursuant to K.S.A. 58-3049, and amendments thereto, and (2) payment of the renewal fee prescribed by K.S.A. 58-3063, and amendments thereto, plus a late fee of \$50.

(d) An application for renewal filed in compliance with the requirements of subsection (b) shall entitle the applicant to continue operating under the applicant's existing license after its specified expiration date, unless such license has been suspended or revoked and has not been reinstated or unless such license is restricted, until such time as the commission determines whether the application fulfills such requirements.

New Sec. 8. (a) Each supervising broker who desires to do business under a trade name or business name other than the supervising broker's own name shall register with and obtain approval from the commission for use of the trade name or business name. The use of the trade name or business name may be disapproved by the commission if, in the judgment of the commission, the use of the trade name or business name would be misleading or confusing to the public. The reasons for disapproval may include the following:

(1) The requested trade name or business name or a similar name is currently in use, or has been in use during the past two years, in the same marketing area.

(2) Terms are used in the trade name or business name that are misleading or confusing.

(b) A branch office shall use the same trade name or business name as that used by the primary office.

(c) The provisions of this section shall be a part of and supplemental to the real estate brokers' and salespersons' license act.

Sec. 9. K.S.A. 58-3047 is hereby amended to read as follows: 58-3047. (a) The commission shall issue a license as broker or salesperson to each applicant who is qualified under and complies with all provisions of this act and rules and regulations adopted hereunder. The form of license shall be prescribed by the commission.

(b) A salesperson's or associate broker's license shall be delivered or mailed to the supervising broker or branch broker, if applicable, and shall be kept in the custody and control of such broker until canceled or until the salesperson or associate broker leaves employment by or association with the broker.

(c) Immediately upon the termination of a salesperson or associate broker from employment by or association with a broker, the supervising broker or branch broker, if applicable, shall return such salesperson's or associate broker's license to the commission for cancellation. A license canceled but not suspended or revoked may be reinstated at any time during the period for which it was issued upon receipt of the fee for reinstatement prescribed by K.S.A. 58-3063 and amendments thereto and an application therefor. Such application shall be made on a form provided by the commission and shall be signed by the licensee and the licensee's supervising broker or branch broker, if applicable.

(d) ~~Except as provided in subsection (c), upon a change in the name under which a broker is licensed or a change in the location of a broker's office, the broker shall, within 10 days, return to the commission, for cancellation and reinstatement under the new name or location of the broker, the broker's license, together with the reinstatement fee prescribed by K.S.A. 58-3063 and amendments thereto.~~

(e) Upon a change in the name under which a supervising broker is licensed ~~broker's name, business name or trade name for the primary office~~ or a change in the location of a supervising broker's office, the supervising broker shall, within 10 days, return to the commission together with the reinstatement fee prescribed by K.S.A. 58-3063 and amendments thereto, for cancellation and reinstatement under the new name or location of the supervising broker: (1) The license of the supervising broker; (2) the license of any other broker who is associated with the supervising broker and whose license requires reinstatement under the new name or location; and (3) the licenses of all salespersons and associate brokers employed by or associated with the supervising broker.

(e) *The supervising broker of the primary office shall be responsible for ensuring that the branch broker complies with subsection (f).*

(f) Upon a change in ~~the name under which a branch broker is licensed a supervising broker's name, business name or trade name for the primary office~~ or a change in the location of a branch broker's office, the branch broker shall, within 10 days, return to the commission, for cancellation and reinstatement under the new name ~~for the primary office and branch office~~ or location of the branch ~~broker office~~, the license of the branch broker and the licenses of all salespersons and associate brokers assigned to the branch office, together with the reinstatement fee prescribed by K.S.A. 58-3063 and amendments thereto. ~~Upon a change in~~

(g) (1) To change the broker designated as the branch broker or supervising broker of an office, the supervising broker shall, within 10 days, *notify the commission on a form approved by the commission. Except as provided in paragraphs (2), (3) or (4), the supervising broker shall return to the commission, for cancellation and reinstatement, the licenses of the brokers who are affected by the change current broker and new broker, together with the reinstatement fee prescribed by K.S.A. 58-3063 and amendments thereto.*

~~(f) When any salesperson or associate broker is discharged for a violation of any of the provisions of this act, a certified written statement of the facts with reference thereto shall be filed forthwith with the commission by the supervising broker.~~

(2) *The license of a broker is not required to be returned to the commission for cancellation and reinstatement if the broker is:*

(A) *An associate broker in the primary office and will function as the supervising broker;*

or

(B) *an associate broker in the branch office and will function as the branch broker.*

(3) *The license of a supervising broker is not required to be returned to the commission for cancellation and reinstatement if the broker will continue to be associated or employed by the primary office as an associate broker.*

(4) *The license of a branch broker is not required to be returned to the commission for cancellation and reinstatement if the broker will continue to be associated or employed by the branch office as an associate broker.*

(h) *If a salesperson's or associate broker's employment or association with a supervising broker is terminated by the supervising broker for violation of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, the supervising broker shall submit a written statement to the commission, within 10 days, setting forth the alleged facts that were involved.*

(i) *If a salesperson's or associate broker's employment or association with a branch broker is terminated by the branch broker for violation of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, the branch broker shall submit a written statement to the commission, within 10 days, setting forth the alleged facts that were involved.*

(j) *When a termination occurs pursuant to subsections (h) or (i) and a real estate transaction is involved, the duty to report shall apply whether the salesperson or associate broker acted as an agent, transaction broker or as a principal in the transaction.*

New Sec. 10. (a) When the license of a supervising broker or branch broker expires, the licenses of all licensees associated with or employed by the supervising broker or branch broker shall automatically be placed on inactive status within five calendar days after written notice is issued by the commission to the associated or employed licensee unless notification is provided to the commission prior to the expiration date of the license that another broker will assume the role as the supervising broker or branch broker or the licensee transfers to another supervising broker or branch broker.

(b) If notification is not received by the commission prior to the expiration date of the supervising broker's or branch broker's license that another broker will act as supervising broker or branch broker, the supervising broker or branch broker whose license expires shall return to the commission the licenses of all licensees associated or employed by the supervising broker or branch broker before or immediately upon the expiration date of the supervising broker's or branch broker's license.

(c) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

New Sec. 11. (a) When the license of a supervising broker or branch broker is suspended or revoked, the licenses of all licensees associated with or employed by the supervising broker or branch broker shall automatically be placed on inactive status within five calendar days after written notice is issued by the commission to the associated or employed licensee for the duration of the suspension or revocation, unless the licensee transfers to another supervising broker or branch broker. If deemed in the public interest until pending transactions are closed, the commission may authorize another broker to act as the supervising or branch broker during any period of suspension or revocation.

(b) If another broker is not authorized by the commission to act as the supervising broker or branch broker during the period of suspension or revocation, the supervising broker or branch broker whose license is suspended or revoked shall return to the commission the licenses of all licensees associated or employed by the supervising broker or branch broker within five calendar days of the effective date of the order of suspension or revocation.

(c) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

New Sec. 12. (a) A licensee whose license is suspended or revoked may receive any personally earned commission during the period of suspension or revocation only for those acts performed and for which commission was personally earned when the person was actively licensed prior to the effective date of the suspension or revocation. This statute is not intended to determine if a licensee is entitled to compensation; such entitlement would depend upon the terms of the licensee's written employment or independent contractor agreement with their former supervising broker or branch broker and is a matter of contract law.

(b) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

New Sec. 13. (a) Unless notification is provided to the commission prior to the expiration date of the supervising broker's or branch broker's license that another broker will act as the supervising broker or branch broker, the supervising broker or branch broker whose license expires, on or before the expiration date of the license, shall advise all clients and customers that the supervising broker or branch broker and any licensees that are employed by or associated with the supervising broker or branch broker will be unable to perform the terms and conditions contained in the listing or brokerage agreement with the client or customer after the expiration of the supervising broker's or branch broker's license. Upon receipt of notice from the supervising broker or branch broker or the expiration date of the supervising broker's or branch broker's license, whichever is earlier, the client or customer may enter into a listing or brokerage agreement with another broker of their choice.

(b) Unless the commission notifies the supervising broker or branch broker in writing that the commission has authorized another broker to act as the supervising broker or branch broker during the period of suspension or revocation, the supervising broker or branch broker whose license is suspended or revoked, within five calendar days after the effective date of the order of suspension or revocation, shall advise all clients and customers that the supervising broker or branch broker and any licensees that are employed by or associated with the supervising broker or branch broker will be unable to perform the terms and conditions contained in the listing or brokerage agreement with the client or customer after the effective date of the suspension or revocation. Upon receipt of notice from the supervising broker or branch broker, or upon the effective date of the order of suspension or revocation if notice is not properly given, the client or customer may enter into a listing or brokerage agreement with another broker of their choice.

(c) A supervising broker or branch broker whose license expires or is suspended or revoked may not sell or assign listings and brokerage agreements to another broker without the written consent of the owner of the property, and any sale or assignment of a listing or brokerage agreement must be completed prior to the expiration of the supervising broker's or branch broker's license or the effective date of the order of suspension or revocation.

(d) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

New Sec. 14. (a) A supervising broker or branch broker whose license is expired or is suspended or revoked may not personally finalize any pending closings. This responsibility must be given to another broker, an attorney, a financial institution or an escrow company.

(b) If the commission has not authorized another broker to act as the supervising broker or branch broker, transfer of the responsibility for finalizing a pending closing shall be done with the written approval of all parties to the transaction.

(c) If the commission has not authorized another broker to act as the supervising broker or branch broker, all parties to the transaction shall be advised of the facts concerning the situation concerning the status of the license of the supervising broker or branch broker and shall be provided the name, address and telephone number of the responsible entity where all trust and escrow moneys will be held in accordance with the written agreement of the parties to the transaction.

(d) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

New Sec. 15. (a) If the commission has not authorized another broker to act as the supervising broker or branch broker, all advertising under the supervising broker's or branch broker's name or trade name, including, but not limited to, signage, must be removed or covered within five calendar days after the expiration date of the supervising broker's or branch broker's license or the effective date of the order of suspension or revocation.

(b) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

Sec. 16. K.S.A. 58-3034 is hereby amended to read as follows: 58-3034. K.S.A. 58-3034 through ~~58-3076~~ 58-3077, *section 5 and sections 7 through 15*, and amendments thereto, shall be known and may be cited as the real estate brokers' and salespersons' license act.;

And by renumbering the remaining sections accordingly;

Also on page 9, in line 10, after "K.S.A." by striking "58-3043" and inserting "58-3034, 58-3043, 58-3045, 58-3047"; also in line 10, after "58-3039" by inserting ", 58-3046a";

On page 1, in the title, in line 12, by striking "amending K.S.A. 58-3043" and inserting "relating to licensure; amending K.S.A. 58-3034, 58-3043, 58-3045, 58-3047"; in line 13, after "58-3039" by inserting ", 58-3046a";

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

PETE BRUNGARDT
ROGER P. REITZ
MARK S. GILSTRAP
Conferees on part of Senate

STEVEN R. BRUNK
MIKE S. KIEGERL
LOUIS E. RUIZ
Conferees on part of House

Senator Brungardt moved the Senate adopt the Conference Committee Report on **S Substitute for HB 2295**.

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 Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2314**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments, as follows:

On page 1, in line 30, after "credit" by inserting "for the concentration in accounting";

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

PETE BRUNGARDT
 ROGER P. REITZ
 MARK S. GILSTRAP
Conferees on part of Senate

STEVEN R. BRUNK
 MIKE S. KIEGERL
 LOUIS E. RUIZ
Conferees on part of House

Senator Brungardt moved the Senate adopt the Conference Committee Report on **HB 2314**.

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 Conference Committee report was adopted.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 32, An act concerning health care; relating to medical and other care and services assistance repayment; discretionary trusts; amending K.S.A. 2006 Supp. 39-709 and repealing the existing section; also repealing K.S.A. 2006 Supp. 39-709d, was considered on final action.

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

Yeas: Allen, Apple, Barnett, 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.

Present and Passing: Barone.

The bill passed, as amended.

SB 346, An act creating the Kansas long-term care bill of rights, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 7, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Brownlee, Huelskamp, Journey, Lynn, Ostmeyer, Palmer, Pyle.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I received a distressing phone call last night. It was a former Kansas Department of Aging Surveyor and former SRS QA Coordinator for the Frail Elderly. She is currently employed in the Hospice field. What followed was an hour long conversation regarding her brother who had Cerebral Palsy and was under the "care" of an Independent Living Center. She described a nightmare - in which he almost died from neglect, abuse, and financial fraud. If it weren't for a visit from the local hospice who was tipped off to his situation by his sister, he would have died in his apartment because the care givers threatened him if he blew the whistle on them. Then attorney general Phill Kline filed charges of medicare fraud.

Mr. President, I support the philosophical premise behind this bill, however, I am concerned about the language regarding "single point of entry" and I must oppose this bill.—JULIA LYNN

Senator Journey requests the record to show he concurs with the "Explanation of Vote" offered by Senator Lynn on **SB 346**.

SB 363, An act concerning the rural housing incentive act; pertaining to certain definitions; amending K.S.A. 2006 Supp. 12-5242 and repealing the existing section, was considered on final action.

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 bill passed.

SB 381, An act concerning the livestock commissioner; relating to the protection of the health of domestic animals, was considered on final action.

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 bill passed.

SB 384, An act concerning early childhood education services, 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, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Lynn.

The bill passed, as amended.

SB 385, An act concerning salaries and compensation for state officers and employees; making and concerning appropriations for the fiscal year ending June 30, 2008; amending K.S.A. 40-102, 46-137a and 46-137b and K.S.A. 2006 Supp. 75-3101, 75-3103, 75-3104, 75-3108, 75-3110 and 75-3111a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 29, Nays 11, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Apple, Donovan, Huelskamp, Journey, Lynn, Ostmeyer, Palmer, Petersen, Pyle, Schmidt D, Taddiken.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 385**, I strongly value the time and effort our state employees contribute to their jobs, and I strongly believe they are due and should receive a pay raise. However, given the recent information received from the Hay study, I believe we need to make significant adjustments to our state pay plan.

It appears our current system pays some classifications of employees more than what is justified and some classifications less than what is justified. This bill simply continues the current procedure although at higher rates of pay.

With the straight percentage increase, those employees at the top of the pay schedule receive the largest increase, while those at the bottom of the pay scale receive the smallest increase. In effect, those who need our help the most, will receive the least. A one year

bonus plan would help alleviate this concern while we work on improving our pay plan.—
MARK TADDIKEN

Senators Apple, Journey, Lynn, Petersen, Ostmeyer and D. Schmidt request the record to show they concur with the “Explanation of Vote” offered by Senator Taddiken on **SB 385**.

HB 2058, An act concerning counties; relating to enforcement of county codes and resolutions; amending K.S.A. 2006 Supp. 19-101d and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 2, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Barnett, Pyle.

The bill passed, as amended.

HB 2073, An act concerning 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, was considered on final action.

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 bill passed, as amended.

HB 2159, An act concerning school districts; relating to school finance; amending K.S.A. 2006 Supp. 72-6448 and repealing the existing section, was considered on final action.

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 bill passed.

HB 2393, An act concerning municipal courts; relating to collection of fines, restitution and other costs; concerning jurisdiction; amending K.S.A. 12-4104 and K.S.A. 2006 Supp. 38-2302 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 2, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, 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: Betts, Haley.

The bill passed, as amended.

S Sub for HB 2437, 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, was considered on final action.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Barnett, Huelskamp, Pyle, Taddiken.

The substitute bill passed.

S Sub for HB 2476, An act concerning real property; relating to transfer thereof; amending K.S.A. 2006 Supp. 79-201a and repealing the existing section, was considered on final action.

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 substitute bill passed.

HB 2528, An act concerning firearms; amending K.S.A. 59-2979 and 59-29b79 and K.S.A. 2006 Supp. 12-16, 124, 75-7c04, 75-7c10, 75-7c11, 75-7c17 and 75-7c25 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 29, Nays 11, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Emler, Gilstrap, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson.

Nays: Allen, Betts, Brungardt, Francisco, Goodwin, Lee, Reitz, Schmidt V, Schodorf, Vratil, Wysong.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "no" on **HB 2528** because the good faith agreement which led to a favorable recommendation from the Federal and State Affairs Committee has been violated. The interested parties negotiated and entered into an agreement to amend the bill. The committee considered that agreement and recommended the amended bill favorable based on that agreement. In voting to recommend the bill, the committee and all of the interested parties relied on the good faith commitment of those parties who negotiated the agreement. Now, on the Senate floor, that good faith commitment has been disregarded and a negotiated amendment deleted. That is simply wrong. If the Senate did not like the negotiated amendments, it should have sent the bill back to committee. Most importantly, I cannot support a bill that was based on a good faith agreement when that agreement has been violated.—JOHN VRATIL

Senators Goodwin, Lee and Reitz request the record to show they concur with the "Explanation of Vote" offered by Senator Vratil on **HB 2528**.

HB 2539, An act relating to the conveyance of certain real property of state agencies; authorizing the state board of regents to sell and convey or exchange certain real estate of Emporia state university and Kansas state university; authorizing the state fair board to convey certain real property in Reno county to the city of Hutchinson; authorizing the department of social and rehabilitation services to convey certain real property in Miami county to the city of Osawatomie; amending K.S.A. 2006 Supp. 75-3369a and repealing the existing section, was considered on final action.

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 bill passed, as amended.

HB 2561, 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, was considered on final action.

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 bill passed, as amended.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1851—

A RESOLUTION congratulating and commending the MidAmerica Nazarene University womens basketball team for being co-champions of the Heart of America Athletic Conference for 2007.

WHEREAS, Members of the team included seniors Aubrey Clair, Jessica Gray, Kim Meyers, Ashley Patterson and Jana Young; juniors Dana Hanson and Jenna Matson; sophomores Taylor Ford, JoNel Henning and Laura Williams; and freshmen Beth Keeley, Jenny Kirk and Bethany Rexroth; and

WHEREAS, In addition to the athletes, the team was comprised of head coach Bill Olin; assistant coaches Kayla Dingman, Josh Cook and Jon Lewis; manager Alicia Ellis; trainer Ashley Bethell; and Chaplain Larry Haffey; and

WHEREAS, The team's hard work, dedication, and determination have resulted in many rewards, including: Being named co-champions of the Heart of America Athletic Conference; winning the Heart of America Conference Tournament; and being invited to, and making a Final Four appearance at, the NAIA Division II National Basketball Tournament at Sioux City, Iowa, a tournament comprised of the 32 best teams from NAIA Division II from throughout the United States; and

WHEREAS, The MidAmerica University womens basketball team finished their 2006-07 season with an impressive record of 33 wins and only 4 losses: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the MidAmerica Nazarene University womens basketball team for being named co-champions of the Heart of America Athletic Conference for 2007 and extend our best wishes for the team's continued success and happiness in the future.

Be it further resolved: That the Secretary of the Senate provide 22 enrolled copies of this resolution to Senator Brownlee.

On emergency motion of Senator Brownlee **SR 1851** was adopted unanimously.

Senator Brownlee introduced the team coach, Bill Olin, and team members. Senators joined her in honoring them with a standing ovation.

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

SENATE RESOLUTION No. 1852—

A RESOLUTION congratulating and commending the MidAmerica Nazarene University mens basketball team for becoming 2007 NAIA Division II national champions.

WHEREAS, On March 13, 2007, the MidAmerica Nazarene University mens basketball team defeated Mayville State 78-60 to earn their first NAIA Division II national championship at Keeter Gymnasium in Point Lookout, Missouri; and

WHEREAS, Members of the team included seniors Matt Clark, Jacob Nellor, Ryan Rundberg and A.K. Wour; juniors Brody Bell, Adam Hepker and Cal Kiburz; sophomores Austin Boots, Danny Hawkins, Jonathan Knipker, Brady Small and Dutch Thomas; and freshmen Brenton Bell, Garrett Smith and Ben Swinger; and

WHEREAS, In addition to the athletes, the team was comprised of head coach Rocky Lamar; assistant coaches Bill Fleming, Doug Rader and Steve Peterson; manager Kristen Hooper; trainer Chad Keller; and Chaplain Jim Edlin; and

WHEREAS, The team's hard work, dedication and determination have resulted in many rewards, including: Winning the Heart of America Athletic Conference Championship and

the Heart of America Conference Tournament; being invited to, and making a Final Four appearance at the NAIA Division II Basketball Tournament held at College of the Ozarks in Point Lookout, Missouri, a tournament comprised of the 32 best teams from NAIA Division II from throughout the United States; winning the National Tournament for NAIA Division II; and being crowned NAIA Division II national champions; and

WHEREAS, The MidAmerica Nazarene University mens basketball team finished their 2006-07 season with an impressive record of 34 wins and only 2 losses: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the MidAmerica Nazarene University mens basketball team for being named 2007 NAIA Division II national champions and for completing such an impressive season and extend our best wishes for the team's continued success and happiness in the future.

Be it further resolved: That the Secretary of the Senate provide 25 enrolled copies of this resolution to Senator Brownlee.

On emergency motion of Senator Brownlee **SR 1852** was adopted unanimously.

Senator Brownlee introduced the team coach, Rocky Lamar, and team members. Senators joined her in honoring them with a standing ovation.

Senators D. Schmidt, Betts and Haley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1853—

A RESOLUTION proclaiming August 8 and 9, 2007, as "Kansas Exoduster Colonies' Days."

WHEREAS, Following the Civil War, many former slaves and freedmen migrated to Kansas because it had a progressive and more tolerant reputation than most other states at that time. These African American migrants were called "Exodusters," in reference to the biblical story of the Hebrew exodus from Egypt. During the 1870s and 1880s, nearly 40,000 Exodusters came to Kansas; and

WHEREAS, Exoduster families made significant contributions to the state of Kansas and the surrounding area and were located in the colonies of Bloomington, Burlington, Chautauqua, David City, Dunlap, Groves Center, Hoggstown, Little Caney, Mississippi, Morton, Mud Town, Nicodemus, Quindaro, Rattlebone Hollow, Redmonsville, Rice, Richie's Addition, Scuffletown, Sedan, Singleton, Summit, Tennessee Town, The Bottoms, Votaw, Wabunsee and Wayside; and

WHEREAS, The descendants of the Exoduster families have made their presence and influence felt in population growth, education, city development, science, religion, the professions and the arts; and

WHEREAS, August 8 and 9, 2007, there will be a "Reconnection II" event for Exoduster descendants from across the fifty states to return and reconnect: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we proclaim August 8 and 9, 2007, as "Kansas Exoduster Colonies' Days"; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Nat Fitz, President, Votaw Colony Museum, Inc., 818 Gertrude Avenue, Richmond, California 94801.

