

# Journal of the House

FORTY-SECOND DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Thursday, March 11, 2010, 8:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.  
The roll was called with 120 members present.  
Rep. Johnson was excused on verified illness.  
Reps. Aurand, Pottorff and Winn were excused on legislative business.  
Rep. George was excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Our Heavenly Father,  
As the intensity of the session heightens,  
help us to live as you have instructed.  
“ . . . what happens when we live God's way?  
He brings gifts into our lives,  
much the same way that fruit appears in an orchard—  
things like affection for others,  
exuberance about life, serenity.  
We develop a willingness to stick with things,  
a sense of compassion in the heart,  
and a conviction that a basic holiness  
permeates things and people.  
We find ourselves involved in loyal commitments,  
not needing to force our way in life,  
able to marshal and direct  
our energies wisely.”  
(Galatians 5:22-23 *The Message*)  
This I pray in Jesus' Name,  
Amen.

The Pledge of Allegiance was led by Rep. Talia.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 2735**, An act concerning alcoholic beverages; amending K.S.A. 41-2621 and K.S.A. 2009 Supp. 8-1599 and repealing the existing sections, by Committee on Federal and State Affairs.

**HB 2736**, An act concerning delinquent taxes; providing for the sale of receivables, by Committee on Taxation.

## MESSAGES FROM THE GOVERNOR

**HB 2411** approved on March 10, 2010.

## COMMUNICATIONS FROM STATE OFFICERS

From Kevin M. Carr, Interim CEO, KTEC (Kansas Technology Enterprise Corporation), 2009 Annual Report.

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

#### MESSAGE FROM THE SENATE

Announcing passage of **SB 454, SB 559.**

Announcing passage of **HB 2364, HB 2433, HB 2445, HB 2492, HB 2555, HB 2609.**

Announcing passage of **HB 2415**, as amended; **HB 2418**, as amended.

#### INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were thereupon introduced and read by title:

**SB 454, SB 559.**

#### CONSENT CALENDAR

No objection was made to **SB 394, SB 464** appearing on the Consent Calendar for the first day.

No objection was made to **SB 376, SB 396, SB 440** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2691; SB 451** appearing on the Consent Calendar for the third day. The bills were advanced to Final Action on Bills and Concurrent Resolutions.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**HB 2691**, An act concerning budget estimates of state agencies; relating to biennial estimates for certain state agencies; Kansas home inspectors registration board; amending K.S.A. 2009 Supp. 75-3717 and repealing the existing section, was considered on final action. Call of the House was demanded.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Aurand, George, Johnson, Pottorff, Winn.

The bill passed.

**SB 451**, An act concerning municipal bonds; amending K.S.A. 2009 Supp. 10-106 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Prescott, Proehl, Quigley, Rar-

din, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Aurand, George, Johnson, Pottorff, Winn.

The bill passed.

**Sub. HB 2390.** An act concerning insurance; relating to the use of credit information; amending K.S.A. 2009 Supp. 40-5103 and 40-5104 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 108; Nays 11; Present but not voting: 1; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hineman, C. Holmes, M. Holmes, Horst, Jack, Kerschen, King, Kleeb, Knox, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Prescott, Proehl, Quigley, Rardin, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: A. Brown, Donohoe, Hermanson, Huebert, Kelley, Kiegerl, Kinzer, Merrick, Rhoades, Siegfried, Whitham.

Present but not voting: Landwehr.

Absent or not voting: Aurand, George, Johnson, Pottorff, Winn.

The substitute bill passed.

**SB 409.** An act establishing the passenger rail service program; providing for powers and duties of the secretary of transportation; establishing the passenger rail service revolving fund, was considered on final action.

On roll call, the vote was: Yeas 115; Nays 5; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: A. Brown, Carlson, Donohoe, Faber, Kinzer.

Present but not voting: None.

Absent or not voting: Aurand, George, Johnson, Pottorff, Winn.

The bill passed.

**SB 438.** An act concerning business trusts; relating to required filings with the office of the secretary of state; amending K.S.A. 17-2030 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 117; Nays 3; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Barnes, Dillmore, Lane.

Present but not voting: None.

Absent or not voting: Aurand, George, Johnson, Pottorff, Winn.

The bill passed.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2283**, 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 of the Whole amendments, as follows:

On page 2, after line 30, by inserting the following:

“(G) If the area transferred consists of land for which no water service is being provided by the system at the time of the annexation, the value of such land based on the planning, design and construction of improvements located outside the annexed area reasonably made to provide future water service to the annexed area;”;

And by relettering the subsections accordingly;

On page 4, in line 11, by striking “2008” and inserting “2009”; in line 31, by striking “2008” and inserting “2009”;

On page 7, after line 16, by inserting the following:

“(H) If the area released consists of land for which no water service is being provided by the system at the time of the release, the value of such land based on the planning, design and construction of improvements located outside the released area reasonably made to provide future water service to the released area;”;

And by relettering the subsections accordingly;

Also on page 7, by striking all in lines 36 through 43;

On page 8, by striking all in lines 1 through 16;

And by renumbering the remaining sections accordingly;

Also on page 8, in line 17, by striking “82a-1036 and”; also in line 17, by striking “2008” and inserting “2009”;

In the title, in line 13, by striking “K.S.A. 82a-1036 and”; in line 14, by striking “2008” and inserting “2009”;

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

CAROLYN MCGINN

RUTH TEICHMAN

MARCI FRANCISCO

*Conferees on part of Senate*

LARRY POWELL

ROCKY FUND

STEVE LUKERT

*Conferees on part of House*

On motion of Rep. Fund, the conference committee report on **HB 2283** was adopted.