On emergency motion of Senator D. Schmidt **SR 1853** was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **HB 2093**, as amended by House Committee, be amended on page 1, by striking all in lines 18 through 43;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 36 and inserting the following:

"Section 1. K.S.A. 2006 Supp. 72-6407 is hereby amended to read as follows: 72-6407.

(a) (1) "Pupil" means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in paragraph (3) of this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education and related services, except special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the custody of the secretary of social and rehabilitation services and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddell Boys Ranch, shall be counted as two pupils.

(3) A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution shall not be counted. A pupil enrolled in a virtual school in a district but who is not a resident of the state of Kansas shall not be counted.

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(c) "At-risk pupils" means pupils who are eligible for free meals under the national school lunch act and who are enrolled in a district which maintains an approved at-risk pupil assistance plan.

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs.

(e) "Enrollment" means: (1) (A) Subject to the provisions of paragraph (1)(B), for districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this paragraph (1), the number of pupils regularly enrolled in the district on September 20; (B) a pupil who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the district on September 20 and attending kindergarten or any of the grades one through 12 maintained by the district for at least one semester or two quarters or the equivalent thereof;

(2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled,

or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or

(3) the number of pupils as determined under K.S.A. 72-6447 or K.S.A. 2006 Supp. 72-6448, and amendments thereto.

(f) "Adjusted enrollment" means enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, density at-risk weighting, if any, non-proficient pupil weighting, if any, high enrollment weighting, if any, declining enrollment weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, cost of living weighting, if any, special education and related services weighting, and transportation weighting to enrollment.

(g) "At-risk pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of at-risk pupils.

(h) "Program weighting" means an addend component assigned to enrollment of districts on the basis of pupil attendance in educational programs which differ in cost from regular educational programs.

(i) "Low enrollment weighting" means an addend component assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having to which high enrollment weighting is assigned pursuant to K.S.A. 2006 Supp. 72-6442b, and amendments thereto.

(j) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities.

(k) "Transportation weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to the provision or furnishing of transportation.

(l) "Cost of living weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2006 Supp. 72-6449, and amendments thereto, apply on the basis of costs attributable to the cost of living in the district.

(m) "Ancillary school facilities weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities. Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.

(n) "Juvenile detention facility" means: (1) Any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which shall not be a jail;

(2) any level VI treatment facility licensed by the Kansas department of health and environment which is a psychiatric residential treatment facility for individuals under the age of 21 which conforms with the regulations of the centers for medicare/medicaid services and the joint commission on accreditation of health care organizations governing such facilities; and

(3) the Forbes Juvenile Attention Facility, the Sappa Valley Youth Ranch of Oberlin, Salvation Army/Koch Center Youth Services, the Clarence M. Kelley Youth Center, the Clarence M. Kelley Transitional Living Center, Trego County Secure Care Center, St. Francis Academy at Atchison, St. Francis Academy at Ellsworth, St. Francis Academy at Salina, St. Francis Center at Salina, King's Achievement Center, and Liberty Juvenile Services and Treatment.

(o) "Special education and related services weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to provision of special education and related services for pupils determined to be exceptional children.

(p) "Virtual school" means any kindergarten or grades one through 12 course offered for credit that uses distance-learning technologies which predominantly use internet-based methods to deliver instruction and for which the course content is available on an "anytime, anyplace" basis, but the instruction occurs asynchronously with the teacher and pupil in separate locations, not necessarily located within a local education agency.

(q) "Declining enrollment weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2006 Supp. 72-6451, and amendments thereto, apply on the basis of reduced revenues attributable to the declining enrollment of the district.

(r) "High enrollment weighting" means an addend component assigned to enrollment of districts pursuant to K.S.A. 2006 Supp. 72-6442b, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto.

(s) "*High* density at-risk pupil weighting" means an addend component assigned to enrollment of districts to which the provisions of ~~section 5~~ K.S.A. 2006 Supp. 72-6455, and amendments thereto, apply.

(t) "Nonproficient pupil" means a pupil who is not eligible for free meals under the national school lunch act and who has scored less than proficient on the mathematics or reading state assessment during *the preceding* school year ~~2004-2005~~ and who is enrolled in a district which maintains an approved proficiency assistance plan.

(u) "Nonproficient pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of nonproficient pupils pursuant to K.S.A. 2006 Supp. 72-6454, and amendments thereto.

Sec. 2. K.S.A. 2006 Supp. 72-6454 is hereby amended to read as follows: 72-6454. ~~(a)~~ The nonproficient pupil weighting of each district shall be determined by the state board as follows:

~~(1) Determine the number of pupils who were not eligible for free meals under the national school lunch act and who took the mathematics or reading state assessments in school year 2004-2005;~~

~~(2) determine the number of all pupils who scored below proficiency on either the mathematics or reading state assessments in school year 2004-2005;~~

~~(3) divide the number determined under paragraph (2) by the number determined under paragraph (1);~~

~~(4) subtract the number of pupils who are eligible for free meals under the national school lunch act from the enrollment of the district;~~

~~(5) multiply the difference determined under paragraph (3) by the dividend determined under paragraph (4); and~~

~~(6) multiply the product determined under paragraph (5) by .029. The product is the nonproficient pupil weighting of the district.~~

~~(b) The provisions of this section shall expire June 30, 2007.~~

~~(a) Determine the number of pupils who were not eligible for free meals under the national school lunch act and who scored below proficiency or failed to meet the standards established by the state board on either the mathematics or reading state assessments in the preceding school year; and~~

~~(b) multiply the number determined under paragraph (a) by .0465. The product is the nonproficient pupil weighting of the district.~~

Sec. 3. K.S.A. 2006 Supp. 72-6449 is hereby amended to read as follows: 72-6449. (a) As used in this section, "school district" or "district" means a school district authorized to make a levy under this section.

(b) The board of education of any district may levy a tax on the taxable tangible property within the district for the purpose of financing the costs incurred by the state that are attributable directly to assignment of the cost of living weighting to the enrollment of the district. There is hereby established in every school district a fund which shall be called the

cost of living fund, which fund shall consist of all moneys deposited therein or transferred thereto in accordance with law. All moneys derived from a tax imposed pursuant to this section shall be credited to the cost of living fund. The proceeds from the tax levied by a district credited to the cost of living fund shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

(c) The state board of education shall determine whether a district may levy a tax under this section as follows:

- (1) Determine the statewide average appraised value of single family residences for the calendar year preceding the current school year;
 - (2) multiply the amount determined under (1) by 1.25;
 - (3) determine the average appraised value of single family residences in each school district for the calendar year preceding the current school year; and
 - (4) subtract the amount determined under (2) from the amount determined under (3).
- If the amount determined for the district under (4) is a positive number and the district is authorized to adopt and has adopted a local option budget in an amount equal to the state prescribed percentage in the current school year which equals at least 25%, the district qualifies for assignment of cost of living weighting and may levy a tax on the taxable tangible property of the district for the purpose of financing the costs that are attributable directly to assignment of the cost of living weighting to enrollment of the district.

(d) ~~Except as provided by subsection (e);~~ No tax may be levied under this section unless the board of education adopts a resolution authorizing such a tax levy and publishes the resolution at least once in a newspaper having general circulation in the district. ~~Except as provided by subsection (e);~~ The resolution shall be published in substantial compliance with the following form:

Unified School District No. _____, _____ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to levy an ad valorem tax in an amount not to exceed the amount necessary to finance the costs attributable directly to the assignment of cost of living weighting to the enrollment of the district. The ad valorem tax authorized by this resolution may be levied unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after the publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether the levy of such a tax shall be authorized in accordance with the provisions of this resolution to the electors of the school district at the next general election of the school district, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. _____, _____ County, Kansas, on the _____ day of _____, (year)_____.

Clerk of the board of education.

All of the blanks in the resolution shall be filled. If no petition as specified above is filed in accordance with the provisions of the resolution, the resolution authorizing the ad valorem tax levy shall become effective. If a petition is filed as provided in the resolution, the board may notify the county election officer to submit the question of whether such tax levy shall be authorized. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and of no force and effect and no like resolution shall be adopted by the board within the nine months following publication of the resolution. If a majority of the votes cast in an election conducted pursuant to this provision are in favor of the resolution, such resolution shall be effective on the date of such

election. If a majority of the votes cast are not in favor of the resolution, the resolution shall be deemed of no effect and no like resolution shall be adopted by the board within the nine months following such election.

~~(c) Any resolution adopted pursuant to this section for school year 2005-2006 shall not be subject to the provisions of subsection (d) relating to publication, protest or election.~~

Sec. 4. K.S.A. 2006 Supp. 72-6451 is hereby amended to read as follows: 72-6451. (a) As used in this section:

(1) "School district" or "district" means a school district which: (A) Has a declining enrollment; and (B) ~~for school year 2005-2006, has adopted a local option budget in an amount which equals at least 25%, or (C) for school year 2006-2007 and each school year thereafter, has adopted a local option budget in an amount which equals the state prescribed percentage at the time the district applies to the state board of tax appeals for authority to make a levy pursuant to this section.~~

(2) "Declining enrollment" means an enrollment which has declined in amount from that of the preceding school year.

(b) (1) A school district may levy an ad valorem tax on the taxable tangible property of the district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state board of tax appeals under this subsection for the purpose of financing the costs incurred by the state that are directly attributable to assignment of declining enrollment weighting to enrollment of the district. The state board of tax appeals may authorize the district to make a levy which will produce an amount that is not greater than the amount of revenues lost as a result of the declining enrollment of the district. Such amount shall not exceed 5% of the general fund budget of the district in the school year in which the district applies to the state board of tax appeals for authority to make a levy pursuant to this section.

(2) The board of tax appeals shall certify to the state board the amount authorized to be produced by the levy of a tax under this section.

(3) The state board shall prescribe guidelines for the data that school districts shall include in cases before the state board of tax appeals pursuant to this section.

(c) A district may levy the tax authorized pursuant to this section for a period of time not to exceed two years unless authority to make such levy is renewed by the state board of tax appeals. The state board of tax appeals may renew the authority to make such levy for periods of time not to exceed two years.

(d) The state board shall provide to the state board of tax appeals such school data and information requested by the state board of tax appeals and any other information deemed necessary by the state board.

(e) There is hereby established in every district a fund which shall be called the declining enrollment fund. Such fund shall consist of all moneys deposited therein or transferred thereto according to law. The proceeds from the tax levied by a district under authority of this section shall be credited to the declining enrollment fund of the district. The proceeds from the tax levied by a district credited to the declining enrollment fund shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund, from and after its publication in the Kansas register.

Sec. 5. K.S.A. 2006 Supp. 72-6433 is hereby amended to read as follows: 72-6433. ~~(a) (1) The board of any district may adopt a local option budget in each school year in an amount not to exceed an amount equal to the district prescribed percentage of the amount of state financial aid determined for the district in the school year. As used in this section, "district prescribed percentage" means:~~

~~(A) For any district that was authorized to adopt and that adopted a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, do not apply in the current school year, in the 2001-02 school year and in each school year thereafter, a percentage that is equal to 80% of the percentage specified in the resolution under which the district was authorized to adopt a local option budget in the 1996-97 school year;~~

(B) for any district that was authorized to adopt and that adopted a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, apply in the current school year, a percentage in the 2001-02 school year and each school year thereafter that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and the percentage computed for the district by the state board under the provisions of K.S.A. 72-6444, and amendments thereto;

(C) for any district that was not authorized to adopt a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, apply in the current school year, a percentage in the 2001-02 school year and each school year thereafter that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and the percentage computed for the district by the state board under the provisions of K.S.A. 72-6444, and amendments thereto;

(D) for any district to which the provisions of K.S.A. 72-6444, and amendments thereto, applied in the 1997-98 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, do not apply in the current school year because an increase in the amount budgeted by the district in its local option budget as authorized by a resolution adopted under the provisions of subsection (b) causes the actual amount per pupil budgeted by the district in the preceding school year as determined for the district under provision (1) of subsection (a) of K.S.A. 72-6444, and amendments thereto, to equal or exceed the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 72-6444, and amendments thereto, is applicable to the district's enrollment group, a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year if the resolution authorized the district to increase its local option budget on a continuous and permanent basis. If the resolution that authorized the district to increase its local option budget specified a definite period of time for which the district would retain its authority to increase the local option budget and such authority lapses at the conclusion of such period and is not renewed, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution unless the loss of the percentage of increase that was authorized by the resolution would cause the actual amount per pupil budgeted by the district to be less than the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 72-6444, and amendments thereto, is applicable to the district's enrollment group, in which case, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution plus a percentage which shall be computed for the district by the state board in accordance with the provisions of K.S.A. 72-6444, and amendments thereto, except that, in making the determination of the actual amount per pupil budgeted by the district in the preceding school year, the state board shall exclude the percentage of increase that was authorized by the resolution.

(2) (A) Subject to the provisions of subpart (B), the adoption of a local option budget under authority of this subsection shall require a majority vote of the members of the board and shall require no other procedure, authorization or approval:

(B) In lieu of utilizing the authority granted by subpart (A) for adoption of a local option budget, the board of a district may pass a resolution authorizing adoption of such a budget and publish such resolution once in a newspaper having general circulation in the district. The resolution shall be published in substantial compliance with the following form:

Unified School District No. _____
 _____ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year for a period of time not to exceed _____ years in an amount not to exceed _____% of the amount of state financial aid determined for the current school year. The local option budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. In the event a petition is filed, the county election officer shall submit the question of whether adoption of the local option budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. _____, _____ County, Kansas, on the _____ day of _____

Clerk of the board of education.

All of the blanks in the resolution shall be appropriately filled. The blank preceding the word "years" shall be filled with a specific number, and the blank preceding the percentage symbol shall be filled with a specific number. No word shall be inserted in either of the blanks. The percentage specified in the resolution shall not exceed the district prescribed percentage. The resolution shall be published once in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board may adopt a local option budget. If a petition is filed as provided in the resolution, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local option budget shall be authorized. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution. If any district is authorized to adopt a local option budget under this subpart, but the board of such district chooses, in any school year, not to adopt such a budget or chooses, in any school year, to adopt such budget in an amount less than the amount of the district prescribed percentage of the amount of state financial aid in any school year, such board of education may so choose. If the board of any district refrains from adopting a local option budget in any one or more school years or refrains from budgeting the total amount authorized for any one or more school years, the authority of such district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget, nor shall the amount authorized to be budgeted in any succeeding school year be increased by such refrainment. Whenever an initial resolution has been adopted under this subpart, and such resolution specified a lesser percentage than the district prescribed percentage, the board of the district may adopt one or more subsequent resolutions under the same procedure as provided for the initial resolution and subject to the same conditions, and shall be authorized to increase the percentage as specified in any such subsequent resolution for the remainder of the period of time specified in the initial resolution. Any percentage specified in a subsequent resolution or in subsequent resolutions shall be limited so that the sum of the percentage authorized in the initial resolution and the percentage authorized in the subsequent resolution or in subsequent resolutions is not in excess of the district prescribed percentage in any school year. The board of any district that has been authorized to adopt a local option budget under this subpart and levied a tax under authority of K.S.A. 72-6435, and amendments thereto, may initiate, at any time after the final levy is certified to the county clerk under any current authorization, procedures to renew its authority to adopt a local option budget in the manner specified in this subpart or may utilize the authority granted by subpart (A). As used in this subpart, the term "authorized to adopt a local option budget" means that a district has adopted a reso-

lution under this subpart, has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the adoption of a local option budget was approved:

(3) The provisions of this subsection are subject to the provisions of subsections (b) and (c):

(b) (1) The board of any district that adopts a local option budget under subsection (a) may increase the amount of such budget in each school year in an amount which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage of the amount of state financial aid determined for the district in the school year if the board of the district determines that an increase in such budget would be in the best interests of the district:

(2) No district may increase a local option budget under authority of this subsection until: (A) A resolution authorizing such an increase is passed by the board and published once in a newspaper having general circulation in the district, or (B) the question of whether the board shall be authorized to increase the local option budget has been submitted to and approved by the qualified electors of the district at a special election called for the purpose. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-120, and amendments thereto, for the noticing, calling and holding of elections upon the question of issuing bonds under the general bond law. The notice of such election shall state the purpose for and time of the election, and the ballot shall be designed with the question of whether the board of education of the district shall be continuously and permanently authorized to increase the local option budget of the district in each school year by a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage in any school year. If a majority of the qualified electors voting at the election approve authorization of the board to increase the local option budget, the board shall have such authority. If a majority of the qualified electors voting at the election are opposed to authorization of the board to increase the local option budget, the board shall not have such authority and no like question shall be submitted to the qualified electors of the district within the nine months following the election:

(3) (A) Subject to the provisions of subpart (B), a resolution authorizing an increase in the local option budget of a district shall state that the board of education of the district shall be authorized to increase the local option budget of the district in each school year in an amount not to exceed _____% of the amount of state financial aid determined for the current school year and that the percentage of increase may be reduced so that the sum of the percentage of the amount of state financial aid budgeted under subsection (a) and the percentage of increase specified in the resolution does not exceed the state prescribed percentage in any school year. The blank preceding the percentage symbol shall be filled with a specific number. No word shall be inserted in the blank. The resolution shall specify a definite period of time for which the board shall be authorized to increase the local option budget and such period of time shall be expressed by the specific number of school years for which the board shall retain its authority to increase the local option budget. No word shall be used to express the number of years for which the board shall be authorized to increase the local option budget:

(B) In lieu of the requirements of subpart (A) and at the discretion of the board, a resolution authorizing an increase in the local option budget of a district may state that the board of education of the district shall be continuously and permanently authorized to increase the local option budget of the district in each school year by a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage in any school year:

(4) A resolution authorizing an increase in the local option budget of a district shall state that the amount of the local option budget may be increased as authorized by the resolution unless a petition in opposition to such increase, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication. If no petition is filed in accordance with the provisions of the resolution, the board is authorized to increase the local option budget of the district. If a petition is filed as provided in the resolution, the board may notify

the county election officer of the date of an election to be held to submit the question of whether the board shall be authorized to increase the local option budget of the district. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(5) The requirements of provision (2) do not apply to any district that is continuously and permanently authorized to increase the local option budget of the district. An increase in the amount of a local option budget by such a district shall require a majority vote of the members of the board and shall require no other procedure, authorization or approval.

(6) If any district is authorized to increase a local option budget, but the board of such district chooses, in any school year, not to adopt or increase such budget or chooses, in any school year, to adopt or increase such budget in an amount less than the amount authorized, such board of education may so choose. If the board of any district refrains from adopting or increasing a local option budget in any one or more school years or refrains from budgeting the total amount authorized for any one or more school years, the amount authorized to be budgeted in any succeeding school year shall not be increased by such refrainment, nor shall the authority of the district to increase its local option budget be extended by such refrainment beyond the period of time specified in the resolution authorizing an increase in the local option budget if the resolution specified such a period of time.

(7) Whenever an initial resolution has been adopted under this subsection, and such resolution specified a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) is less than the state prescribed percentage, the board of the district may adopt one or more subsequent resolutions under the same procedure as provided for the initial resolution and shall be authorized to increase the percentage as specified in any such subsequent resolution. If the initial resolution specified a definite period of time for which the district is authorized to increase its local option budget, the authority to increase such budget by the percentage specified in any subsequent resolution shall be limited to the remainder of the period of time specified in the initial resolution. Any percentage specified in a subsequent resolution or in subsequent resolutions shall be limited so that the sum of the percentage authorized in the initial resolution and the percentage authorized in the subsequent resolution or in subsequent resolutions together with the percentage of the amount of state financial aid budgeted under subsection (a) is not in excess of the state prescribed percentage in any school year.

(8) (A) Subject to the provisions of subpart (B), the board of any district that has adopted a local option budget under subsection (a), has been authorized to increase such budget under a resolution which specified a definite period of time for retention of such authorization, and has levied a tax under authority of K.S.A. 72-6435, and amendments thereto, may initiate, at any time after the final levy is certified to the county clerk under any current authorization, procedures to renew the authority to increase the local option budget subject to the conditions and in the manner specified in provisions (2) and (3) of this subsection.

(B) The provisions of subpart (A) do not apply to the board of any district that is continuously and permanently authorized to increase the local option budget of the district.

(9) As used in this subsection:

(A) "Authorized to increase a local option budget" means either that a district has held a special election under provision (2)(B) by which authority of the board to increase a local option budget was approved, or that a district has adopted a resolution under provision (2)(A), has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the authority of the board to increase a local option budget was approved.

(B) "State prescribed percentage" means 30% for school year 2006-2007 and 31% for school year 2007-2008 and each school year thereafter.

(C) To the extent the provisions of the foregoing subsections conflict with this subsection, this subsection shall control. Any district that is authorized to adopt a local option budget in the 1997-98 school year under a resolution which authorized the adoption of such budget in accordance with the provisions of this section prior to its amendment by this act may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended.

by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

(d) (1) There is hereby established in every district that adopts a local option budget a fund which shall be called the supplemental general fund. The fund shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitation imposed under provision (3), and subsection (c) of K.S.A. 72-6434, and amendments thereto, amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to the general fund of the district or to any program weighted fund or categorical fund of the district. Amounts in the supplemental general fund attributable to any percentage over 25% of state financial aid determined for the current school year may be transferred to the capital improvements fund of the district and the capital outlay fund of the district if such transfers are specified in the resolution authorizing the adoption of a local option budget in excess of 25%.

(3) Amounts in the supplemental general fund may not be expended nor transferred to the general fund of the district for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings which is entered into pursuant to the provisions of K.S.A. 72-8225, and amendments thereto.

(4) Any unexpended and unencumbered cash balance remaining in the supplemental general fund of a district at the conclusion of any school year in which a local option budget is adopted shall be disposed of as provided in this subsection. If the district did not receive supplemental general state aid in the school year and the board of the district determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If the board of such a district determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, transferred or expended the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If such a district determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, did not transfer or expend the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option budget of the district for the school year and multiply the total amount of the cash balance remaining in the supplemental general fund by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district. The amount remaining in the supplemental general fund may be maintained in such fund or transferred to the general fund of the district.

(c) To the extent the provisions of the foregoing section conflict with this subsection, this subsection shall control. Any resolution authorizing the adoption of a local option budget in excess of 30% of the state financial aid of the district in the current school year shall not become effective unless such resolution has been submitted to and approved by a majority of the qualified electors of the school district voting at an election called and held thereon. Such resolution shall specify how the moneys will be expended and shall be published in the manner provided by this section. The election shall be called and held in the manner provided by this section.

(a) As used in this section:

(1) "State prescribed percentage" means 31% of state financial aid of the district in the current school year.

(2) "Authorized to adopt a local option budget" means that a district has adopted a resolution under this section, has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the adoption of a local option budget was approved.

(b) In each school year, the board of any district may adopt a local option budget which does not exceed the state prescribed percentage.

(c) Subject to the limitation of subsection (b), in each school year, the board of any district may adopt, by resolution, a local option budget in an amount not to exceed:

(1) (A) The amount which the board was authorized to adopt in accordance with the provisions of this section in effect prior to its amendment by this act; plus

(B) the amount which the board was authorized to adopt pursuant to any resolution currently in effect; plus

(C) the amount which the board was authorized to adopt pursuant to K.S.A. 72-6444, and amendments thereto, if applicable to the district; or

(2) the state-wide average for the preceding school year as determined by the state board pursuant to subsection (j).

Except as provided by subsection (e), the adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. Such resolution shall be effective upon adoption and shall require no other procedure, authorization or approval.

(d) If the board of a district desires to increase its local option budget authority above the amount authorized under subsection (c) or if the board was not authorized to adopt a local option budget in 2006-2007, the board may adopt, by resolution, such budget in an amount not to exceed the state prescribed percentage. The adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. The resolution shall be published at least once in a newspaper having general circulation in the district. The resolution shall be published in substantial compliance with the following form:

Unified School District No. _____, _____ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year in an amount not to exceed _____% of the amount of state financial aid. The local option budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether adoption of the local option budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. _____, County, Kansas, on the day of _____, _____

Clerk of the board of education.

All of the blanks in the resolution shall be filled as is appropriate. If a sufficient petition is not filed, the board may adopt a local option budget. If a sufficient petition is filed, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local option budget shall be authorized. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-120, and amendments thereto. If the board fails to notify the county election officer within 30 days after a sufficient petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(e) Any resolution authorizing the adoption of a local option budget in excess of 30% of the state financial aid of the district in the current school year shall not become effective unless such resolution has been submitted to and approved by a majority of the qualified electors of the school district voting at an election called and held thereon. The election shall be called and held in the manner provided by K.S.A. 10-120, and amendments thereto.

(f) Unless specifically stated otherwise in the resolution, the authority to adopt a local option budget shall be continuous and permanent. The board of any district which is authorized to adopt a local option budget may choose not to adopt such a budget or may adopt a budget in an amount less than the amount authorized. If the board of any district whose authority to adopt a local option budget is not continuous and permanent refrains from adopting a local option budget, the authority of such district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget.

(g) The board of any district may initiate procedures to renew or increase the authority to adopt a local option budget at any time during a school year after the tax levied pursuant to K.S.A. 72-6435, and amendments thereto, is certified to the county clerk under any existing authorization.

(h) The board of any district that is authorized to adopt a local option budget prior to the effective date of this act under a resolution which authorized the adoption of such budget in accordance with the provisions of this section in effect prior to its amendment by this act may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

(i) Any resolution adopted pursuant to this section may revoke or repeal any resolution previously adopted by the board. If the resolution does not revoke or repeal previously adopted resolutions, all resolutions which are in effect shall expire on the same date. The maximum amount of the local option budget of a school district under all resolutions in effect shall not exceed the state prescribed percentage in any school year.

(j) (1) There is hereby established in every district that adopts a local option budget a fund which shall be called the supplemental general fund. The fund shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitation imposed under paragraph (3) and subsection (e) of K.S.A. 72-6434, and amendments thereto, amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to any program weighted fund or categorical fund of the district. Amounts in the supplemental general fund attributable to any percentage over 25% of state financial aid determined for the current school year may be transferred to the capital improvements fund of the district and the capital outlay fund of the district if such transfers are specified in the resolution authorizing the adoption of a local option budget in excess of 25%.

(3) Amounts in the supplemental general fund may not be expended for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings which is entered into pursuant to the provisions of K.S.A. 72-8225, and amendments thereto.

(4) (A) Except as provided in paragraph (B), any unexpended budget remaining in the supplemental general fund of a district at the conclusion of any school year in which a local option budget is adopted shall be maintained in such fund.

(B) If the district received supplemental general state aid in the school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option budget of the district for the school year and multiply the total amount of the unexpended budget remaining by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district or remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(k) Each year the state board of education shall determine the statewide average percentage of local option budgets legally adopted by school districts for the preceding school year.

Sec. 6. K.S.A. 2006 Supp. 72-6624 is hereby amended to read as follows: 72-6624. (a) As used in this section:

(1) "School district" means unified school district No. 404, unified school district No. 493, unified school district No. 499 and unified school district No. 508.

(2) "Property" means any property, and improvements thereon, comprising a racetrack gaming facility or lottery gaming facility under the Kansas ~~expanded~~ lottery act located in Cherokee county.

(3) "State aid" means general state aid, supplemental general state aid, capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts under the school district finance and quality performance act or other law, and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts.

(4) "*Kansas lottery act*" means the provisions of K.S.A. 74-8701 et seq., and amendments thereto, the Kansas expanded lottery act, and amendments thereto, and any other act under which a racetrack gaming facility or a lottery gaming facility may be located in Cherokee county.

(b) For the purposes of computing the assessed valuation of school districts for the payment, distribution or allocation of state aid and the levying of school taxes, $\frac{1}{4}$ of the assessed valuation of such property shall be assigned to each of the school districts.

(c) The provisions of this section shall not apply if the property is not or ceases to be used as a racetrack gaming facility or lottery gaming facility under the Kansas ~~expanded~~ lottery act.

New Sec. 7. (a) As used in this section:

(1) "School districts" mean unified school district No. 349, unified school district No. 350 and unified school district No. 351.

(2) "Property" means any real property and improvements thereon located within Stafford county which is used for the production of ethanol or biodiesel products.

(3) "State aid" means general state aid, supplemental general state aid, capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts under the school district finance and quality performance act or other law, and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts.

(b) For the purposes of computing the assessed valuation of school districts for the payment, distribution or allocation of state aid and the levying of school taxes, $\frac{1}{3}$ of the assessed valuation of property as defined in this section shall be assigned to each of the school districts.

(c) The provisions of this section shall not apply if the property is not or ceases to be used for the production of ethanol or biodiesel products.

Sec. 8. K.S.A. 2006 Supp. 72-6407, 72-6433, 72-6449, 72-6451, 72-6454, 72-6624 and 72-6624a are hereby repealed.";

And by renumbering the remaining section accordingly;

Also on page 4, in line 38, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, by striking all in lines 12 through 15 and inserting "AN ACT concerning school districts; relating to school finance; amending K.S.A. 2006 Supp. 72-6407, 72-6433, 72-6449, 72-6451, 72-6454 and 72-6624 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 72-6624a."; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2127**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2127," as follows:

"SENATE Substitute for HOUSE BILL No. 2127

By Committee on Utilities

"AN ACT concerning the Kansas underground utility damage prevention act; amending K.S.A. 66-1802, 66-1804, 66-1805 and 66-1806 and repealing the existing sections.";

and the substitute bill be passed.

REPORT ON ENGROSSED BILLS

SB 137, SB 342, SB 357 reported correctly engrossed March 23, 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 Taddiken in the chair.

Recommended **HB 2046, HB 2318** be passed.

The committee report on **HB 2264** recommending a **S Sub for HB 2264** be adopted, and the substitute bill be passed.

The committee report on **HB 2504** recommending a **S Sub for HB 2504** be adopted, and the substitute bill be passed.

SB 148, SB 389; Sub HB 2129; HB 2363, HB 2526 be amended by adoption of the committee amendments, and the bills be passed as amended.

HB 2123 be amended by adoption of the committee amendments, be further amended by motion of Senator Vratil as amended by Senate Committee, on page 2, by striking all in lines 35 through 40; in line 41, by striking "(c)"; also in line 41, by striking "2008" and inserting "of each school year"; in line 42, preceding "Sep-" by inserting "the preceding"; in line 43, by striking ", 2007";

On page 3, in line 1, following "for" by inserting "such"; in line 2, by striking "2007-2008"; also in line 2, by striking ", 2008"; by striking all in lines 3 through 7; following line 7, by inserting:

"(c) The state board shall compute the general fund budget of a school district as follows:

(1) Compute the general fund budget of the district using the enrollment of the district on February 20 of each school year;

(2) compute the general fund budget of the district using the enrollment of the district on the preceding September 20 of such school year;

(3) subtract the amount determined under paragraph (2) from the amount determined under paragraph (1);

(4) multiply the difference obtained under paragraph (3) by .50; and

(5) add the product obtained under paragraph (4) to the amount determined under paragraph (1). The sum is the general fund budget of the school district.";

Also on page 3, in line 8, by striking "(e)" and inserting "(d)" and **HB 2123** be passed as further amended.

A motion by Senator Lee to refer **HB 2123** to the Committee on Education failed.

HB 2019 be amended by adoption of the committee amendments and be passed over and retain a place on the calendar.

SB 15, SB 214, SB 365; HB 2005, HB 2014, HB 2062, HB 2246, HB 2359, HB 2483 be passed over and retain a place on the calendar.

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

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

AFTERNOON SESSION

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

GUESTS

Senator Betts rose on a Point of Personal Privilege to introduce Danielle Strunk and Consuelo Andrade, and presented them with awards in recognition of their service to the Hope Street Youth Development, Wichita, Kansas.

Senator Brungardt rose on a Point of Personal Privilege to introduce his son, Matthew Brungardt; who was accompanied by Gary Wright, Amy Riebel, Anna Stubblefield, Karen Brack and Erin Bloom.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and resolutions were introduced and read by title:

SB 391, An act creating the Kansas criminal code recodification commission; relating to the powers and duties thereof; making and concerning appropriations for the fiscal year ending June 30, 2008, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1612—

By Committee on Ways and Means

A CONCURRENT RESOLUTION approving the creation of a Joint Port Authority.

WHEREAS, The state of Kansas encourages economic development and cooperation to maintain and foster the economic stability and continued growth needed for a prosperous economy; and

WHEREAS, The economic prosperity and well-being of the Kansas counties of Grant, Morton, Stanton and Stevens will be enhanced and improved by the creation of a joint port authority, should such counties determine to join in such joint port authority; and

WHEREAS, The Kansas county Commissions of Grant, Morton, Stanton and Stevens propose to pass a resolution to create a joint port authority by cooperative agreement and such other cities and counties as determine to join in such joint port authority; and

WHEREAS, The Kansas Legislature encourages intergovernmental cooperation: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the legislature of the State of Kansas, in accordance with the provisions of K.S.A. 12-3402, and amendments thereto, hereby and in advance approves the creation of such joint port authority as the County Commissions of Grant County, Kansas, Morton County, Kansas, Stanton County, Kansas and Stevens County, Kansas, and such other governmental units in coordination with such counties, may by appropriate resolutions or ordinances determine to create by cooperative agreement, with the name of such joint port authority to be set forth in such cooperative agreement.

SENATE CONCURRENT RESOLUTION No. 1613—

By Senators Journey, McGinn, Petersen and Wagle

A PROPOSITION to amend section 3c of article 15 of the constitution of the state of Kansas, relating to lotteries.

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

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 3c of article 15 of the constitution of the state of Kansas is hereby amended to read as follows:

~~“§ 3c. State-owned and operated lottery Lotteries. (a) Notwithstanding the provisions of section 3 of article 15 of the constitution of the state of Kansas, the legislature may provide for a state-owned and operated lottery, except that such state-owned lottery shall not be operated after June 30, 1990, unless authorized to be operated after such date by a concurrent resolution approved by a majority of all of the members elected (or appointed) and qualified of each house and adopted in the 1990 regular session of the legislature. The state shall whenever possible provide the public information on the odds of winning a prize or prizes in a lottery game: and privately-owned destination casinos.~~

~~(b) Whenever possible, the state shall provide to the public information on the odds of winning a prize or prizes in a lottery game.~~

~~(c) The legislature may authorize, regulate, license and tax, by law, no more than three privately-owned destination casinos. The state shall not have an ownership interest in any casino or destination casino. The state shall not authorize any private casinos, except the three privately-owned destination casinos. The state shall not have~~

an ownership interest in player-operated electronic gaming machines or other gambling devices.

(d) (1) Except as provided by paragraph (2), a destination casino may be permitted only in counties in which a majority of the qualified electors of the county voting on this proposed amendment vote in favor thereof and a majority of the qualified electors of the counties which are contiguous to such county voting on this proposed amendment vote in favor thereof.

(2) If a majority of the qualified electors of the county voting on this proposed amendment did not vote in favor thereof, a destination casino may be permitted in such county only if at a subsequent election a majority of the qualified electors of the county voting on the proposition to permit the location and operation of a destination casino in the county vote in favor thereof and a majority of the qualified electors of the counties which are contiguous to such county voting on the proposition to permit the location and operation of a destination casino in a contiguous county vote in favor thereof. A proposition to permit the location and operation of a destination casino shall not be submitted more than one time in any four-year period.

(e) The legislature shall provide for a casino gaming oversight authority. Except as is necessary to provide for overlapping terms, members of the casino gaming oversight authority shall be appointed for terms of four years. Members may be removed from office for cause as may be provided by law.

(f) The casino gaming oversight authority shall not approve the operation of any destination casino without first conducting or providing for necessary feasibility studies, economic impact studies and marketing reports.

(g) No state or local officer and no candidate for a state or local office shall accept any contribution, as defined by law, from any person who has an ownership in any destination casino or from any person who is an officer or member of the board of directors of any entity which owns a destination casino.

(h) As used in this section, "destination casino" means a casino, as defined by law, in which there has been invested at least \$250,000,000."

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

"*Explanatory statement.* This amendment would authorize the legislature to provide for not more than three privately-owned and operated destination casinos. This amendment would provide for a casino gaming oversight authority.

"A vote for this amendment would permit the legislature to provide for operation of privately-owned destination casinos.

"A vote against this amendment would continue the current prohibition against such casinos."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 2008 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2531; Substitute HB 2559, HB 2578, HB 2587.**

Passage of **SB 105, SB 106, SB 179, Substitute SB 354, SB 360.**

Also, passage of **SB 8**, as amended, **SB 9**, as amended; **SB 14**, as amended by **House Substitute for SB 14; SB 55**, as amended, **SB 67**, as amended; **SB 103**, as amended by **House Substitute for SB 103; SB 104**, as amended, **SB 146**, as amended, **SB 166**, as amended, **SB 198**, as amended; **SB 204**, as amended; **Substitute SB 208**, as amended; **SB 244**, as amended by **House Substitute for SB 244; SB 271**, as amended, **SB 284**, as amended, **SB 321**, as amended, **SB 324**, as amended.

Adoption of **SCR 1611.**

Also, adoption of **SCR 1603**, as amended.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2531; Substitute HB 2559; HB 2578, HB 2587 were thereupon introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **HB 2535** be passed.

Also, the committee begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Kansas Health Policy Authority: K.S.A. 2006 Supp. 75-7401

Arneatha Martin, term expires March 15, 2011

REPORT ON ENROLLED BILLS

SB 18, SB 137, SB 232 reported correctly enrolled, properly signed and presented to the Governor on March 27, 2007.

COMMITTEE OF THE WHOLE

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

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

Recommended **SB 214; HB 2246** be passed.

SB 365; HB 2080, HB 2128 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 15 be amended by adoption of the committee amendments, be further amended by motion of Senator D. Schmidt as further amended by Senate Committee, on page 3, in line 5, by striking "second" and inserting ": (1) Second"; also in line 5, preceding the period by inserting "; and (2) watershed districts having a total assessed taxable tangible valuation of \$1 million or less" and **SB 15** be passed as further amended.

HB 2005 be amended by adoption of the committee amendments, be further amended by motion of Senator Brownlee as amended by Senate Committee, on page 1, in line 28, by striking "or bioscience development projects"; in line 35, by striking "21" and inserting "20";

On page 2, by striking all in lines 6 through 43;

On page 3, by striking all in lines 1 and 2;

By redesignating the remaining subsections accordingly;

Also on page 3, in line 10, by striking all following "district"; in line 11, by striking "district"; by striking all in lines 39 through 42;

By redesignating the remaining subsections accordingly;

On page 4, in line 36, by striking all following "project"; in line 37, by striking all preceding the period; in line 39, by striking "or bioscience development project plan"; in line 42, by striking "or bioscience project area";

On page 5, by striking all in lines 22 through 27;

By redesignating the remaining subsections accordingly;

Also on page 5, in line 29, by striking all following "project"; in line 30, by striking "ject"; in line 34, by striking "(18)" and inserting "(17)"; in line 41, by striking "or bioscience development district";

On page 6, in line 1, by striking all following "district"; in line 2, by striking "district"; in line 4, by striking "or bioscience development district"; in line 6, by striking "or" where it appears for the second time; in line 7, by striking all preceding the semicolon; in line 30, by striking "(o)" and inserting "(f)"; in line 33, by striking "(v)" and inserting "(l)";

On page 7, in line 9, by striking "or"; in line 10, by striking "bioscience development district plan"; in line 16, by striking "or bioscience development district"; in line 20, by striking "or bioscience development district"; in line 24, by striking "or bioscience devel-

opment district”; in line 26, by striking “or bio-”; in line 27, by striking all preceding the comma; in line 28, by striking “or bioscience development district”; in line 42, by striking “(q)” and inserting “(h)”;

On page 8, in line 3, by striking “or bioscience development projects”; in line 5, by striking “or bioscience development project”; in line 10, by striking “or bioscience development projects”; in line 20, by striking “STAR”; by striking all in line 21 and inserting “total costs including all project costs and any other costs related to the project. The proceeds of such STAR bond financing may only be used to pay for incurred project costs.”; in line 28, following “bond” by inserting “project”; in line 42, by striking “or bio-”; in line 43, by striking all preceding “pursuant”;

On page 9, in line 11, by striking “or bioscience development district”; in line 14, by striking “or bioscience development district”; in line 17, by striking all following “district”; in line 18, by striking “velopment district”; in line 21, by striking “or bioscience development district”; in line 22, by striking all following “plan”; in line 23, by striking all preceding the semicolon; in line 25, by striking “or bioscience development district”; in line 28, by striking “or bio-”; in line 29, by striking all preceding the period; in line 38, following “proposed” by inserting “STAR bond”; in line 40, by striking “or bioscience development district”;

On page 10, in line 1, by striking “or bioscience development district”; in line 16, by striking all following “(2)”; by striking all in lines 17 through 33; in line 34, by striking “(3)”; in line 36, by striking “or bioscience development district”;

On page 11, by striking all in lines 5 through 8;

And by redesignating the remaining subsections accordingly;

Also on page 11, in line 9, by striking all following “projects”; in line 10, by striking “projects”; in line 11, by striking “or bioscience development district”; in line 12, by striking “or bioscience development district”; in line 20, by striking “or bioscience development district”; in line 21, by striking all following “district”; in line 22, by striking all preceding “will”; in line 27, by striking “or bioscience development district”; in line 28, by striking “or the”; in line 29, by striking “bioscience development project plan”; in line 36, by striking “or bioscience development district”; in line 37, by striking “or bioscience development project”; in line 38, by striking all following “plan”; in line 39, by striking “project plan”; in line 42, by striking all following the period; by striking all in line 43;

On page 12, in line 1, by striking all preceding “Any”; in line 4, by striking all following “district”; in line 5, by striking all preceding “established”; in line 8, by striking all following “project’s”; in line 9, by striking “project’s”; in line 12, by striking all following “project”; in line 13, by striking all preceding “will”; in line 17, by striking “or bioscience development project”; in line 36, by striking “or bioscience development project”;

On page 13, in line 4, by striking all following “project”; in line 5, by striking all before “shall”; in line 22, by striking all following “plan”; in line 23, by striking all before “prepared”; in line 26, by striking “or bioscience project area”; in line 27, by striking all following “plan” as it appears the first time; in line 30, by striking “or bioscience project area”; in line 32, by striking “or bioscience development project plan”; in line 35, by striking all following “project”; in line 36, by striking all before “located”; in line 37, by striking all following “plan” as it appears the first time; in line 41, by striking all following “plan”; in line 42, by striking all before the period;

On page 14, in line 1, by striking all following “plan”; in line 2, by striking all before “and” as it appears the first time; in line 5, by striking all before “within”; in line 6, by striking “or bioscience development project”; in line 9, by striking “or bioscience project area”; in line 10, by striking all following “plan”; in line 11, by striking all before the first comma; in line 18, by striking all following “plan”; in line 19, by striking all before “shall”; in line 27, by striking “or bioscience project area”; in line 29, by striking all following “area”; in line 30, by striking all before “not”; in line 36, by striking “or bioscience project area”; in line 40, by striking “or bioscience development project plan”; in line 41, by striking “or bioscience project area”;

On page 15, in line 7, by striking all following “plan”; in line 8, by striking all before “by”; in line 9, by striking all following “members”; in line 10, by striking all before the period; in line 12, by striking “or bioscience development project plan”; in line 14, following “bond” by inserting “project”; also in line 14, by striking all following “district”; in line 15, by striking

all before the comma; in line 24, following “bond” by inserting “project”; in line 25, by striking all before “is”; in line 27, following “bond” by inserting “project”; also in line 27, by striking all following “district”; in line 28, by striking all before “to”; in line 30, by striking all following “plan”; in line 31, by striking all before “is”; in line 34, by striking “or bioscience development project”; in line 35, by striking all following “plan”; in line 36, by striking “plan”; in line 39, by striking all following “plan”; in line 40, by striking all before “as”; in line 43, by striking all following “project” as it appears the first time;

On page 16, in line 2, by striking “or bioscience development project plan”; in line 7, by striking “or bioscience project area”; in line 8, by striking all following “project”; in line 9, by striking all before “shall”; in line 10, by striking all following “plan”; in line 11, by striking all before the period; in line 12, by striking all following “project”; in line 13, by striking all before “within”; in line 19, by striking “or bioscience development project plan”; in line 22, by striking all following “project”; in line 23, by striking all before “based”; in line 37, by striking all after “project”; in line 38, by striking all before “in”;

On page 17, in line 4, by striking “incremental” and inserting “tax increment”; in line 7, following “bond” by inserting “project”; in line 8, by striking all before “established”; in line 9, by striking all following “project”; in line 10, by striking all before the comma; in line 12, by striking all following “project”; in line 13, by striking all before the semicolon; in line 14, following “bond” by inserting “project”; also in line 14, by striking “or”; in line 15, by striking all before the comma; also in line 15, by striking “incre-”; in line 16, by striking “mental” and inserting “tax increment”; in line 18, following “bond” by inserting “project”; also in line 18, by striking all following “district”; in line 19, by striking all before “established”; in line 22, by striking “or bioscience development project”; in line 23, following “bond” by inserting “project”; also in line 23, by striking all following “district”; in line 24, by striking all before the comma; also in line 24, by striking “incremental” and inserting “tax increment”; in line 29, following “bond” by inserting “project”; also in line 29, by striking “or bioscience development district”; in line 31, by striking “or bioscience development project”; in line 32, by striking “incremental” and inserting “tax increment”; in line 34, following “bond” by inserting “project”; in line 35, by striking “or bioscience development district”; in line 36, by striking “or bioscience development project”;

On page 18, in line 1, by striking “or bioscience development district”; in line 42, by striking “or bioscience project area”;

On page 19, in line 12, by striking all before the period; in line 13, following “bond” by inserting “project”; in line 28, by striking “or bioscience development district”; in line 30, by striking all following “plan”; in line 31, by striking “plan”; in line 33, by striking “or bioscience development district”; in line 35, by striking “or bioscience development district”; in line 38, by striking “or bioscience development district”; in line 40, by striking “or bioscience development district”; in line 41, by striking “or bioscience development districts”; in line 42, by striking all following “district”; in line 43, by striking all before “into”;

On page 20, in line 1, by striking “or bioscience development district”; in line 3, by striking all following “district”; in line 4, by striking all before the period; in line 5, by striking all following “project”; in line 6, by striking all before “within”; in line 7, by striking “or bioscience development district”; in line 9, by striking all following “district”; in line 10, by striking all before the comma; in line 11, by striking all following “district”; in line 12, by striking all before “into”; in line 13, by striking “or bioscience development district”; in line 16, by striking “or bioscience development district”; in line 17, by striking “or bioscience development project”; in line 20, by striking “or bioscience development district”; in line 21, by striking all following “district”; in line 22, by striking all before “may”; in line 27, by striking all following “district”; in line 28, by striking all before the period; by striking all in lines 29 through 32;

On page 21, in line 23, by striking all following “plan”; in line 24, by striking all before “and”; in line 42, by striking all following “project”; in line 43, by striking all before “shall”;

On page 22, in line 6, by striking “or bioscience development district”; in line 8, by striking “or bioscience development district”; in line 11, by striking “or bioscience development project”; in line 14, by striking “or bioscience development district”; in line 23, by striking all following “district”; in line 24, by striking “district”; in line 28, by striking all following “project”; in line 29, by striking all before the first comma; in line 32, by striking all following

“area”; in line 33, by striking all before the comma; in line 42, by striking all before the period;

On page 23, in line 8, by striking “or bioscience development project”; in line 15, by striking “or bioscience development project”; in line 20, by striking all following “projects”; in line 21, by striking all before “using”; in line 39, following “bond” by inserting “project”;

On page 25, in line 21, following “bond” by inserting “project”;

On page 26, in line 12, by striking “(v)” and inserting “(l)”; by striking all in lines 38 through 43;

On page 27, by striking all in lines 1 through 19;

And by renumbering the remaining sections accordingly;

Also on page 27, in line 38, by striking “or”; in line 39, by striking all before “shall”;

On page 38, in line 32, by striking all following the period; by striking all in lines 33 through 35;

On page 50, following line 35, by inserting the following:

“New Sec. 29. The provisions of sections 29 through 36, and amendments thereto, shall be known and may be cited as the Kansas investment credit act.

New Sec. 30. As used in the Kansas investment credit act, unless otherwise provided: (a) “Act” means the Kansas investment credit act;

(b) “ancillary support operation” means a Kansas business facility at which the business activities are ancillary processing functions and from which no or de minimis primary business activities occur. Ancillary processing functions shall support and improve operating efficiencies of the primary focus of the business, but are not of themselves, integral and necessary to performing the primary business activities;

(c) “eligible taxpayer” means a for-profit business establishment subject to the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, the privilege tax as measured by the net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, sales or property taxes and that meets the eligibility criteria in section 31, and amendments thereto and is current in payment of Kansas taxes;

(d) “headquarters” means a Kansas business facility where principal officers of the business are housed and from which direction, management, or administrative support of transactions is provided for a business or division of a business and from which no more than de minimis revenues are generated from primary business activities.

(e) “Kansas business facility” means any factory, mill, plant, refinery, warehouse, feedlot, building or complex of buildings that operate as a single unit on a contiguous piece of property, located within the state, including the land on which such facility is located and all machinery, equipment and other real and tangible personal property located at or within such facility used in connection with the operation of such facility. The term “Kansas business facility” includes only structures within which individuals are customarily employed or which are customarily used to house machinery, equipment or other property and that are not designed with the capability of being transported, moved or relocated. Such Kansas business facility shall satisfy the following requirements: (1) Such facility must be employed by the eligible taxpayer in the operation of a revenue producing enterprise. Such facility shall not be considered a Kansas business facility in the hands of the taxpayer if the taxpayer’s only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue producing enterprise, the portion employed by the taxpayer in the operation of a revenue producing enterprise shall be considered a Kansas business facility, if the requirements of subsection (e)(2) are satisfied; and

(2) if such facility was acquired by the taxpayer from another person or persons, such facility was not employed, immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue producing enterprise and the taxpayer continues the operation of the same or substantially identical revenue producing enterprise at such facility;

(f) “opportunity zone” means a zone established by the secretary of commerce through rules and regulations which shall: (1) Be comprised of at least one county; (2) be economically disadvantaged; (3) not include any counties in a metropolitan statistical area or micropolitan statistical area; and (4) meet any other criteria established by the secretary through rules and regulations;

(g) “qualified investment” means the value of the real and tangible personal property permanently and physically located at the Kansas business facility, except that “qualified investment” does not include inventory, construction in progress, or property held for sale to customers in the ordinary course of the taxpayer’s business, which constitutes the Kansas business facility, or which is used by the taxpayer in the operation of the Kansas business facility, during the taxable year for which the credit is claimed. The value of such property during such taxable year shall be: (1) The original cost of such property, if owned by the eligible taxpayer; or (2) eight times the net annual rental rate, if leased by the eligible taxpayer. Original cost is deemed to be the basis of the property for federal income tax purposes, prior to any federal adjustments, at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements thereto and partial disposition thereof, by reason of sale, exchange or abandonment. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. “Qualified investment” shall be determined by calculating the value of the qualified investment that has been newly placed into service at the eligible taxpayer’s Kansas business facility during the taxpayer’s tax year. In order to remain eligible the investment must continue to be used during the tax year and remain in service on the last business day of the taxpayer’s tax year for which the credit is claimed. For plans that show a project shall extend beyond one tax period in which the minimum investment is not met at the end of the first tax period that the qualified investment is placed in service, the qualified investment can be accumulated into the next consecutive tax period for computation of the investment credit until the minimum investment has been met as long as the qualified investment remains in service and is identified as part of the same project. Once the minimum investment has been initially met on a project, subsequent qualified investment may be claimed in the tax period that it is placed in service;

(h) “revenue producing enterprise” means: (1) The assembly, fabrication, manufacture or processing of any agricultural, mineral or manufactured product;

(2) the storage, warehousing, distribution or sale of any products of agriculture, aquaculture, mining or manufacturing;

(3) the feeding of livestock at a feedlot;

(4) the operation of laboratories or other facilities for scientific, agricultural, aquacultural, animal husbandry or industrial research, development or testing;

(5) the performance of services of any type;

(6) the feeding of aquatic plants and animals at an aquaculture operation;

(7) the administrative management of any of the foregoing activities; or

(8) any combination of any of the foregoing activities.

“Revenue producing enterprise” shall not mean a swine production facility as defined in K.S.A. 17-5903, and amendments thereto; and

(i) “same or substantially identical revenue producing enterprise” means a revenue producing enterprise in which the products produced or sold, services performed or activities conducted are the same in character and use, are produced, sold, performed or conducted in the same manner and to or for the same type of customers as the products, services or activities produced, sold, performed or conducted in another revenue producing enterprise.

New Sec. 31. (a) An eligible taxpayer may qualify for the investment credit if all of the following criteria are met: (1) The taxpayer’s Kansas business facility must be:

(A) Identified under the North American industry classification system (NAICS) subsector of 221, 311-425, 481-624, 811, 923, 924, 927 or 928, as assigned by the secretary of the department of labor; or

(B) identified as a headquarters or ancillary support operation by the secretary of commerce for purposes of this act, regardless of NAICS classification;

(2) the qualified investment for the project must equal or exceed \$50,000 for those Kansas business facilities that are located in an opportunity zone and \$150,000 for those Kansas business facilities that are not located in an opportunity zone;

(3) the taxpayer shall satisfy payment of a higher-than-average wage within a wage region at the Kansas business facility at which qualified investment occurs by performing one of the options described below: (A) The taxpayer's Kansas business facility with 500 or fewer full-time equivalent employees will provide an average wage that is above the average wage paid by all Kansas business facilities that share the same assigned NAICS category used to develop wage thresholds and that have reported 500 or fewer employees to the Kansas department of labor on the quarterly wage reports;

(B) the taxpayer's Kansas business facility with 500 or fewer full-time equivalent employees is the sole facility within its assigned NAICS category that has reported wages for 500 or fewer employees to the Kansas department of labor on the quarterly wage reports;

(C) the taxpayer's Kansas business facility with more than 500 full-time equivalent employees will provide an average wage that is above the average wage paid by all Kansas business facilities that share the same assigned NAICS category used to develop wage thresholds and that have reported more than 500 employees to the Kansas department of labor on the quarterly wage reports;

(D) the taxpayer's Kansas business facility with more than 500 full-time equivalent employees is the sole facility within its assigned NAICS category that has reported wages for more than 500 employees to the Kansas department of labor on the quarterly wage reports, in which event it shall either provide an average wage that is above the average wage paid by all Kansas business facilities that share the same assigned NAICS category and that have reported wages for 500 or fewer employees to the Kansas department of labor on the quarterly wage reports, or be the sole Kansas business facility within its assigned NAICS category that has reported wages to the Kansas department of labor on the quarterly wage reports;

(E) the number of NAICS digits to use in developing each set of wage thresholds for comparison purposes shall be determined by the secretary of commerce; or

(F) the composition of wage regions used in connection with each set of wage thresholds shall be determined by the secretary of commerce;

(4) as an alternative to the requirements of subsection (a)(3), a taxpayer having met the requirements of subsections (a)(1) and (2) may wage-qualify its Kansas business facility if, after excluding the headcount and wages reported on the quarterly wage reports to the Kansas department of labor for employees at that Kansas business facility who own five percent or more equity in the taxpayer, the average wage calculated for the taxpayer's Kansas business facility is greater than or equal to 1.5 times the aggregate state-wide average wage paid by industries covered by the employment security law based on data maintained by the secretary of labor; and

(5) for taxpayers not covered by the Kansas employment security law pursuant to K.S.A. 44-703(i)(4)(B), the wage data required to compute the average wage calculated for the taxpayer's Kansas business facility will be based upon the taxpayer's wage level documentation approved by the secretary of commerce.

(b) For the purposes of this section, the number of full-time equivalent employees shall be determined by dividing the number of hours worked by part-time employees during the pertinent measurement interval by an amount equal to the corresponding multiple of a 40-hour work week and adding the quotient to the average number of full-time employees.

New Sec. 32. (a) For taxable years commencing after December 31, 2007, an eligible taxpayer that makes a qualified investment in a Kansas business facility shall be entitled to a credit in an amount equal to 10% of the qualified investment. Qualified investment must be identified and submitted to the secretary of commerce prior to making a commitment to invest. The credit allowed by this subsection shall be a one-time credit. The credit shall be allowed against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, for the taxable year during which the qualified investment is placed into service.

(b) The eligible taxpayer shall claim the credit on the original return or on an amended return for the tax year in which the qualified investment is placed into service as long as the amended return filed is within the statute of limitations.

(c) If the tax credit amount thereof exceeds the tax imposed, the tax credit amount thereof which exceeds the eligible taxpayer's tax liability may be carried forward for credit in the succeeding taxable year or years until the total amount of the tax credit is used, except that no such tax credit shall be carried forward for deduction after the tenth taxable year succeeding the taxable year in which such credit initially was claimed and no carry forward shall be allowed for deduction in any succeeding taxable year unless the taxpayer continues to satisfy the eligibility criteria in section 31, and amendments thereto, for such succeeding taxable year.

(d) A qualified investment, of at least \$150,000, made by the eligible taxpayer in a Kansas business facility that is not located in a designated opportunity zone, may qualify for the investment credit.

(e) A qualified investment, of at least \$50,000, made by the eligible taxpayer in a Kansas business facility that is located in a designated opportunity zone, may qualify for the investment credit.

(f) If the eligible taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners, or members account for their proportionate shares of income or loss of the corporation, partnership or limited liability company.

New Sec. 33. (a) The secretary of revenue and the secretary of commerce shall work together to coordinate a set of procedures to implement the provisions of this act.

(b) Any taxpayer claiming credits pursuant to this act, as a condition for claiming and qualifying for such credits, shall provide information pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto, as part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto.

(c) The secretary of revenue shall submit an annual report to the legislature regarding utilization of the credits claimed pursuant to this act, for purposes of evaluation. Such report shall be due during the legislative session, commencing with the 2010 legislative session.

New Sec. 34. The secretary of revenue and secretary of commerce may adopt such rules and regulations as necessary to carry out the purposes of this act.

New Sec. 35. (a) Except as otherwise provided, for tax years commencing on or after December 31, 2007, no additional credits may be earned through the Kansas enterprise zone act, K.S.A. 79-32,160a, and amendments thereto; or the job expansion and investment tax credit act, K.S.A. 79-32,153, and amendments thereto. Any carry forward credit that has been earned through the Kansas enterprise zone act, K.S.A. 79-32,160a, and amendments thereto, and is remaining after December 31, 2007, may be carried forward to succeeding taxable years as long as all requirements continue to be met. Any credit that has been earned through the job expansion and investment tax credit act, K.S.A. 79-32,153, and amendments thereto, with years left in recomputing the credit after December 31, 2007, may continue for the remainder of the 10-year period as long as all requirements continue to be met.

(b) Except as otherwise provided, for tax years commencing on or after December 31, 2007, no additional credits may be earned through the high performance incentive act, K.S.A. 74-50,115, K.S.A. 74-50,132, and amendments thereto, and subsection (e) of K.S.A. 79-32,160a, and amendments thereto. Any carry forward credit that has been earned through the high performance incentive act, subsection (e) of K.S.A. 79-32,160a, and amendments thereto, and is remaining after December 31, 2007, may be carried forward to succeeding taxable years, providing all requirements continue to be met and subject to the applicable carryforward limitations. Any taxpayer who has filed an application to be certified under K.S.A. 74-50,131, and amendments thereto, prior to July 1, 2008, may claim credits under the high performance incentive act, subsection (e) of K.S.A. 79-32,160a and K.S.A. 74-50,131, and amendments thereto, during the certification period in tax years 2008

and 2009, which credits may be carried forward until used or for a maximum of ten years, as long as such taxpayer does not claim any credits for the same investment under the Kansas investment credit act. To accommodate unusual timing situations during the 2008 transition period, timing modifications may be authorized at the discretion of the secretary of commerce and the secretary of revenue.

New Sec. 36. The provisions of this act shall be applicable to all taxable years commencing after December 31, 2007, and prior to January 1, 2013.

New Sec. 37. The provisions of sections 37 through 42 may be cited and shall be known as the Kansas jobs credit act.

New Sec. 38. As used in the Kansas jobs credit act, unless otherwise provided: (a) "Act" means the Kansas jobs credit act;

(b) "employed" means that an employer-employee relationship exists. A person who performs services for the taxpayer shall be considered as an employee if the taxpayer has the right to direct and control when, where, and how work will be done. In addition the taxpayer shall pay for the employee's wages directly, or indirectly through inter-company transfers. Independent contractors shall not be considered as employed for purposes of the Kansas jobs credit;

(c) "Kansas job credit taxpayer" means any business entity authorized to do business in the state of Kansas which is subject to the state income tax imposed by the provisions of the Kansas income tax act, any national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, or any insurance company paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, is current in payment of Kansas taxes, and has a Kansas business facility as defined in the investment credit act: (1) Identified under the North American industry classification system (NAICS) subsector of 221, 236-238, 311-425, 481-624, 811, 923, 924, 927 or 928, as assigned by the secretary of the department of labor; or

(2) identified as a headquarters or ancillary support operation, regardless of NAICS classification;

(d) "new employee" means a person newly employed by the taxpayer in the taxpayer's business operating in Kansas during the taxable year for which the credit allowed by section 39, and amendments thereto, is claimed. A person shall be deemed to be so engaged if such person performs duties in Kansas in connection with the operation of the Kansas business on: (A) A regular, full-time basis; (B) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year; or (C) a seasonal basis, provided such person performs such duties for substantially all of the season customary for the position in which such person is employed. For a Kansas business that becomes operational during the current tax year, new employees shall be the number of employees employed at the taxpayer's Kansas business on the last business day of the taxpayer's tax year. In the case of employees hired, in which the Kansas business existed and was operated by the taxpayer prior to such hiring, the number of new employees employed in the operation of the Kansas business shall be reduced by the number of employees employed at such Kansas business on the last business day of the taxpayer's previous tax year. Employees acquired through an acquisition or merger of a business operating in Kansas shall not be considered as new employees;

(e) "opportunity zone" means a zone established by the secretary of commerce through rules and regulations which shall: (1) Be comprised of at least one county;

(2) be economically disadvantaged;

(3) not include any counties in a metropolitan statistical area or micropolitan statistical area; and

(4) meet any other criteria established by the secretary of commerce through rules and regulations;

(f) "opportunity zone job credit taxpayer" means any business entity with a Kansas business facility as defined in the Kansas investment credit act authorized to do business in the state of Kansas which is subject to the state income tax imposed by the provisions of the Kansas income tax act, any national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income pursuant to article 11 of chapter

79 of the Kansas Statutes Annotated, or any insurance company paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, and that is current in payment of Kansas taxes;

(g) "related taxpayer" means: (1) A corporation, partnership, trust or association controlled by the taxpayer; (2) an individual, corporation, partnership, trust or association in control of the taxpayer; or (3) a corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. "Control of a corporation" means ownership, directly or indirectly, of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of all other classes of stock of the corporation. "Control of a partnership or association" means ownership of at least 80% of the capital or profits interest in such partnership or association. "Control of a trust" means ownership, directly or indirectly, of at least 80% of the beneficial interest in the principal or income of such trust; and

(h) "secretary" means the secretary of the department of commerce.

New Sec. 39. (a) For taxable years commencing after December 31, 2007, any opportunity zone job credit taxpayer who engages in new employment at least two new employees in the taxpayer's business operating in a designated opportunity zone in Kansas shall be allowed a credit of \$3,500 per new employee, against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, for the taxable year during which the employees were hired. To be considered employed in an opportunity zone, the employee must perform the majority of the services for the opportunity zone job credit taxpayer in the opportunity zone.

(b) Any Kansas job credit taxpayer, as defined in subsection (c)(1) of section 38, and amendments thereto, located in the state of Kansas who engages in new employment at least five new employees in the taxpayer's business operating in Kansas shall be allowed a credit of \$1,500 per new employee, against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, for the taxable year during which the employees were hired.

(c) Any Kansas job credit taxpayer, as defined in subsection (c)(2) of section 38, and amendments thereto, located in the state of Kansas who engages in new employment at least 20 new employees in the taxpayer's business operating in Kansas shall be allowed a credit of \$1,500 per new employee, against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated for the taxable year during which the employees were hired.

(d) The taxpayer shall claim any credits pursuant to this act on the original return or an amended return for the tax year in which the employees were hired as long as the amended return filed is within the statute of limitations.

(e) If the amount of the tax credit exceeds the tax imposed, the amount thereof which exceeds such tax liability may be carried forward for credit in the succeeding taxable year or years until the total amount of the tax credit is used. In the event the taxpayer does not continue to employ the required minimum number of employees, any credit remaining will be forfeited and no longer available for carry forward.

(f) If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners, or members account for their proportionate shares of income or loss of the corporation, partnership or limited liability company.

(g) A taxpayer that qualifies for the opportunity zone job credit for an employee may not also qualify for the Kansas job credit for the same employee.

(h) Only one taxpayer may claim a specific employee for purposes of the opportunity zone job credit or the Kansas job credit. Employees transferred or reassigned within Kansas between related taxpayers will not qualify for the credit.

New Sec. 40. (a) Any taxpayer claiming credits pursuant to this act, as a condition for claiming and qualifying for such credits, shall provide information pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto, as part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto.

(b) The secretary of revenue shall submit an annual report to the legislature regarding utilization of the credits claimed pursuant to this act, for purposes of evaluation. Such report shall be due during the legislative session, commencing with the 2010 legislative session.

New Sec. 41. The secretary of revenue may adopt such rules and regulations as necessary to carry out the purposes of this act.

New Sec. 42. The provisions of this act shall be applicable to all taxable years commencing after December 31, 2007 and prior to January 1, 2013.

Sec. 43. K.S.A. 2006 Supp. 74-50,131 is hereby amended to read as follows: 74-50,131. Commencing after December 31, 1999: (a) As used in ~~this act~~ K.S.A. 74-50,132 and 74-50,133, and amendments thereto: (1) "Qualified firm" means a for-profit business establishment, subject to state income, sales or property taxes, identified under the standard industrial classification (SIC) codes as in effect July 1, 1993, major groups 20 through 39, major groups 40 through 51, and major groups 60 through 89; identified under the North American industry classification system (NAICS) as in effect on October 1, 2000, or is identified as a corporate or regional headquarters or back-office operation of a national or multi-national corporation regardless of SIC code or NAICS designation. The secretary of commerce shall determine eligibility when a difference exists between a firm's SIC code and NAICS designation. A business establishment may be assigned a standard industrial classification code or NAICS designation according to the primary business activity at a single physical location in the state.

(2) "Metropolitan county" means the county of Douglas, Johnson, Leavenworth, Sedgwick, Shawnee or Wyandotte.

(b) ~~In the case of firms in major groups 40 through 51, and major groups 60 through 89 or the appropriate NAICS designation the business establishment must also demonstrate the following:~~

~~(1) More than ½ of its gross revenues are a result of sales to commercial or governmental customers outside the state of Kansas, or~~

~~(2) more than ½ of its gross revenues are a result of sales to Kansas manufacturing firms within major groups 20 through 39 or the appropriate NAICS designation, or~~

~~(3) more than ½ of its gross revenues are a result of a combination of sales described in (1) and (2).~~

~~(c)~~ For purposes of determining whether one of the average wage options described in subsection ~~(b)~~ (c) below is satisfied, business establishments located within a metropolitan county, as defined in K.S.A. 74-50,114, and amendments thereto; will be compared only to other businesses within that metropolitan county, and business establishments located outside of a metropolitan county will be compared to businesses within an aggregation of counties representing the business establishment's region of the state, which regional aggregation will exclude metropolitan counties. Such aggregation shall be determined by the department of commerce.

~~(b)~~ (c) Additionally, a business establishment having met the criteria as established in subsection (a) ~~or (b)~~, and using the comparison method described in subsection ~~(c)~~ (b), must meet one of the following criteria:

(1) The establishment with 500 or fewer full-time equivalent employees will provide an average wage that is above the average wage paid by all firms with 500 or fewer full-time equivalent employees which share the same two-digit standard industrial classification code or appropriate NAICS designation.

(2) The establishment with 500 or fewer full-time equivalent employees is the sole firm within its two-digit standard industrial classification code or appropriate NAICS designation which has 500 or fewer full-time equivalent employees.

(3) The establishment with more than 500 full-time equivalent employees will provide an average wage that is above the average wage paid by firms with more than 500 full-time equivalent employees which share the same two-digit standard industrial classification code or appropriate NAICS designation.

(4) The establishment with more than 500 full-time equivalent employees is the sole firm within its two-digit standard industrial classification code or appropriate NAICS designation which has 500 or more full-time equivalent employees, in which event it shall either provide an average wage that is above the average wage paid by all firms with 500 or fewer full-time equivalent employees which share the same two-digit standard industrial classification code or appropriate NAICS designation, or be the sole firm within its two-digit standard industrial classification code or appropriate NAICS designation.

~~(c)~~ (d) As an alternative to the requirements of subsections ~~(c)~~ and ~~(d)~~ (b) and (c), a firm having met the requirements of ~~subsections (a) or (b)~~ subsection (a), may qualify, if excluding taxable disbursements to company owners, the business establishment's annual average wage must be greater than or equal to 1.5 times the aggregate average wage paid by industries covered by the employment security law based on data maintained by the secretary of labor.

~~(d)~~ (e) For the purposes of this section, the number of full-time equivalent employees shall be determined by dividing the number of hours worked by part-time employees during the pertinent measurement interval by an amount equal to the corresponding multiple of a 40-hour work week and adding the quotient to the number of full-time employees.

~~(e)~~ (f) The secretary of commerce shall certify annually to the secretary of revenue that a firm meets the criteria for a qualified firm and that the firm is eligible for the benefits and assistance provided under ~~this act~~ K.S.A. 74-50,132 and 74-50,133, and amendments thereto. The secretary of commerce is hereby authorized to obtain any and all information necessary to determine such eligibility. Information obtained under this section shall not be subject to disclosure pursuant to K.S.A. 45-215 et seq., and amendments thereto, but shall upon request be made available to the legislative post audit division. The secretary of commerce shall publish rules and regulations for the implementation of this act. Such rules and regulations shall include, but not be limited to:

(1) A definition of "training and education" for purposes of K.S.A. 74-50,132 and amendments thereto.

(2) Establishment of eligibility requirements and application procedures for expenditures from the high performance incentive fund created in K.S.A. 74-50,133 and amendments thereto.

(3) Establishment of approval guidelines for private consultants authorized pursuant to K.S.A. 74-50,133 and amendments thereto.

(4) Establishment of guidelines for prioritizing business assistance programs pursuant to K.S.A. 74-50,133 and amendments thereto.

(5) A definition of "commercial customer" for the purpose of K.S.A. 74-50,133 and amendments thereto.

(6) A definition of "headquarters" for the purpose of K.S.A. 74-50,133 and amendments thereto.

(7) Establishment of guidelines concerning the use and disclosure of any information obtained to determine the eligibility of a firm for the assistance and benefits provided for by ~~this act~~ K.S.A. 74-50,132 and 74-50,133, and amendments thereto.

Sec. 44. K.S.A. 2006 Supp. 74-50,132 is hereby amended to read as follows: 74-50,132.

(a) For taxable years commencing after December 31, 1997, a qualified firm shall be entitled to a credit against the tax imposed by the Kansas income tax act, the premium tax or privilege fee imposed pursuant to K.S.A. 40-252, and amendments thereto or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated in an amount equal to the portion of the qualified business facility cash investment in the training and education of the firm's employees that exceeds 2% of the firm's total payroll costs. The maximum amount of the credit that may be claimed by a single corporate taxpayer in any single tax year under this section shall not exceed

\$50,000. Tax credits earned by a qualified business under this section must be claimed in their entirety in the tax year eligible.

(b) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to this section, as a condition for claiming and qualifying for such credits, shall provide information pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto, as part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 2006 Supp. 79-32,243, and amendments thereto.

(c) For purposes of this section, training and education shall include verifiable computer-based training.

Sec. 45. K.S.A. 40-253a is hereby amended to read as follows: 40-253a. For purposes of calculating any tax due under K.S.A. 40-253, and amendments thereto, from a taxpayer not organized under the laws of this state, the credits allowed pursuant to K.S.A. 40-2813, 74-50,132, ~~79-32,153, 79-32,160~~ and 79-32,196, and the Kansas investment credit act and the Kansas jobs credit act, and amendments thereto, shall be treated as tax paid under K.S.A. 40-252, and amendments thereto.

Sec. 46. K.S.A. 74-8945 is hereby amended to read as follows: 74-8945. The establishment shall not be allowed credits pursuant to K.S.A. ~~79-32,160~~ the Kansas investment credit act, and amendments thereto, for any amount of investment related to or computed on the basis of any investment of the proceeds of obligations issued pursuant to this act.

Sec. 47. K.S.A. 2006 Supp. 79-32,111 is hereby amended to read as follows: 79-32,111. ~~(a)~~ The amount of income tax paid to another state by a resident individual, resident estate or resident trust on income derived from sources in another state shall be allowed as a credit against the tax computed under the provisions of this act. Such credit shall not be greater in proportion to the tax computed under this act than the adjusted gross income for such year derived in another state while such taxpayer is a resident of this state is to the total Kansas adjusted gross income of the taxpayer. As used in this subsection, state shall have the meaning ascribed thereto by subsection (h) of K.S.A. 79-3271, and amendments thereto. The credit allowable hereunder for income tax paid to a foreign country or political subdivision thereof shall not exceed the difference of such income tax paid less the credit allowable for such income tax paid by the federal internal revenue code. No redetermination of income tax paid for the purposes of determining the credit allowed by this subsection shall be required for the taxable year for which an income tax refund payment pursuant to the provisions of section 18 of article 10 of the Missouri constitution is made, but the income tax paid allowable for credit in the next following taxable year shall be reduced by the amount of such refund amount, except that, for tax year 1998, the income tax paid allowable for credit shall be reduced by the amount of such refunds made for all taxable years prior to tax year 1998.

~~(b) There shall be allowed as a credit against the tax computed under the provisions of the Kansas income tax act, and acts amendatory thereof and supplemental thereto, on the Kansas taxable income of an individual, corporation or fiduciary the amount determined under the provisions of K.S.A. 79-32,153 to 79-32,158, and amendments thereto.~~

Sec. 48. K.S.A. 2006 Supp. 79-32,243 is hereby amended to read as follows: 79-32,243.

(a) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to K.S.A. 74-50,132, 79-32,153 or 79-32,160a, and amendments thereto, and the Kansas investment credit act and the Kansas jobs credit act, and amendments thereto, as a condition for claiming and qualifying for such credits, shall provide the following information as part of the tax return, in which such credits are claimed, which shall be used by the department of revenue in evaluating the effectiveness of such tax credit programs, pursuant to K.S.A. 2006 Supp. 74-99b35, and amendments thereto:

(1) Actual jobs created as a direct result of the expenditures on which such credit claim is based, if the taxpayer has previously submitted an estimate of such number of actual jobs created to the department of commerce as a part of applying for certification for such program participation;

(2) additional payroll generated as a direct result of the expenditures on which such credit claim is based, if the taxpayer has previously submitted an estimate of such amount of

additional payroll generated to the department of commerce as a part of applying for certification for such program participation;

(3) actual jobs retained as a direct result of the expenditures on which such credit claim is based, if the taxpayer has previously submitted an estimate of actual jobs retained to the department of commerce as a part of applying for certification for such program participation;

(4) additional revenue generated as a direct result of the expenditures on which such credit claim is based, if the taxpayer has previously submitted an estimate of such amount of additional revenue generated to the department of commerce as a part of applying for certification for such program participation;

(5) additional sales generated as a direct result of the expenditures on which such credit claim is based, if the taxpayer has previously submitted an estimate of additional sales generated to the department of commerce as a part of applying for certification for program participation; and

(6) total employment and payroll at the end of the tax year in which the credits are claimed.

(b) Such credits specified in subsection (a) shall not be denied solely on the basis of the information provided by the taxpayer pursuant to subsections (a)(1) through (a)(6).

Sec. 49. K.S.A. 2006 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry services taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross receipts from regulated sports contests taxed pursuant to the Kansas professional regulated sports act, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district de-

scribed in subsection (s), the total cost of which is paid from funds of such political subdivision or district and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school or educational institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement,

on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft for use outside of the United States and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603 and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, “drug” means a compound, substance or preparation and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages, recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, and supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or intended to affect the structure or any function of the body;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and repair and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) “Mobility enhancing equipment” means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) “prosthetic device” means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;

(s) except as provided in K.S.A. 2006 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq. and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term “farm machinery and equipment or aquaculture machinery and equipment” shall include a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments thereto, and is equipped with a bed or cargo box for hauling materials, and shall also include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of tangible personal property to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government

or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of tangible personal property for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose, and all sales of food products by or on behalf of any such contractor or organization for any such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales of natural gas, electricity and heat delivered through mains, lines or pipes pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions of this subsection shall expire on December 31, 2005;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises occurring prior to January 1, 2006;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a ~~business or retail business which meets the requirements established in K.S.A. 74-50, 115 and amendments thereto~~ *Kansas business facility*, and the sale and installation of machinery and equipment purchased for installation at any such ~~business or retail business~~ *Kansas business facility*. When a ~~person shall contract~~ *Kansas jobs or opportunity zone credit taxpayer, as defined in section 38, and amendments thereto, or an eligible taxpayer, as defined in section 30, and amendments thereto, purchases machinery and equipment or contracts* for the construction, reconstruction, enlargement or remodeling of any such ~~business or retail business~~ *Kansas business facility*, such ~~person taxpayer~~ shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. *Such exemption certificate shall not extend beyond two years from the date of the application for the exemption certificate. Extensions may be granted under proper circumstances.* The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the ~~owner of the business or retail business taxpayer~~ a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed

thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. ~~As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto. Any person constructing, reconstructing, remodeling or enlarging a facility which will be leased in whole or in part for a period of five years or more, to a Kansas jobs or opportunity zone credit taxpayer as defined in section 38, and amendments thereto, or an eligible taxpayer as defined in section 30, and amendments thereto, that would be eligible for a sales tax exemption under the provisions of this subsection, if such taxpayer had constructed, reconstructed, enlarged or remodeled such facility or portion thereof itself shall be entitled to the sales tax exemption under the provisions of this subsection. When such person leases less than the total facility to such taxpayer, a project exemption certificate may be granted on: (1) The total cost of constructing, reconstructing, remodeling or enlarging, the facility multiplied by a fraction given by dividing the number of leased square feet eligible for the sales tax exemption by the total square feet being constructed, reconstructed, remodeled or enlarged; or (2) the actual cost of constructing, reconstructing, remodeling or enlarging that portion of the facility to be occupied by such taxpayer, as the person may elect;~~

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment, including durable medical equipment, purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes. As used in this subsection, "durable medical equipment" means equipment including repair and replacement parts for such equipment, but does not include mobility enhancing equipment as defined in subsection (r) which can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury and is not worn in or on the body;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto and all sales of tangible personal property or services purchased by contractors during the time period from July, 2003, through June, 2006, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based mental retardation facility or mental health center located in Riverton, Cherokee County, Kansas, which would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) "production line" means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, non-industrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill

bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from offsite, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and to education, research and support for them and their families;

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease;

(8) the National Kidney Foundation of Kansas and Western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

(9) the heartstrings community foundation for the purpose of providing training, employment and activities for adults with developmental disabilities;

(10) the Cystic Fibrosis Foundation, Heart of America Chapter, for the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease;

(11) the spina bifida association of Kansas for the purpose of providing financial, educational and practical aid to families and individuals with spina bifida. Such aid includes, but is not limited to, funding for medical devices, counseling and medical educational opportunities;

(12) the CHWC, Inc., for the purpose of rebuilding urban core neighborhoods through the construction of new homes, acquiring and renovating existing homes and other related activities, and promoting economic development in such neighborhoods;

(13) the cross-lines cooperative council for the purpose of providing social services to low income individuals and families;

(14) the Dreams Work, Inc., for the purpose of providing young adult day services to individuals with developmental disabilities and assisting families in avoiding institutional or nursing home care for a developmentally disabled member of their family;

(15) the KSDS, Inc., for the purpose of promoting the independence and inclusion of people with disabilities as fully participating and contributing members of their communities and society through the training and providing of guide and service dogs to people with disabilities, and providing disability education and awareness to the general public; and

(16) the lyme association of greater Kansas City, Inc., for the purpose of providing support to persons with lyme disease and public education relating to the prevention, treatment and cure of lyme disease;

(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

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

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of con-

structing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the

contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation;

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas Academy of Science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials;

(hhh) all sales of tangible personal property and services purchased by or on behalf of all domestic violence shelters that are member agencies of the Kansas coalition against sexual and domestic violence;

(iii) all sales of personal property and services purchased by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such

organization in the collection, storage and distribution of food products to nonprofit organizations which distribute such food products to persons pursuant to a food distribution program on a charitable basis without fee or charge, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities used for the collection and storage of such food products for any such organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 2005, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(jii) all sales of dietary supplements dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "dietary supplement" means any product, other than tobacco, intended to supplement the diet that: (1) Contains one or more of the following dietary ingredients: A vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet by increasing the total dietary intake or a concentrate, metabolite, constituent, extract or combination of any such ingredient; (2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for ingestion, in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and (3) is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 C.F.R. § 101.36;

(lll) all sales of tangible personal property and services purchased by special olympics Kansas, inc. for the purpose of providing year-round sports training and athletic competition in a variety of olympic-type sports for individuals with intellectual disabilities by giving them continuing opportunities to develop physical fitness, demonstrate courage, experience joy and participate in a sharing of gifts, skills and friendship with their families, other special olympics athletes and the community, and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization;

(mmm) all sales of tangible personal property purchased by or on behalf of the Marillac Center, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing psycho-social-biological and special education services to children, and all sales of any such property by or on behalf of such organization for such purpose;

(nnn) all sales of tangible personal property and services purchased by the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable Fund for the purpose of constructing a boundless playground which is an integrated, barrier free and developmentally advantageous play environment for children of all abilities and disabilities;

(ooo) all sales of tangible personal property by or on behalf of a public library serving the general public and supported in whole or in part with tax money or a not-for-profit organization whose purpose is to raise funds for or provide services or other benefits to any such public library;

(ppp) all sales of tangible personal property and services purchased by or on behalf of a homeless shelter which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal income tax code of 1986, and used by any such homeless shelter to provide emergency and transitional housing for individuals and families experiencing homelessness, and all sales of any such property by or on behalf of any such homeless shelter for any such purpose;

(qqq) all sales of tangible personal property and services purchased by TLC for children and families, inc., hereinafter referred to as TLC, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of TLC for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC. When TLC contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee

or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(rrr) all sales of tangible personal property and services purchased by any county law library maintained pursuant to law and sales of tangible personal property and services purchased by an organization which would have been exempt from taxation under the provisions of this subsection if purchased directly by the county law library for the purpose of providing legal resources to attorneys, judges, students and the general public, and all sales of any such property by or on behalf of any such county law library;

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

(ttt) all sales of tangible personal property or services purchased by a contractor for a project for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which has been granted an exemption pursuant to subsection (qq), which such home or facility is located in a city which has been designated as a qualified hometown pursuant to the provisions of K.S.A. 75-5071, et seq., and amendments thereto, and which such project is related to the purposes of K.S.A. 75-5071, et seq., and amendments thereto, and which would be exempt from taxation under the provisions of this section if purchased directly by

such nonprofit museum. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility for any such nonprofit museum. When any such nonprofit museum shall contract for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such nonprofit museum a sworn statement on a form to be provided by the director of taxation that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in a home or facility or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such nonprofit museum shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto; and

(uuu) all sales of tangible personal property and services purchased by Kansas children's service league, hereinafter referred to as KCSL, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing for the prevention and treatment of child abuse and maltreatment as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of KCSL for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for KCSL for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by KCSL. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for KCSL. When KCSL contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to KCSL a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, KCSL shall be liable for tax on all materials

purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto.

Sec. 50. K.S.A. 2006 Supp. 74-8132 is hereby amended to read as follows: 74-8132. As used in this act:

(a) “Angel investor” and “investor” mean an accredited ~~individual~~ investor *who is a natural person or an owner of a permitted entity investor, who is of high net worth, as defined in 17 C.F.R. 230.501(a) as in effect on the effective date of this act, and who seeks high returns through private investments in start-up companies and may seek active involvement in business, such as consulting and mentoring the entrepreneur. For the purposes of this act, a person who serves as an executive, officer, employee, vendor or independent contractor of the business in which an otherwise qualified cash investment is made is not an angel investor and such person shall not qualify for the issuance of tax credits for such investment;*

(b) “Bioscience business” means what is reflected in K.S.A. 2006 Supp. 74-99b83, and amendments thereto;

~~(c)~~ (c) “cash investment” means money or money equivalent in consideration for qualified securities;

~~(d)~~ (d) “KTEC” means the Kansas technology enterprise corporation, a public instrumentality created pursuant to K.S.A. 74-8101, and amendments thereto;

~~(e)~~ (e) “Kansas business” means any business owned by an individual, any partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that does business primarily in Kansas or does substantially all of such businesses’ production in Kansas;

(f) “owner” means any natural person who is, directly or indirectly, a partner, stockholder or member in a permitted entity investor;

(g) “permitted entity investor” means (A) any general partnership, limited partnership, corporation that has in effect a valid election to be taxed as an S corporation under the United States internal revenue code, or a limited liability company that has elected to be taxed as a partnership under the United States internal revenue code and (B) that was established and is operated for the sole purpose of making investments in other entities;

~~(h)~~ (h) “qualified Kansas business” means the Kansas businesses that are approved and certified as qualified Kansas businesses as provided in K.S.A. 2006 Supp. 74-8134, and amendments thereto; and

~~(i)~~ (i) “qualified securities” means a cash investment through any one or more forms of financial assistance as provided in this subsection that have been approved in form and substance by KTEC. Such forms of financial assistance are: (1) Any form of equity, such as: (A) A general or limited, partnership interest; (B) common stock; (C) preferred stock, with or without voting rights, without regard to seniority position, and whether or not convertible into common stock; or (D) any form of subordinate or convertible debt, or both, with warrants or other means of equity conversion attached; or

(2) a debt instrument, such as a note or debenture that is secured or unsecured, subordinated to the general creditors of the debtor and requires no payments of principal, other than principal payments required to be made out of any future profits of the debtor, for at least a seven-year period after commencement of such debt instrument’s term.

Sec. 51. K.S.A. 2006 Supp. 74-8133 is hereby amended to read as follows: 74-8133. (a) A credit against the tax imposed by article 32 of chapter 79 of the Kansas Statutes Annotated on the Kansas taxable income of an angel investor and against the tax imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for a cash investment in the qualified securities of a qualified Kansas business. The credit shall be in a total amount equal to 50% of such investors’ cash investment in any qualified Kansas business, subject to the limitations set forth in subsection (b). This tax credit may be used in its entirety in the taxable year in which the cash investment is made except that no tax credit shall be allowed in a year prior to January 1, 2005. If the amount by which that portion of the credit allowed by this section

exceeds the investors' liability in any one taxable year, beginning in the year 2005, the remaining portion of the credit may be carried forward until the total amount of the credit is used. *If the investor is a permitted entity investor, the credit provided by this section shall be claimed by the owners of the permitted entity investor in proportion to their ownership share of the permitted entity investor.*

(b) ~~The secretary of revenue shall not allow tax credits that are attributable to an individual investor of more than \$50,000 of cash investments in the qualified securities of a single Kansas business or for cash investments in the qualified securities of more than five Kansas businesses each year of more than \$50,000 for a single Kansas business or a total of \$250,000 in tax credits for a single year per investor who is a natural person or owner of a permitted entity investor. No tax credits authorized by this act shall be allowed for any cash investments in qualified securities for any year after the year 2016. The cumulative aggregate amount of the tax credits allowed by the secretary of revenue, pursuant to this act, shall not exceed \$20,000,000. The total amount of tax credits which may be allowed under this section shall not exceed \$2,000,000 per tax year \$4,000,000 during the tax year 2007 and \$6,000,000 for tax year 2008 and each tax year thereafter.~~ The balance of unissued tax credits may be carried over for issuance in future years until 2016.

(c) A cash investment in a qualified security shall be deemed to have been made on the date of acquisition of the qualified security, as such date is determined in accordance with the provisions of the internal revenue code.

(d) No investor shall claim a credit under this section for cash investments in Kansas venture capital, inc. No Kansas venture capital company shall qualify for the tax credit for an investment in a fund created by articles 81, 82, 83 or 84 of chapter 74 of the Kansas Statutes Annotated.

(e) ~~Any investor that is not subject to taxation who has not owed any Kansas income tax under the provisions of article 32, chapter 79 of the Kansas Statutes Annotated and that for the immediate past three taxable years, who does not reasonably believe that it will owe any such tax for the current taxable year and who makes a cash investment in a qualified security of a qualified Kansas business shall be deemed to acquire an interest in the nature of a transferable credit limited to an amount equal to 50% of this cash investment. This interest may be transferred to an investor any natural person of net worth, as defined in 17 C.F.R. 230.501(a) as in effect on the effective date of this act whether or not such person is then an investor and be claimed by this investor the transferee as a credit against the investor's transferee's Kansas income tax liability beginning in the year provided in subsection (a). No person shall be entitled to a refund for the interest created under this section. Only the full credit for any one investment may be transferred and this interest may only be transferred one time. A credit acquired by transfer shall be subject to the limitations prescribed in this section. Documentation of any credit acquired by transfer shall be provided by the investor in the manner required by the director of taxation.~~

(f) The reasonable costs of the administration of this act, the review of applications for certification as qualified Kansas businesses and the issuance of tax credits authorized by this act shall be reimbursed through fees paid by the qualified Kansas businesses and the investors or the transferees of investors, according to a reasonable fee schedule adopted by the corporation.

Sec. 52. K.S.A. 2006 Supp. 74-8134 is hereby amended to read as follows: 74-8134. (a) Before an angel investor may be entitled to receive tax credits, as authorized by this act, such investor must have made a cash investment in a qualified security of a qualified Kansas business. This business must have been approved by KTEC as a qualified Kansas business prior to the date on which the cash investment was made. To be designated as a qualified Kansas business, a business must make application to KTEC in accordance with the provisions of this section.

(b) Such application to KTEC shall be in form and substance as required by KTEC, but shall include at least the following:

- (1) The name of the business and certified copies of the organizational documents of the business;
- (2) a business plan, including a description of the business and the management, product, market and financial plan of business;

- (3) a statement of the business innovative and proprietary technology, product or service;
 - (4) a statement of the potential economic impact of the enterprise, including the number, location and types of jobs expected to be created;
 - (5) a description of the qualified securities to be issued, the consideration to be paid for the qualified securities, the amount of any tax credits requested and the earliest year in which the tax credits may be redeemed;
 - (6) a statement of the amount, timing and projected use of the proceeds to be raised from the proposed sale of qualified securities; and
 - (7) such other information as KTEC may request, such as the names, addresses and taxpayer identification numbers of all investors who may qualify for the tax credit. Such list of investors who may qualify for the tax credits shall be amended as new qualified securities are sold or as any information on the list shall change.
- (c) No business shall be designated as a qualified Kansas business unless such business meets all of the following criteria:

- (1) The business must not have had annual gross revenues of more than \$5,000,000 in the most recent tax year of the business;
- (2) ~~the business~~ *businesses that are not bioscience businesses* must have been in operation for less than five years; *bioscience businesses must have been in operation for less than 10 years;*

(3) *all else equal, first consideration will be given to animal health companies.*

~~(4)~~ (4) the business must not have ownership interests including, but not limited to, common or preferred shares of stock that can be traded by the public via a stock exchange, electronic exchange, bulletin board or other public market place on or before the date that a qualifying investment is made;

~~(5)~~ (5) the business must not be engaged primarily in any one or more of the following enterprises: (A) Any service provider set forth in K.S.A. 17-2707, and amendments thereto; (B) the business of banking, savings and loan or lending institutions, credit or finance, or financial brokerage or investments; (C) the provision of professional services, such as legal, accounting or engineering services; (D) governmental, charitable, religious or trade organizations; (E) the ownership, development, brokerage, sales or leasing of real estate; (F) insurance; (G) construction or construction management or contracting; (H) business consulting or brokerage; (I) any business engaged primarily as a passive business, having irregular or noncontinuous operations, or deriving substantially all of the income of the business from passive investments that generate interest, dividends, royalties, or capital gains, or any business arrangements the effect of which is to immunize an investor from risk of loss; (J) any Kansas certified capital formation company; ~~and~~ (K) any activity that is in violation of the law; and (L) *any business raising money primarily to purchase real estate, land or fixtures; and*

~~(6)~~ (6) the business must satisfy all other requirements of this act.

(d) Notwithstanding the requirements of subsection (c), a business may be considered as a qualified Kansas business under the provisions of this act if such business falls within a standard industrial classification code.

(e) The portions of documents and other materials submitted to KTEC that contain trade secrets shall be kept confidential and shall be maintained in a secured environment by the president of KTEC. For the purposes of this act, such portions of documents and other materials means any customer lists, any formula, compound, production data or compilation of information certain individuals within a commercial concern using such portions of documents and other material means to fabricate, produce or compound an article of trade, or, any service having commercial value, which gives the user an opportunity to obtain a business advantage over competitors who do not know or use such service.

(f) A qualified Kansas business shall have the burden of proof to demonstrate to KTEC the qualifications of the business under this section and shall have the obligation to notify KTEC in a timely manner of any changes in the qualifications of the business or in the eligibility of investors to claim a tax credit for cash investment in a qualified security.

Sec. 53. K.S.A. 2006 Supp. 74-8135 is hereby amended to read as follows: 74-8135. (a) The designation of a business as a qualified Kansas business shall be made by KTEC, and such designation must be renewed annually. A business shall be so designated if KTEC

determines, based upon the application submitted by the business and any additional investigation the staff of KTEC shall make, that the following criteria have been or shall be satisfied:

- (1) The business has a reasonable chance of success;
- ~~(2) the ability of investors in the business to receive tax credits for cash investments in qualified securities of the business is necessary, because funding otherwise available for the business is not available on commercially reasonable terms;~~
- ~~(3) the business has the reasonable potential to create measurable employment within the state;~~
- ~~(4) (3) the business has an innovative and proprietary technology, product and service;~~
- ~~(5) (4) the existing owners of the business and other founders have made or are committed to make a substantial financial and time commitment to the business;~~
- ~~(6) (5) the securities to be issued and purchased are qualified securities; and~~
- ~~(7) (6) binding commitments have been made by the business to KTEC for adequate reporting of financial data, including a requirement for an annual report, or, if required by the board of directors of KTEC, an annual audit of the financial and operational records of the business, the right of access to the financial records of the business and the right of KTEC to record and publish normal and customary data and information related to the issuance of tax credits that are not otherwise determined to be trade or business secrets.~~

(b) In addition to reports by the businesses to KTEC and its board of directors, KTEC will also provide an annual report, on or before February 1, to the governor, to the senate committee on commerce, the house committee on economic development and tourism and the joint committee on economic development and any successor committees thereto, on the marketing and use of the angel investor tax credits. This report will include the following: The amount of tax credits used in the previous fiscal year including what percentage was claimed by individuals and what percentage was claimed by investment firms; the types of businesses that benefited from the tax credits; and any aggregate job creation or capital investment in Kansas that resulted from the use of the tax credits for a period of five years beginning from the date on which the tax credits were awarded. In addition, the annual report will provide information regarding what businesses which derived benefit from the tax credits remained in Kansas and what businesses ceased business, what businesses were purchased and what businesses may have moved out-of-state and why.”;

And by renumbering the remaining sections accordingly;

On page 52, in line 6, by striking all following “K.S.A.”; by striking all in lines 7 through 10 and inserting “12-1770, 12-1776, 40-253a, 74-50,113, 74-50,116, 74-50,117, 74-50,118, 74-50,119, 74-50,135, 74-50,135a, 74-8945, 79-32,155, 79-32,156, 79-32,157, 79-32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-32,159c, 79-32,160, 79-32,160b and 79-32,160c and K.S.A. 2006 Supp. 12-1770a, 12-1771, 12-1771b, 12-1771d, 12-1773, 12-1773, as amended by section 3 of chapter 192 of the 2006 Session Laws of Kansas, 12-1774, 12-1774a, 12-1780b, 12-1780c, 12-1780d, 12-1780e, 12-1780f, 74-50,114, 74-50,115, 74-50,131, 74-50,132, 74-50,134, 74-8132, 74-8133, 74-8134, 74-8135, 74-99c04, 74-99c08, 74-99c10, 79-32,157, 79-32,111, 79-32,153, 79-32,154, 79-32,160a, 79-32,243 and 79-3606 are hereby repealed.”;

On page 1, in the title, in line 12, preceding “establishing” by inserting “concerning the Kansas angel investor tax credit act;”; also in line 12, following the semicolon, where it appears for the last time, by inserting “enacting the Kansas investment credit act and the Kansas jobs credit act; relating to qualifications and procedures; eliminating certain existing credits related thereto;”; in line 13, by striking all following “amending”; by striking all in lines 14 through 18 and inserting “K.S.A. 12-1770, 12-1776, 40-253a and 74-8945 and K.S.A. 2006 Supp. 12-1770a, 12-1771, 12-1771b, 12-1773, 12-1774, 12-1774a, 74-50,131, 74-50,132, 74-8132, 74-8133, 74-8134, 74-8135, 74-99c04, 74-99c08, 74-99c10, 79-32,111, 79-32,243 and 79-3606 and repealing the existing sections; also repealing K.S.A. 74-50,113, 74-50,116, 74-50,117, 74-50,118, 74-50,119, 74-50,135, 74-50,135a, 79-32,155, 79-32,156, 79-32,157, 79-32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-32,159c, 79-32,160, 79-32,160b and 79-32,160c and K.S.A. 2006 Supp. 12-1773, as amended by section 3 of chapter 192 of the 2006 Session Laws of Kansas, 12-1771d, 12-1780b, 12-1780c, 12-1780d, 12-

1780e, 12-1780f, 74-50,114, 74-50,115, 74-50,134, 79-3269, 79-32,153, 79-32,154 and 79-32,160a.”

Senator Pyle further amended **HB 2005** as amended by Senate Committee, on page 52, after line 5, by inserting the following:

“Sec. 33. K.S.A. 2006 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117.

(a) The Kansas adjusted gross income of an individual means such individual’s federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer’s federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments to such sections.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-32,204 and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203 and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2006 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross

income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2006 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 2006 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2006 Supp. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-32,223 through 79-32,226, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2006 Supp. 79-32,227, and amendments thereto.

(xvii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-32,228 through 79-32,231, and amendments thereto.

(xviii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2006 Supp. 79-32,232, and amendments thereto.

(xix) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-32,233 through 79-32,236, and amendments thereto.

(xx) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2006 Supp. 79-32,237, and amendments thereto.

(xxi) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-32,238 through 79-32,241, and amendments thereto.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as

amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249 and amendments thereto.

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2006 Supp. 74-50,201, et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation.

(xv) For all taxable years beginning after December 31, 1999, amounts not exceeding \$2,000, or \$4,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. For all taxable years beginning after December 31, ~~2004~~ 2006, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2006 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(xvi) For the tax year beginning after December 31, 2004, an amount not exceeding \$500; for the tax year beginning after December 31, 2005, an amount not exceeding \$600; for the tax year beginning after December 31, 2006, an amount not exceeding \$700; for the tax

year beginning after December 31, 2007, an amount not exceeding \$800; for the tax year beginning December 31, 2008, an amount not exceeding \$900; and for all taxable years commencing after December 31, 2009, an amount not exceeding \$1,000 of the premium costs for qualified long-term care insurance contracts, as defined by subsection (b) of section 7702B of public law 104-191.

(xvii) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are or were members of the armed forces of the United States, including service in the Kansas army and air national guard, as a recruitment, sign up or retention bonus received by such taxpayer as an incentive to join, enlist or remain in the armed services of the United States, including service in the Kansas army and air national guard, and amounts received for repayment of educational or student loans incurred by or obligated to such taxpayer and received by such taxpayer as a result of such taxpayer's service in the armed forces of the United States, including service in the Kansas army and air national guard.

(xviii) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are eligible members of the Kansas army and air national guard as a reimbursement pursuant to K.S.A. 48-281, and amendments thereto, and amounts received for death benefits pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and amendments thereto, to the extent that such death benefits are included in federal adjusted gross income of the taxpayer.

(xix) *For all taxable years beginning after December 31, 2006, amounts received as income by the spouse of an individual serving in the armed forces of the United States in an area designated by the president of the United States by executive order as a combat zone as defined under 26 U.S.C. 112 at any time during the period designated by the president by executive order as the period of combatant activities in such zone for the purposes of such section, during the period of time the individual is serving in such combat, to the extent that such income of the spouse is included in federal adjusted gross income.*

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.”;

And by renumbering the remaining sections accordingly;

Also on page 52, in line 10, by striking “and” and inserting a comma; also in line 10, after “74-99c10” by inserting “, 79-32,117 and 79-32,117”;

On page 1, in the title, in line 12, after the second semicolon by inserting “income tax credit, spouse of certain service personnel.”; in line 15, by striking “and” the first time it appears and inserting a comma; also in line 15, after “74-99c10” by inserting “and 79-32,117”; in line 18, by striking “and” and inserting a comma; also in line 18, after “12-1780f” by inserting “and 79-32,117” and **HB 2005** be passed as further amended.

The following amended offered by Senator Pyle to **HB 2005** was rejected: As amended by Senate Committee, on page 52, after line 5, by inserting the following:

“New Sec. 33. (a) As used in this section, “disabled veteran” means a person separated from the armed services under an honorable discharge and who has a disability certified by the United States department of veteran affairs as being service connected and such service connected disability is equal to or greater than 30%.

(b) For all taxable years commencing after December 31, 2006, any taxpayer who is a disabled veteran shall be allowed a credit, as provided in subsection (c), against the tax imposed by the Kansas income tax act for real property taxes actually and timely paid by such taxpayer upon the principal place of residence of such taxpayer during the income taxable year.

(c) The amount of the credit allowed pursuant to subsection (b) shall be an amount equal to the product of the total amount of such real property taxes paid during the income taxable

year and the amount of service connected disability of such taxpayer expressed as a percentage.

(d) If the amount of such tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount thereof which exceeds such tax liability shall be refunded to the taxpayer.

(e) The secretary of revenue shall adopt rules and regulations regarding the filing of documents that support the amount of credit allowed pursuant to this section.”;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 12, after the second semicolon by inserting “income tax credit for property taxes paid by certain veterans;”

HB 2019 as amended by adoption of the committee amendments in the morning session, be further amended by motion of Senator Francisco as amended by Senate Committee, on page 18, after line 35, by inserting the following:

“Sec. 6. K.S.A. 25-2810 is hereby amended to read as follows: 25-2810. (a) Each election board shall have control of its voting place and election procedure under the sole supervision of the secretary of state, county election officer, deputy county election officers and the supervising judge. The election board shall open the polls at the time specified by the county election officer. The judges shall have charge of the ballots and the supervising judge shall designate one of their number to furnish them to voters as provided by law.

(b) Any election board of five or more members may be divided by the county election officer into a receiving board and a counting board, and the receiving board shall furnish and receive ballots and record the names of voters. The receiving board shall have control of the voting place and election procedure under the sole supervision and direction of the secretary of state, county election officer, deputy county election officers, and the supervising judge. The receiving board shall open and close the polls at the time specified by the county election officer.

(c) The counting board or boards, if any, shall proceed to their voting place after the opening of the polls at the hour specified by the county election officer.

(d) At national and state elections, both primary and general, the counting board, if any, shall take charge of one of the ballot boxes containing the national and state ballots already cast in that precinct. It shall retire to a partitioned room or space in the voting place provided for that purpose and there proceed to count and tabulate the ballots cast as it shall find them deposited in the national and state ballot box. The receiving board shall continue to receive the votes of electors in another national and state ballot box, and in a county and township ballot box until such time as the counting board shall have finished counting and tabulating the ballots cast in the first national and state ballot box. They shall then exchange the first box for the second national and state box, and so continue until they have counted and tabulated all the votes cast on that election day in the national and state ballot boxes. Counting boards may, in like manner, count the ballots in other ballot boxes when only an unsubstantial number of national and state ballots have been cast and are uncounted, and likewise at elections where there are no national and state ballots. Prior to the closing of the polls, no ballots shall be counted from any ballot box containing less than 50 ballots. No result of the count shall be made known to any person not on the election board, except the county election officer or such officer's deputies, until after the time to close the polls.

(e) At city and school elections, both primary and general, the counting board, if any, shall take charge of a ballot box containing one kind of ballot. Such board shall then proceed, as in national and state elections, to count and tabulate the ballots cast. When the ballots in such ballot box have been counted, the box shall be exchanged for another ballot box and so continue until all of the ballots of every kind are counted and tabulated.

(f) When the hour arrives for closing the polls, the election board, including both the receiving and counting boards if any, shall continue in the work of counting, tabulating and summarizing the votes, and making their certificates as to the result of the election.

(g) All of the judges and clerks at the same voting place *on duty when the polls close* shall unite in certifying the election results as provided in K.S.A. 25-3006 and amendments thereto.

(h) (1) *In accordance with rules and regulations adopted by the secretary of state, the county election officer may allocate staffing resources as needed at the voting place except*

that two members of the election board, one of which is the supervising judge, shall be on duty for the entire time the polls are open.

(2) The secretary of state may adopt rules and regulations to implement the provisions of this section.”;

And by renumbering the remaining sections accordingly;

Also on page 18, in line 36, after “K.S.A.” by inserting “25-2810 and K.S.A.”;

On page 1, in the title, in line 13, after the semicolon by inserting “pertaining to the operation of election boards;”; also in line 13, after “K.S.A.” by inserting “25-2810 and K.S.A.” and **HB 2019** be passed as further amended.

Senator Betts moved to amend **HB 2019** as amended by Senate Committee, on page 4, by striking all in lines 37 through 43;

By striking all on pages 5 through 17;

On page 18, by striking all in lines 1 through 35 and inserting the following:

“Section 1. K.S.A. 2006 Supp. 25-1122 is hereby amended to read as follows: 25-1122.

(a) Any registered voter may file with the county election officer where such person is a resident, or where such person is authorized by law to vote as a former precinct resident, an application for an advance voting ballot. The signed application shall be transmitted only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

(b) If the registered voter is applying for an advance voting ballot to be transmitted in person, and such voter is a first-time voter, such voter shall provide a form of valid identification such as a current and valid Kansas driver’s license, nondriver’s identification card, utility bill, bank statement, paycheck, government check or other government document containing the voter’s current name and address as indicated on the registration book. Such voter shall not be required to provide identification if such voter has previously provided current and valid identification in the county where registered.

(c) If the registered voter is applying for an advance voting ballot to be transmitted by mail, and such voter is a first-time voter, such voter shall provide on the application for an advance voting ballot the voter’s current and valid Kansas driver’s license number, nondriver’s identification card number or the last four digits of the voter’s social security number, or shall provide with the application a copy of the voter’s current and valid Kansas driver’s license, nondriver’s identification card, utility bill, bank statement, paycheck, government check or other government document containing the voter’s current name and address as indicated on the registration book. Such voter shall not be required to provide identification if such voter has previously provided current and valid identification in the county where registered.

(d) If a first-time voter is unable or refuses to provide current and valid identification, or if the name and address do not match the voter’s name and address on the registration book, the voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto. The voter shall provide a valid form of identification as defined in subsection (c) of this section to the county election officer in person or provide a copy by mail or electronic means before the meeting of the county board of canvassers. At the meeting of the county board of canvassers the county election officer shall present copies of identification received from provisional voters and the corresponding provisional ballots. If the county board of canvassers determines that a voter’s identification is valid and the provisional ballot was properly cast, the ballot shall be counted.

(e) Applications for advance voting ballots to be transmitted to the voter by mail shall be filed only at the following times:

(1) For the primary election occurring on the first Tuesday in August in even-numbered years, between April 1 of such year and the last business day of the week preceding such primary election.

(2) For the general election occurring on the Tuesday succeeding the first Monday in November in even-numbered years, between 90 days prior to such election and the last business day of the week preceding such general election.

(3) For the primary election held five weeks preceding the first Tuesday in April, between January 1 of the year of such election and the last business day of the week preceding such primary election.

(4) For the general election occurring on the first Tuesday in April, between January 1 of the year of such election and the last business day of the week preceding such general election.

(5) For question submitted elections occurring on the date of a primary or general election, the same as is provided for ballots for election of officers at such election.

(6) For question submitted elections not occurring on the date of a primary or general election, between the time of the first published notice thereof and the last business day of the week preceding such question submitted election, except that if the question submitted election is held on a day other than a Tuesday, the county election officer shall determine the final date for mailing of advance voting ballots, but such date shall not be more than three business days before such election.

(7) For any special election of officers, at such time as is specified by the secretary of state.

(8) For the presidential preference primary, between January 1 of the year in which such primary is held and the last business day of the week preceding such primary election.

The county election officer of any county may receive applications prior to the time specified in this subsection (e) and hold such applications until the beginning of the prescribed application period. Such applications shall be treated as filed on that date.

(f) Unless an earlier date is designated by the county election officer, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer shall be filed on the Tuesday next preceding the election and on each subsequent business day until no later than 12:00 noon on the day preceding such election. If the county election officer so provides, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer also may be filed on the Saturday preceding the election. Upon receipt of any such properly executed application, the county election officer shall deliver to the voter such ballots and instructions as are provided for in this act.

An application for an advance voting ballot filed by a voter who has a temporary illness or disability or who is not proficient in reading the English language or by a person rendering assistance to such voter may be filed during the regular advance ballot application periods until the close of the polls on election day.

~~In any county having a population exceeding 250,000;~~ The county election officer may designate places other than the central county election office as satellite advance voting sites. At any satellite advance voting site, a registered voter may obtain an application for advance voting ballots, such ballots and instructions shall be delivered to the voter in the same manner and subject to the same limitations as otherwise provided by this subsection.

(g) Any person having a permanent disability or an illness which has been diagnosed as a permanent illness is hereby authorized to make an application for permanent advance voting status. Applications for permanent advance voting status shall be in the form and contain such information as is required for application for advance voting ballots and also shall contain information which establishes the voter's right to permanent advance voting status.

(h) On receipt of any application filed under the provisions of this section, the county election officer shall prepare and maintain in such officer's office a list of the names of all persons who have filed such applications, together with their correct post office address and the precinct, ward, township or voting area in which such persons claim to be registered voters or to be authorized by law to vote as former precinct residents and the present resident address of each applicant. Such names and addresses shall remain so listed until the day of such election. The county election officer shall maintain a separate listing of the names and addresses of persons qualifying for permanent advance voting status. All such lists shall be available for inspection upon request in compliance with this subsection by any registered voter during regular business hours. The county election officer upon receipt of such applications shall enter upon a record kept by such officer the name and address of each applicant, which record shall conform to the list above required. Before inspection of any advance voting ballot application list, the person desiring to make such inspection shall provide to the county election officer identification in the form of driver's license or other reliable identification and shall sign a log book or application form maintained by such officer

stating such person's name and address and showing the date and time of inspection. All records made by the county election officer shall be subject to public inspection, except that the voter identification information required by subsections (b) and (c) and the identifying number on ballots and ballot envelopes and records of such numbers shall not be made public.

(i) If a person on the permanent advance voting list fails to vote in two consecutive general elections held on the Tuesday succeeding the first Monday in November of each even-numbered year, the county election officer may mail a notice to such voter. Such notice shall inform the voter that the voter's name will be removed from the permanent advance voting list unless the voter renews the application for permanent advance voting status within 30 days after the notice is mailed. If the voter fails to renew such application, the county election officer shall remove the voter's name from the permanent advance voting list. Failure to renew the application for permanent advance voting status shall not result in removal of the voter's name from the voter registration list.

(j) For the purposes of this section, "first-time voter" means a registered voter who has not previously voted in any election in the county in which the voter desires to vote. First-time voter includes a person whose name was removed from the county registration list in accordance with K.S.A. 25-2316c, and amendments thereto, and who has re-registered.

(k) The secretary of state may adopt rules and regulations defining valid forms of identification.”;

And by renumbering the remaining sections accordingly;

Also on page 18, in line 36, by striking all after “25-1122”; in line 37, by striking all before “hereby” and inserting “is”;

On page 1, in the title, in line 11, by striking “pertain-”; by striking all in line 12; in line 13, by striking all after “25-1122”; in line 14, by striking all before “and” where it appears the second time; also in line 14, by striking “sections” and inserting “section”

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

On roll call, the vote was: Yeas 14, Nays 25, Present and Passing 1, Absent or Not Voting 0.

Yeas: Allen, Barone, Betts, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, Schodorf, Steineger, Vratil, Wysong.

Nays: Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Huelskamp, Jordan, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Taddiken, Teichman, Umbarger, Wagle, Wilson.

Present and Passing: Journey.

The motion failed and the amendment was rejected.

HB 2062 be amended by adoption of the committee amendments, be further amended by motion of Senator Journey as amended by Senate Committee, on page 7, after line 33, by inserting:

“New Sec. 3. (a) This section shall be known and may be cited as Alexa’s law.

(b) As used in this section:

(1) “Abortion” means an abortion as defined by K.S.A. 65-6701, and amendments thereto.

(2) “Unborn child” means a living individual organism of the species homo sapiens, in utero, at any stage of gestation from fertilization to birth.

(c) This section shall not apply to:

(1) Any act committed by the mother of the unborn child;

(2) any medical procedure, including abortion, performed by a physician or other licensed medical professional at the request of the pregnant woman or her legal guardian; or

(3) the lawful dispensation or administration of lawfully prescribed medication.

(d) As used in K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3405, 21-3412, 21-3412a, 21-3413, 21-3414, 21-3415, 21-3439, 21-3443 and 21-3448 and amendments thereto, “person” and “human being” also mean an unborn child.

(e) The provisions of this act shall be part of and supplemental to the Kansas criminal code.

New Sec. 4. The provisions of this act are declared to be severable and if any provision, word, phrase or clause of the act or the application thereof to any person shall be held invalid, such invalidity shall not affect the validity of the remaining portions of this act.”;

And by renumbering sections accordingly

A ruling of the Chair was requested as to the germaneness of the amendment to **HB 2062**.

The Chair ruled the amendment was germane.

Senator D. Schmidt further amended **HB 2062**, as amended by Senate Committee, on page 1, following line 21, by inserting:

“Section 1. K.S.A. 2006 Supp. 21-3219 is hereby amended to read as follows: 21-3219.

(a) A person who uses force which, subject to the provisions of K.S.A. 21-3214, and amendments thereto, is justified pursuant to K.S.A. 21-3211, 21-3212 or 21-3213, and amendments thereto, is immune from criminal prosecution and civil action for the use of such force, unless the person against whom force was used is a law enforcement officer who was acting in the performance of such officer’s official duties and the officer identified the officer’s self in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, “criminal prosecution” includes arrest, detention in custody and charging or prosecution of the defendant.

(b) A law enforcement agency may use standard procedures for investigating the use of force as described in subsection (a), but the agency shall not arrest the person for using force unless it determines that there is probable cause for the arrest.

(c) *A county or district attorney or other prosecutor may commence a criminal prosecution upon a determination of probable cause.*”;

And by renumbering sections accordingly;

On page 7, in line 34, after “Supp.”, by inserting “21-3219,”;

In the title, in line 18, after “Supp.”, by inserting “21-3219,” and **HB 2062** be passed as further amended.

A motion by Senator Vratil to amend **HB 2062** failed and the following amendment was rejected: As amended by Senate Committee, by striking the amendments added to the bill on motion of Senator Journey, by inserting in lieu thereof; on page 7, after line 33, by inserting the following:

“Sec. 3. (a) This act shall be known and may be cited as Alexa’s law.

(b) As used in this section:

(1) “Abortion” means an abortion as defined by K.S.A. 65-6701, and amendments thereto.

(2) “Embryo” means an individual organism of the species homo sapiens, in utero, from conception until the eighth week after conception (when the major structures have formed).

(3) “Fetus” means an individual organism of the species homo sapiens, in utero, from the eighth week of conception (when the major structures have formed) to birth.

(c) This section shall not apply to:

(1) Any act committed by the mother of the embryo or fetus;

(2) any medical procedure, including abortion, performed by a physician or other licensed medical professional at the request of the pregnant woman or such woman’s legal guardian; or

(3) the lawful dispensation or administration of lawfully prescribed medication.

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

Sec. 4. K.S.A. 21-3401 is hereby amended to read as follows: 21-3401. Murder in the first degree is the killing of a human being, *an embryo or a fetus* committed:

(a) Intentionally and with premeditation; or

(b) in the commission of, attempt to commit, or flight from an inherently dangerous felony as defined in K.S.A. 21-3436 and amendments thereto.

Murder in the first degree is an off-grid person felony.

Sec. 5. K.S.A. 2006 Supp. 21-3402 is hereby amended to read as follows: 21-3402. Murder in the second degree is the killing of a human being, *an embryo or a fetus* committed:

(a) Intentionally; or

(b) unintentionally but recklessly under circumstances manifesting extreme indifference to the value of human life.

Murder in the second degree as described in subsection (a) is a severity level 1, person felony. Murder in the second degree as described in subsection (b) is a severity level 2, person felony.

Sec. 6. K.S.A. 21-3403 is hereby amended to read as follows: 21-3403. Voluntary manslaughter is the intentional killing of a human being, *an embryo or a fetus* committed:

- (a) Upon a sudden quarrel or in the heat of passion; or
- (b) upon an unreasonable but honest belief that circumstances existed that justified deadly force under K.S.A. 21-3211, 21-3212 or 21-3213 and amendments thereto.

Voluntary manslaughter is a severity level 3, person felony.

Sec. 7. K.S.A. 2006 Supp. 21-3404 is hereby amended to read as follows: 21-3404. Involuntary manslaughter is the unintentional killing of a human being, *an embryo or a fetus* committed:

- (a) Recklessly;
- (b) in the commission of, or attempt to commit, or flight from any felony, other than an inherently dangerous felony as defined in K.S.A. 21-3436 and amendments thereto, that is enacted for the protection of human life or safety or a misdemeanor that is enacted for the protection of human life or safety, including acts described in K.S.A. 8-1566 and subsection (a) of 8-1568, and amendments thereto, but excluding the acts described in K.S.A. 8-1567 and amendments thereto; or
- (c) during the commission of a lawful act in an unlawful manner.

Involuntary manslaughter is a severity level 5, person felony.

Sec. 8. K.S.A. 21-3405 is hereby amended to read as follows: 21-3405. Vehicular homicide is the unintentional killing of a human being, *an embryo or a fetus* committed by the operation of an automobile, airplane, motor boat or other motor vehicle in a manner which creates an unreasonable risk of injury to the person, *embryo or fetus* or property of another and which constitutes a material deviation from the standard of care which a reasonable person would observe under the same circumstances.

Vehicular homicide is a class A person misdemeanor.

Sec. 9. K.S.A. 2006 Supp. 21-3412 is hereby amended to read as follows: 21-3412. (a) Battery is:

- (1) Intentionally or recklessly causing bodily harm to another person, *embryo or fetus*; or
- (2) intentionally causing physical contact with another person, *embryo or fetus* when done in a rude, insulting or angry manner.

(b) Battery is a class B person misdemeanor.

Sec. 10. K.S.A. 2006 Supp. 21-3412a is hereby amended to read as follows: 21-3412a. (a) Domestic battery is:

- (1) Intentionally or recklessly causing bodily harm by a family or household member against a family or household member; or
- (2) intentionally causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner.

(b) (1) Upon a first conviction of a violation of domestic battery, a person shall be guilty of a class B person misdemeanor and sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less than \$200, nor more than \$500 or in the court's discretion the court may enter an order which requires the person enroll in and successfully complete a domestic violence prevention program.

(2) If, within five years immediately preceding commission of the crime, a person is convicted of a violation of domestic battery a second time, such person shall be guilty of a class A person misdemeanor and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted must serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for domestic violence prevention.

(3) If, within five years immediately preceding commission of the crime, a person is convicted of a violation of domestic battery a third or subsequent time, such person shall be guilty of a person felony and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The court shall require as a condition of parole that such person enter into and complete a treatment program for domestic violence. If the person does not enter into and complete a treatment program for domestic violence, the person shall serve not less than 180 days nor more than one year's imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program.

(c) As used in this section:

(1) Family or household member means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. *Family or household member includes an embryo and a fetus.* Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(2) for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

(A) "Conviction" includes being convicted of a violation of this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(B) "conviction" includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(C) only convictions occurring in the immediately preceding five years including prior to the effective date of this act shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offender, whichever is applicable; and

(D) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(E) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits only twice during any three-year period.

Sec. 11. K.S.A. 21-3414 is hereby amended to read as follows: 21-3414. (a) Aggravated battery is:

(1) (A) Intentionally causing great bodily harm to another person, *embryo or fetus* or disfigurement of another person, *embryo or fetus*; or

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

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

(2) (A) recklessly causing great bodily harm to another person, *embryo or fetus* or disfigurement of another person, *an embryo or fetus*; or

(B) recklessly causing bodily harm to another person, *embryo or fetus* with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted.

(b) Aggravated battery as described in subsection (a)(1)(A) is a severity level 4, person felony. Aggravated battery as described in subsections (a)(1)(B) and (a)(1)(C) is a severity

level 7, person felony. Aggravated battery as described in subsection (a)(2)(A) is a severity level 5, person felony. Aggravated battery as described in subsection (a)(2)(B) is a severity level 8, person felony. A person convicted of aggravated battery shall be subject to the provisions of subsection (h) of K.S.A. 21-4704 and amendments thereto.

Sec. 12. K.S.A. 21-3439 is hereby amended to read as follows: 21-3439. (a) Capital murder is the:

(1) intentional and premeditated killing of any person, *embryo or fetus* in the commission of kidnapping, as defined in K.S.A. 21-3420 and amendments thereto, or aggravated kidnapping, as defined in K.S.A. 21-3421 and amendments thereto, when the kidnapping or aggravated kidnapping was committed with the intent to hold such person, *embryo or fetus* for ransom;

(2) intentional and premeditated killing of any person, *embryo or fetus* pursuant to a contract or agreement to kill such person, *embryo or fetus* or being a party to the contract or agreement pursuant to which such person, *embryo or fetus* is killed;

(3) intentional and premeditated killing of any person, *embryo or fetus* by an inmate or prisoner confined in a state correctional institution, community correctional institution or jail or while in the custody of an officer or employee of a state correctional institution, community correctional institution or jail;

(4) intentional and premeditated killing of the victim of one of the following crimes in the commission of, or subsequent to, such crime: Rape, as defined in K.S.A. 21-3502 and amendments thereto, criminal sodomy, as defined in subsections (a)(2) or (a)(3) of K.S.A. 21-3505 and amendments thereto or aggravated criminal sodomy, as defined in K.S.A. 21-3506 and amendments thereto, or any attempt thereof, as defined in K.S.A. 21-3301 and amendments thereto;

(5) intentional and premeditated killing of a law enforcement officer, as defined in K.S.A. 21-3110 and amendments thereto;

(6) intentional and premeditated killing of more than one person, *embryo or fetus* as a part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct; or

(7) intentional and premeditated killing of a child under the age of 14 in the commission of kidnapping, as defined in K.S.A. 21-3420 and amendments thereto, or aggravated kidnapping, as defined in K.S.A. 21-3421 and amendments thereto, when the kidnapping or aggravated kidnapping was committed with intent to commit a sex offense upon or with the child or with intent that the child commit or submit to a sex offense.

(b) For purposes of this section, "sex offense" means rape, as defined in K.S.A. 21-3502 and amendments thereto, aggravated indecent liberties with a child, as defined in K.S.A. 21-3504 and amendments thereto, aggravated criminal sodomy, as defined in K.S.A. 21-3506 and amendments thereto, prostitution, as defined in K.S.A. 21-3512 and amendments thereto, promoting prostitution, as defined in K.S.A. 21-3513 and amendments thereto or sexual exploitation of a child, as defined in K.S.A. 21-3516 and amendments thereto.

(c) Capital murder is an off-grid person felony.

(d) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 13. The provisions of this act are declared to be severable and if any provision, word, phrase or clause of the act of the application thereof to any person shall be held invalid, such invalidity shall not affect the validity of the remaining portions of this act.;

On page 7, in line 34, before "K.S.A." by inserting "K.S.A. 21-3401, 21-3403, 21-3405, 21-3414 and 21-3439 and"; also in line 34, after "Supp." by inserting "21-3402, 21-3404, 21-3412, 21-3412a,";

On page 1, in the title, in line 18, before "K.S.A." by inserting "K.S.A. 21-3401, 21-3403, 21-3405, 21-3414 and 21-3439 and"; in line 18, after "Supp." by inserting "21-3402, 21-3412, 21-3412a,"

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

On roll call, the vote was: Yeas 16, Nays 24, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Emler, Gilstrap, Huelskamp, Jordan, Journey, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Taddiken, Umbarger, Wagle, Wilson.

The motion failed and the amendment was rejected.

EXPLANATION OF VOTE

MR. CHAIRMAN: Despite the characterizations of others defeating this amendment is about justice for the unborn children of teachers, mental health professionals and others who are left behind in this version of the law.—PHIL JOURNEY

Senators Lynn and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Journey on **HB 2062**.

HB 2332 be amended by adoption of the committee amendments, be further amended by motion of Senator Bruce as amended by Senate Committee, on page 3, after line 22, by inserting the following:

"Sec. 2. K.S.A. 25-4148 is hereby amended to read as follows: 25-4148. (a) Every treasurer shall file a report prescribed by this section. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. Reports filed by treasurers for candidates for state-wide office shall be filed only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Except as otherwise provided by subsection (h), all such reports shall be filed in time to be received in the offices required on or before each of the following days:

(1) The eighth day preceding the primary election, which report shall be for the period beginning on January 1 of the election year for the office the candidate is seeking and ending 12 days before the primary election, inclusive;

(2) the eighth day preceding a general election, which report shall be for the period beginning 11 days before the primary election and ending 12 days before the general election, inclusive;

(3) January 10 of the year after an election year, which report shall be for the period beginning 11 days before the general election and ending on December 31, inclusive;

(4) for any calendar year when no election is held, a report shall be filed on the next January 10 for the preceding calendar year;

(5) a treasurer shall file only the annual report required by subsection (4) for those years when the candidate is not participating in a primary or general election.

(b) Each report required by this section shall state:

(1) Cash on hand on the first day of the reporting period;

(2) the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of \$50 during the election period together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan;

(3) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature;

(4) the aggregate amount of contributions for which the name and address of the contributor is not known;

(5) each contribution, rebate, refund or other receipt not otherwise listed;

(6) the total of all receipts;

(7) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of \$50, with the amount, date, and purpose of each; the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each;

(8) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate,

candidate committee, party committee or political committee, if the contribution is in excess of ~~\$50~~ \$100 and is not otherwise reported under subsection (b)(7), and the amount, date and purpose of the contribution;

(9) the aggregate of all expenditures not otherwise reported under this section; and

(10) the total of expenditures.

(c) Treasurers of candidates and of candidate committees shall be required to itemize, as provided in subsection (b)(2), only the purchase of tickets or admissions to testimonial events by a person who purchases such tickets or admissions in an aggregate amount or value in excess of \$50 per event, or who purchases such a ticket or admission at a cost exceeding \$25 per ticket or admission. All other purchases of tickets or admissions to testimonial events shall be reported in an aggregate amount and shall not be subject to the limitations specified in K.S.A. 25-4154, and amendments thereto.

(d) If a contribution or other receipt from a political committee is required to be reported under subsection (b), the report shall include the full name of the organization with which the political committee is connected or affiliated or, name or description sufficiently describing the affiliation or, if the committee is not connected or affiliated with any one organization, the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(e) The commission may require any treasurer to file an amended report for any period for which the original report filed by such treasurer contains material errors or omissions, and notice of the errors or omissions shall be part of the public record. The amended report shall be filed within 30 days after notice by the commission.

(f) The commission may require any treasurer to file a report for any period for which the required report is not on file, and notice of the failure to file shall be part of the public record. Such report shall be filed within five days after notice by the commission.

(g) For the purpose of any report required to be filed pursuant to subsection (a) by the treasurer of any candidate seeking nomination by convention or caucus or by the treasurer of the candidate's committee or by the treasurer of any party committee or political committee, the date of the convention or caucus shall be considered the date of the primary election.

(h) If a report is sent by certified or registered mail on or before the day it is due, the mailing shall constitute receipt by that office.

(i) *Any report required by this section may be signed by the candidate in lieu of the candidate's treasurer or the treasurer of the candidate's committee.*

Sec. 3. K.S.A. 25-4151 is hereby amended to read as follows: 25-4151. (a) Every report or statement made under the campaign finance act shall be made on forms prescribed by the commission, and contain substantially the following:

"I declare that this (report) (statement), including any accompanying schedules and statements, has been examined by me and to the best of my knowledge and belief is true, correct and complete. I understand that the intentional failure to file this document or intentionally filing a false document is a class A misdemeanor."

(Date)

(Signature)

Every report or statement shall be dated and signed by: (1) The treasurer *or candidate* for any report required by K.S.A. 25-4148; (2) the candidate, for any report required by K.S.A. 25-4144; or (3) the chairperson of the committee, for any statement required by K.S.A. 25-4145. If the form is not available, the report or statement to which it relates shall be made as required, but in such form as the person signing such report or statement chooses, and the commission may require any such report or statement to be replaced after filing by a report or statement on the forms provided by the commission.

(b) Records in support of every report or statement filed under the campaign finance act shall be maintained and preserved by the person who files it for a period of time to be designated by the commission.

(c) Delay in filing a report or statement beyond the time required by law shall not prevent the acceptance of the report or statement.

(d) No treasurer shall accept or permit to be accepted any contributions or make or permit to be made any expenditures unless all reports or statements required of such treasurer prior to the time of such contributions or expenditures have been filed.

Sec. 4. K.S.A. 25-4142 is hereby amended to read as follows: 25-4142. K.S.A. 25-4119e, 25-4119f, 25-4119g, 25-4142 through 25-4187 and ~~K.S.A. 25-4153b~~ sections 7 and 8, and amendments thereto, shall be known and may be cited as the campaign finance act.

Sec. 5. K.S.A. 2006 Supp. 25-4143 is hereby amended to read as follows: 25-4143. As used in the campaign finance act, unless the context otherwise requires:

(a) "Candidate" means an individual who: (1) Appoints a treasurer or a candidate committee;

(2) makes a public announcement of intention to seek nomination or election to state or local office;

(3) makes any expenditure or accepts any contribution for such person's nomination or election to any state or local office; or

(4) files a declaration or petition to become a candidate for state or local office.

(b) "Candidate committee" means a committee appointed by a candidate to receive contributions and make expenditures for the candidate.

(c) "Clearly identified candidate" means a candidate who has been identified by the:

(1) Use of the name of the candidate;

(2) use of a photograph or drawing of the candidate; or

(3) unambiguous reference to the candidate whether or not the name, photograph or drawing of such candidate is used.

(d) "Commission" means the governmental ethics commission.

(e) (1) "Contribution" means:

(A) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value given to a candidate, candidate committee, party committee or political committee for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office.

(B) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value made to expressly advocate the nomination, election or defeat of a clearly identified candidate for a state or local office;

(C) a transfer of funds between any two or more candidate committees, party committees or political committees;

(D) the payment, by any person other than a candidate, candidate committee, party committee or political committee, of compensation to an individual for the personal services rendered without charge to or for a candidate's campaign or to or for any such committee;

(E) the purchase of tickets or admissions to, or advertisements in journals or programs for, testimonial events;

(F) a mailing of materials designed to expressly advocate the nomination, election or defeat of a clearly identified candidate, which is made and paid for by a party committee with the consent of such candidate.

(2) "Contribution" does not include:

(A) The value of volunteer services provided without compensation;

(B) costs to a volunteer related to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149, and amendments thereto;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding a fair market value of \$50 per event; or

(E) *the transfer of campaign funds to a bona fide successor committee or candidacy in accordance with K.S.A. 25-4157a, and amendments thereto.*

(f) "Election" means:

(1) A primary or general election for state or local office; and

(2) a convention or caucus of a political party held to nominate a candidate for state or local office.

(g) (1) "Expenditure" means:

(A) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made by a candidate, candidate committee, party committee or political committee for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office.

(B) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made to expressly advocate the nomination, election or defeat of a clearly identified candidate for a state or local office;

(C) any contract to make an expenditure;

(D) a transfer of funds between any two or more candidate committees, party committees or political committees; or

(E) payment of a candidate's filing fees.

(2) "Expenditure" does not include:

(A) The value of volunteer services provided without compensation;

(B) costs to a volunteer incidental to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149, and amendments thereto;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning or payment of such costs by the treasurer of a candidate or candidate committee;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding fair market value of \$50 per event; or

(E) any communication by an incumbent elected state or local officer with one or more individuals unless the primary purpose thereof is to expressly advocate the nomination, election or defeat of a clearly identified candidate.

(h) "Expressly advocate the nomination, election or defeat of a clearly identified candidate" means any communication which uses phrases including, but not limited to:

(1) "Vote for the secretary of state";

(2) "re-elect your senator";

(3) "support the democratic nominee";

(4) "cast your ballot for the republican challenger for governor";

(5) "Smith for senate";

(6) "Bob Jones in '98";

(7) "vote against Old Hickory";

(8) "defeat" accompanied by a picture of one or more candidates; or

(9) "Smith's the one."

(i) "Party committee" means:

(1) The state committee of a political party regulated by article 3 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

(2) the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

(3) the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated;

(4) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the senate;

(5) not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the house of representatives; or

(6) not more than one political committee per congressional district established by the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto, and designated as a congressional district party committee.

(j) "Person" means any individual, committee, corporation, partnership, trust, organization or association.

(k) (1) "Political committee" means any combination of two or more individuals or any person other than an individual, a major purpose of which is to expressly advocate the nomination, election or defeat of a clearly identified candidate for state or local office or

make contributions to or expenditures for the nomination, election or defeat of a clearly identified candidate for state or local office.

(2) "Political committee" shall not include a candidate committee or a party committee.

(1) "Receipt" means a contribution or any other money or thing of value, but not including volunteer services provided without compensation, received by a treasurer in the treasurer's official capacity.

(m) "Public office" means a state or local office.

(n) "Local office" means:

(1) A member of the governing body of a city of the first class;

(2) an elected office of:

(A) A unified school district having 35,000 or more pupils regularly enrolled in the preceding school year;

(B) a county; or

(C) the board of public utilities.

~~(m)~~ (o) "State office" means any state office as defined in K.S.A. 25-2505, and amendments thereto.

~~(n)~~ (p) "Testimonial event" means an event held for the benefit of an individual who is a candidate to raise contributions for such candidate's campaign. Testimonial events include but are not limited to dinners, luncheons, rallies, barbecues and picnics.

~~(o)~~ (q) "Treasurer" means a treasurer of a candidate or of a candidate committee, a party committee or a political committee appointed under the campaign finance act or a treasurer of a combination of individuals or a person other than an individual which is subject to paragraph (2) of subsection (a) of K.S.A. 25-4172, and amendments thereto.

~~(p)~~ "Local office" means a member of the governing body of a city of the first class, any elected office of a unified school district having 35,000 or more pupils regularly enrolled in the preceding school year, a county or of the board of public utilities.

Sec. 6. K.S.A. 25-4157a is hereby amended to read as follows: 25-4157a. (a) No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for:

(1) Legitimate campaign purposes;

(2) expenses of holding political office;

(3) contributions to the party committees of the political party of which such candidate is a member;

(4) any membership dues or donations paid to a community service, *charitable* or civic organization in the name of the candidate or candidate committee of any candidate;

(5) expenses incurred in the purchase of tickets to meals and special events sponsored by any organization the major purpose of which is to promote or facilitate the social, business, commercial or economic well being of the local community; or

(6) expenses incurred in the purchase and mailing of greeting cards to voters and constituents.

For the purpose of this subsection, expenditures for "personal use" shall include expenditures to defray normal living expenses for the candidate or the candidate's family and expenditures for the personal benefit of the candidate having no direct connection with or effect upon the campaign of the candidate or the holding of public office.

(b) No moneys received by any candidate or candidate committee of any candidate as a contribution shall be used to pay interest or any other finance charges upon moneys loaned to the campaign by such candidate or the spouse of such candidate.

(c) No candidate or candidate committee shall accept from any other candidate or candidate committee for any candidate for local, state or national office, any moneys received by such candidate or candidate committee as a campaign contribution. The provisions of this subsection shall not be construed to prohibit:

(1) A candidate or candidate committee from accepting moneys from another candidate or candidate committee if such moneys constitute a reimbursement for one candidate's proportional share of the cost of any campaign activity participated in by both candidates involved. Such reimbursement shall not exceed an amount equal to the proportional share

of the cost directly benefiting and attributable to the personal campaign of the candidate making such reimbursement; or

(2) *A candidate or candidate committee from transferring campaign funds to a bona fide successor committee or candidacy established by the candidate.*

(d) ~~At the time of the termination of any campaign and prior to the filing of a termination report in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds otherwise not obligated for the payment of expenses incurred in such campaign or the holding of office shall be contributed to a charitable organization, as defined by the laws of the state, contributed to a party committee or returned as a refund in whole or in part to any contributor or contributors from whom received or paid into the general fund of the state. At the time of the termination of any campaign and prior to the filing of a termination report in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds not otherwise obligated for the payment of expenses incurred in such campaign or the holding of office, or any portion of such funds, shall be:~~

- (1) *Contributed to a charitable organization, as defined by the laws of the state; or*
- (2) *contributed to a party committee; or*
- (3) *returned as a refund in whole or in part to any contributor or contributors from whom such funds were received; or*
- (4) *paid into the general fund of the state; or*
- (5) *transferred to a bona fide successor committee or candidacy established by the candidate; or*

(6) *transferred for the purpose of retiring the remaining debt to the original committee or candidacy from which funds were transferred pursuant to paragraph (2) of subsection (e).*

Whenever a transfer to a bona fide successor committee or candidacy is made pursuant to paragraph (5), all moneys shall be transferred to the bona fide successor committee or candidacy.

(e) *For the purposes of this section, "bona fide successor committee or candidacy" means:*

- (1) *The candidate's campaign committee or candidacy for a public office initiated at the termination of the original candidacy; or*
- (2) *the candidate's campaign committee or candidacy initiated at the time of the transfer of all moneys to a new campaign committee or candidacy for public office when there is debt in the original campaign at the time of the transfer and the candidate does not terminate the original campaign committee or candidacy.*

New Sec. 7. (a) Upon transferring money to a bona fide successor committee or candidacy as defined by paragraph (2) of subsection (e) of K.S.A. 25-4157a, and amendments thereto, the candidate may only accept contributions to the original candidacy sufficient to retire the debt. Such contributions shall be subject to the contribution limits for the original office sought as set forth in K.S.A. 25-4153, and amendments thereto. Once the candidate has received sufficient contributions to retire the debt, the candidate must terminate the candidacy pursuant to the provisions set forth in subsection (d) of K.S.A. 25-4157a, and amendments thereto.

(b) This section shall be part of and supplemental to the campaign finance act.

New Sec. 8. (a) For the period commencing on January 1, 1976, and ending on the day preceding the effective date of this act, any candidate who transferred campaign funds to a bona fide successor candidacy, as such term is defined in K.S.A. 25-4157a, and amendments thereto, shall be deemed to have made such transfer in compliance with the provisions of the campaign finance act in existence at the time of such transfer regardless of when the original campaign fund is closed after the date such transfer is made and such transfer is hereby validated.

(b) This section shall be part of and supplemental to the campaign finance act.;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 23, by striking "2006 Supp. 25-213 is" and inserting "25-4142, 25-4148, 25-4151 and 25-4157a and K.S.A. 2006 Supp. 25-213 and 25-4143 are";

On page 1, in the title, in line 13, after the semicolon by inserting "relating to campaign finance; relating to campaign treasurer's reports; relating to certain public officers and employees; relating to use of unexpended campaign funds;" also in line 13, by striking "2006";

in line 14, by striking "Supp. 25-213" and inserting "25-4142, 25-4148, 25-4151 and 25-4157a and K.S.A. 2006 Supp. 25-213 and 25-4143"; also in line 14, by striking "section" and inserting "sections" and **HB 2332** be passed as further amended.

The following amendment offered to **HB 2332** by Senator Haley was rejected: As amended by Senate Committee, on page 3, after line 22, by inserting:

"Sec. 2. This act may be cited as the Interstate Compact on the Agreement Among the States to Elect the President by National Popular Vote Act.

ARTICLE I. MEMBERSHIP

Any State of the United States and the District of Columbia may become a member of this agreement by enacting this agreement.

ARTICLE II. RIGHT OF THE PEOPLE IN MEMBER STATES TO VOTE FOR PRESIDENT AND VICE PRESIDENT

Each member state shall conduct a statewide popular election for President and Vice President of the United States.

ARTICLE III. MANNER OF APPOINTING PRESIDENTIAL ELECTORS IN MEMBER STATES

1. Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each member state shall determine the number of votes for each presidential slate in each State of the United States and in the District of Columbia in which votes have been cast in a statewide popular election and shall add such votes together to produce a "national popular vote total" for each presidential slate.

2. The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as the "national popular vote winner."

3. The presidential elector certifying official of each member state shall certify the appointment in that official's own state of the elector slate nominated in that state in association with the national popular vote winner.

4. At least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within 24 hours to the chief election official of each other member state.

5. The chief election official of each member state shall treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state's final determination conclusive as to the counting of electoral votes by Congress.

6. In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.

7. If, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees.

8. The chief election official of each member state shall immediately release to the public all vote counts or statements of votes as they are determined or obtained.

9. This article shall govern the appointment of presidential electors in each member state in any year in which this agreement is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes.

ARTICLE IV. OTHER PROVISIONS

1. This agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state.

2. Any member state may withdraw from this agreement, except that a withdrawal occurring six months or less before the end of a President's term shall not become effective until a President or Vice President shall have been qualified to serve the next term.

3. The chief executive of each member state shall promptly notify the chief executive of all other states of when this agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement, and when this agreement takes effect generally.

4. This agreement shall terminate if the electoral college is abolished.

5. If any provision of this agreement is held invalid, the remaining provisions shall not be affected.

ARTICLE V. DEFINITIONS

For purposes of this agreement,

1. "Chief executive" shall mean the Governor of a State of the United States or the Mayor of the District of Columbia;

2. "Elector slate" shall mean a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate;

3. "Chief election official" shall mean the state official or body that is authorized to certify the total number of popular votes for each presidential slate;

4. "Presidential elector" shall mean an elector for President and Vice President of the United States;

5. "Presidential elector certifying official" shall mean the state official or body that is authorized to certify the appointment of the state's presidential electors;

6. "Presidential slate" shall mean a slate of two persons, the first of whom has been nominated as a candidate for President of the United States and the second of whom has been nominated as a candidate for Vice President of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state;

7. "State" shall mean a State of the United States and the District of Columbia; and

8. "Statewide popular election" shall mean a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis.";

And by renumbering sections accordingly;

In the title, in line 13, before "amending" by inserting "enacting the interstate compact on the agreement among the states to elect the president by national popular vote act;"

HB 2359 be amended by adoption of the committee amendments, be further amended by motion of Senator V. Schmidt as amended by Senate Committee, on page 14, after line 7, by inserting the following:

"Sec. 9. K.S.A. 2006 Supp. 65-1643 is hereby amended to read as follows: 65-1643. It shall be unlawful:

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.

(b) For any person to manufacture within this state any drugs except under the personal and immediate supervision of a pharmacist or such other person or persons as may be approved by the board after an investigation and a determination by the board that such person or persons is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety; and no person shall manufacture any such drugs without first obtaining a registration so to do from the board. Such registration shall be subject to such rules and regulations with respect

to requirements, sanitation and equipment, as the board may from time to time adopt for the protection of public health and safety.

(c) For any person to distribute at wholesale any drugs without first obtaining a registration so to do from the board.

(d) For any person to sell or offer for sale at public auction or private sale in a place where public auctions are conducted, any drugs without first having obtained a registration from the board so to do, and it shall be necessary to obtain the permission of the board in every instance where any of the products covered by this section are to be sold or offered for sale.

(e) For any person to in any manner distribute or dispense samples of any drugs without first having obtained a permit from the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to mid-level practitioners, to pharmacists or to medical care facilities.

(f) Except as otherwise provided in this subsection (f), for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who is the holder of a valid retail dealer's permit issued by the board or for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug product intended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in subsection (u) of K.S.A. 65-1626 and amendments thereto, for the designation of a pharmacy or drugstore.

(g) For any person to sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board.

(h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1637a and amendments thereto and any rules and regulations adopted pursuant thereto.

(i) For any person to be a pharmacy student without first obtaining a registration to do so from the board, in accordance with rules and regulations adopted by the board, and paying a pharmacy student registration fee of \$25 to the board.

(j) For any person to operate a veterinary medical teaching hospital pharmacy without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1662 and amendments thereto and any rules and regulations adopted pursuant thereto.

(k) For any person to sell or distribute in a pharmacy a controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto, unless:

(1) (A) Such controlled substance is sold or distributed by a licensed pharmacist, a registered pharmacy technician or a pharmacy intern or clerk supervised by a licensed pharmacist; ~~and~~

(B) any person purchasing, receiving or otherwise acquiring any such controlled substance produces a photo identification showing the date of birth of the person and signs a log *and enters in the log such person's address and the date and time of sale*. The log or database required by the board shall be available for inspection during regular business hours to the board of pharmacy and any law enforcement officer; ~~or~~

(C) *the seller determines that the name entered in the log corresponds to the name provided on such identification and that the date and time entered are correct; and*

(D) *the seller enters in the log the name of the controlled substance and the quantity sold;*
 (2) there is a lawful prescription.

~~(f) For any person to sell or distribute in a pharmacy four or more packages or containers of any controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto, to a specific customer within any seven-day period.~~

~~(l) For any pharmacy to allow customers to have direct access to any controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments there. Such controlled substance shall be placed behind the counter or stored in a locked cabinet that is located in an area of the pharmacy to which customers do not have direct access.~~

~~(m) A seller who in good faith releases information in a log pursuant to subsection (k) to any law enforcement officer is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.~~

Sec. 10. K.S.A. 2006 Supp. 65-4113 is hereby amended to read as follows: 65-4113. (a) The controlled substances or drugs, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section are included in schedule V.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing the following narcotic drug or its salts:

Buprenorphine 9064

(c) Any compound, mixture or preparation containing limited quantities of any of the following narcotic drugs which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than .5 milligram of difenoxin (9168) and not less than 25 micrograms of atropine sulfate per dosage unit.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Propylhexedrine (except when part of a compound used for nasal decongestion which is authorized to be sold lawfully over the counter without a prescription under the federal food, drug and cosmetic act, so long as it is used only for such purpose) 8161

(2) Pyrovalerone 1485

~~(e) Except as provided in subsection (g), Any compound, mixture or preparation containing any detectable quantity of ephedrine, its salts or optical isomers, or salts of optical isomers.~~

~~(f) Except as provided in subsection (g), Any compound, mixture or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.~~

~~(g) The scheduling of the substances in subsections (e) and (f) shall not apply to any compounds, mixtures or preparations of ephedrine or pseudoephedrine which are in liquid, liquid capsule or gel capsule form.~~

Sec. 11. K.S.A. 2006 Supp. 65-7006 is hereby amended to read as follows: 65-7006. (a) It shall be unlawful for any person to possess 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.

(b) It shall be unlawful for any person to market, sell, distribute, advertise, or label any drug product containing ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers if the person knows or reasonably should know that the purchaser will use the product to manufacture a controlled substance.

(c) It shall be unlawful for any person to market, sell, distribute, advertise or label any drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers or salts of isomers for indication of stimulation, mental alertness, weight loss, appetite control, energy or other indications not approved pursuant to the pertinent federal over-the-counter drug final monograph or tentative final monograph or approved new drug application.

(d) *It shall be unlawful for any person to purchase, receive or otherwise acquire at retail more than 3.6 grams in any single transaction or more than nine grams within any 30-day period of any controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto.*

(e) For persons arrested and charged under this section, bail shall be at least \$50,000 cash or surety, unless the court determines on the record that the defendant is not likely to re-offend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

~~(f)~~ (f) A violation of ~~this section~~ *subsection (a), (b) or (c) shall be a drug severity level 2 felony. A violation of subsection (d) shall be a class A nonperson misdemeanor.*;

And by renumbering the remaining sections accordingly;

Also on page 14, in line 9, before "65-4150" by inserting "65-1643, 65-4113,,"; also in line 9, by striking "and 65-4152" and inserting ", 65-4152 and 65-7006";

On page 1, in the title, in line 15, before "65-4150" by inserting "65-1643, 65-4113," also in line 15, by striking "and 65-4152" and inserting ", 65-4152 and 65-7006" and **HB 2359** be passed as further amended.

HB 2483 be amended by adoption of the committee amendments, be further amended by motion of Senator Barnett as amended by Senate Committee, on page 2, in line 3, by striking "(1)"; by striking all in lines 9 through 43;

On page 3, by striking all in lines 1 through 16;

On page 4, in line 21, before "evaluating" by inserting a new paragraph "(8)"; in line 22, by striking all after "with"; in line 23, by striking all before the third comma and inserting "section 3"; after line 32, by inserting the following:

"New Sec. 3. (a) Except as otherwise provided in subsection (b), (c) or (d), a physical therapist may evaluate patients without physician referral but may initiate treatment only after approval by a licensed physician, a licensed podiatrist, a licensed physician assistant or an advanced registered nurse practitioner working pursuant to the order or direction of a licensed physician, a licensed chiropractor, a licensed dentist or licensed optometrist in appropriately related cases. Physical therapists may initiate treatment with the approval by a practitioner of the healing arts duly licensed under the laws of another state if K.S.A. 65-2872, and amendments thereto, authorize professional services to be performed based upon an order by such practitioner.

(b) Physical therapists may evaluate and treat a patient for no more than 30 consecutive calendar days without a referral under the following conditions: (1) The patient has previously been referred to a physical therapist for physical therapy services by a person authorized by this section to approve treatment; (2) the patient's referral for physical therapy was made within one year from the date a physical therapist implements a program of physical therapy treatment without a referral; (3) the physical therapy being provided to the patient without referral is for the same injury, disease or condition as indicated in the referral for such previous injury, disease or condition; and (4) the physical therapist transmits to the physician or other practitioner identified by the patient a copy of the initial evaluation no later than five business days after treatment commences. Treatment for more than 30 consecutive calendar days of such patient shall only be upon the approval of a person authorized by this section to approve treatment.

(c) Physical therapists may provide, without a referral, physical therapy services which do not constitute treatment for a specific condition, disease or injury to: (1) Employees solely

for the purpose of education and instruction related to workplace injury prevention; or (2) the public for the purpose of fitness, health promotion and education.

(d) 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).”;

And by renumbering the remaining sections accordingly

Senator V. Schmidt further amended **HB 2483** as amended by Senate Committee, on page 4, after line 32, by inserting the following:

“Sec. 3. K.S.A. 2006 Supp. 65-180 is hereby amended to read as follows: 65-180. The secretary of health and environment shall:

(a) Institute and carry on an intensive educational program among physicians, hospitals, public health nurses and the public concerning congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases detectable with the same specimen. This educational program shall include information about the nature of such conditions and examinations for the detection thereof in early infancy in order that measures may be taken to prevent the mental retardation or morbidity resulting from such conditions.

(b) Provide recognized screening tests for phenylketonuria, galactosemia, hypothyroidism and such other diseases as may be appropriately detected with the same specimen. The initial laboratory screening tests for these diseases shall be performed by the department of health and environment *or its designee* for all infants born in the state. Such services shall be performed ~~without charge for a fee of not more than \$30 per newborn~~ *without charge*.

(c) Provide a follow-up program by providing test results and other information to identified physicians; locate infants with abnormal newborn screening test results; with parental consent, monitor infants to assure appropriate testing to either confirm or not confirm the disease suggested by the screening test results; with parental consent, monitor therapy and treatment for infants with confirmed diagnosis of congenital hypothyroidism, galactosemia, phenylketonuria or other genetic diseases being screened under this statute; and establish ongoing education and support activities for individuals with confirmed diagnosis of congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases being screened under this statute and for the families of such individuals.

(d) Maintain a registry of cases including information of importance for the purpose of follow-up services to prevent mental retardation or morbidity.

(e) Provide, within the limits of appropriations available therefor, the necessary treatment product for diagnosed cases for as long as medically indicated, when the product is not available through other state agencies. In addition to diagnosed cases under this section, diagnosed cases of maple syrup urine disease shall be included as a diagnosed case under this subsection. Where the applicable income of the person or persons who have legal responsibility for the diagnosed individual meets medicaid eligibility, such individuals' needs shall be covered under the medicaid state plan. Where the applicable income of the person or persons who have legal responsibility for the diagnosed individual is not medicaid eligible, but is below 300% of the federal poverty level established under the most recent poverty guidelines issued by the United States department of health and human services, the department of health and environment shall provide reimbursement of between 50% to 100% of the product cost in accordance with rules and regulations adopted by the secretary of health and environment. Where the applicable income of the person or persons who have legal responsibility for the diagnosed individual exceeds 300% of the federal poverty level established under the most recent poverty guidelines issued by the United States department of health and human services, the department of health and environment shall provide reimbursement of an amount not to exceed 50% of the product cost in accordance with rules and regulations adopted by the secretary of health and environment.

(f) Provide state assistance to an applicant pursuant to subsection (e) only after it has been shown that the applicant has exhausted all benefits from private third-party payers, medicare, medicaid and other government assistance programs and after consideration of the applicant's income and assets. The secretary of health and environment shall adopt rules and regulations establishing standards for determining eligibility for state assistance under this section.

(g) (1) Except for treatment products provided under subsection (e), if the medically necessary food treatment product for diagnosed cases must be purchased, the purchaser shall be reimbursed by the department of health and environment for costs incurred up to \$1,500 per year per diagnosed child age 18 or younger at 100% of the product cost upon submission of a receipt of purchase identifying the company from which the product was purchased. For a purchaser to be eligible for reimbursement under this subsection (g)(1), the applicable income of the person or persons who have legal responsibility for the diagnosed child shall not exceed 300% of the poverty level established under the most recent poverty guidelines issued by the federal department of health and human services.

(2) As an option to reimbursement authorized under subsection (g)(1), the department of health and environment may purchase food treatment products for distribution to diagnosed children in an amount not to exceed \$1,500 per year per diagnosed child age 18 or younger. For a diagnosed child to be eligible for the distribution of food treatment products under this subsection (g)(2), the applicable income of the person or persons who have legal responsibility for the diagnosed child shall not exceed 300% of the poverty level established under the most recent poverty guidelines issued by the federal department of health and human services.

(3) In addition to diagnosed cases under this section, diagnosed cases of maple syrup urine disease shall be included as a diagnosed case under this subsection (g).

(h) The department of health and environment shall continue to receive orders for both necessary treatment products and necessary food treatment products, purchase such products, and shall deliver the products to an address prescribed by the diagnosed individual. The department of health and environment shall bill the person or persons who have legal responsibility for the diagnosed patient for a pro-rata share of the total costs, in accordance with the rules and regulations adopted pursuant to this section. ~~The department of health and environment and the Kansas health policy authority shall combine the purchasing resources for the purpose of this subsection and shall enter into a joint contract for the purchase of all products for both medicaid and nonmedicaid eligible clients.~~

(i) *Not later than July 1, 2008, the secretary of health and environment shall adopt rules and regulations as needed to require, to the extent of available funding, newborn screening tests to screen for disorders listed in the core uniform panel of newborn screening conditions recommended in the 2005 report by the American college of medical genetics entitled "Newborn Screening: Toward a Uniform Screening Panel and System" or another report determined by the department of health and environment to provide more appropriate newborn screening guidelines to protect the health and welfare of newborns.*

(j) *In performing the duties under subsection (i), the secretary of health and environment shall appoint an advisory council to advise the department of health and environment on implementation of subsection (i).*

(k) *The department of health and environment shall periodically review the newborn screening program to determine the efficacy and cost 2 effectiveness of the program and determine whether adjustments to the 3 program are necessary to protect the health and welfare of newborns and 4 to maximize the number of newborn screenings that may be conducted 5 with the funding available for the screening program.*;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 33, after "Supp." by inserting "65-180,";

On page 1, in the title, in line 12, by striking "physical therapy" and inserting "health care; relating to physical therapy and department of health and environment"; also in line 12, after "Supp." by inserting "65-180," and **HB 2483** be passed as further amended.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Wednesday, March 28, 2007.

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

PAT SAVILLE, *Secretary of the Senate.*