On roll call, the vote was: Yeas 119; Nays 1; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Ward.

Present but not voting: None.

Absent or not voting: Aurand, George, Johnson, Pottorff, Winn.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Fund, the House concurred in Senate amendments to **HB 2323**, An act concerning providers of care services; relating to employment of persons by such providers; amending K.S.A. 2009 Supp. 39-970 and 65-5117 and repealing the existing sections.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Aurand, George, Johnson, Pottorff, Winn.

On motion of Rep. Shultz, the House nonconcurred in Senate amendments to **HB 2500** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Shultz, Peck and Swenson as conferees on the part of the House.

On motion of Rep. Shultz, the House nonconcurred in Senate amendments to **HB 2501** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Shultz, Peck and Swenson as conferees on the part of the House.

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

#### COMMITTEE OF THE WHOLE

On motion of Rep. Hubert, Committee of the Whole report, as follows, was adopted: Recommended that committee report to **SB 497** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 200** be adopted; and the substitute bill be passed.

**REPORTS OF STANDING COMMITTEES**

Committee on **Corrections and Juvenile Justice** recommends **SB 458**, as amended by Senate Committee, be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL No. 458," as follows:

"HOUSE Substitute for SENATE BILL No. 458  
By Committee on Corrections and Juvenile Justice

"AN ACT concerning crimes, punishment and criminal procedure; relating to violations of the Kansas uniform securities act; amending K.S.A. 17-12a508 and repealing the existing section.";

and the substitute bill be passed.

(**H. Sub. for SB 458** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **SB 371** be passed.

Committee on **Taxation** recommends **HB 2519** be amended on page 1, after line 13, by inserting the following:

"Section 1. K.S.A. 2009 Supp. 12-191 is hereby amended to read as follows: 12-191. All retail transactions consummated within a county or city having a retail sales tax, which transactions are subject to the Kansas retailers' sales tax, shall also be subject to such county or city retail sales tax. Except as hereinafter provided, *the retailer may choose that* all retail sales, for the purpose of this act, shall be considered to have been consummated at the *place of business of the retailer and sourced to such location, or at the* location determined by the sourcing rules as provided in K.S.A. 2009 Supp. 79-3670, and amendments thereto. The retail sales or transfer of watercraft, modular homes, manufactured homes or mobile homes, shall be considered consummated at the place of business of the retailer and sourced to such location. The retail sale, excluding the lease or rental, of motor vehicles, trailers, semi-trailers or aircraft that do not qualify as transportation equipment, as defined in subsection (d) of K.S.A. 2009 Supp. 79-3670, and amendments thereto, shall be considered consummated at the place of business of the retailer and sourced to such location. The isolated or occasional sale of any motor vehicle or trailer shall be considered consummated at the taxing jurisdiction where the sale is made. If the sale negotiations occurred in different cities or counties, the situs of the sale for local sales tax purposes shall be the place where the motor vehicle or trailer was kept at the time negotiations were first entered into. In the event the place of business of a retailer is doubtful the place or places at which the retail sales are consummated for the purposes of this act shall be determined under rules and regulations adopted by the secretary of revenue which rules and regulations shall be considered with state and federal law insofar as applicable. The director of taxation is hereby authorized to request and receive from any retailer or from any city or county levying the tax such information as may be reasonably necessary to determine the liability of retailers for any county or city sales tax. The collection of any sales tax of a county or city approved at any election shall commence on the first day of the calendar quarter next following the 90th day after the date that the city or county has provided written notice to the director of taxation of the election authorizing the levy of such tax. The collection of any such sales tax applicable to printed catalog purchases wherein the purchaser computed the tax based upon local tax rates published in the catalog, shall not commence until the first day of the calendar quarter next following the 150th day after the date that the city or county has provided written notice to the director of taxation of the election authorizing the levy of such tax. The director of taxation shall provide notice to sellers of such taxes within 30 days after receiving such notice from the city or county.

A city retailers' sales tax shall not become effective within any area annexed by a city levying such tax until the first day of the calendar quarter next following the 90th day after the date that the governing body of such city provided the state department of revenue with a certified copy of the annexation ordinance and a map of the city detailing the annexed area. The director of taxation shall provide notice to sellers of such tax within 30 days after receiving such notice from the city or county.

Whenever any sales tax, imposed by any city or county under the provisions of this act, shall become effective, at any time prior to the time that revenue derived therefrom may be budgeted for expenditure in such year, such revenue shall be credited to the funds of

the taxing subdivision or subdivisions and shall be carried forward to the credit of such funds for the ensuing budget year in the manner provided for carrying forward balances remaining in such funds at the end of a budget year.”;

And by renumbering sections accordingly;

On page 9, in line 10, after “Supp.” by inserting “12-191.”;

On page 1, in the title, in line 9, after “to” by inserting “situated in taxable transactions;” in line 10, by striking “conformity”; also in line 10, after “Supp.” by inserting “12-191.”; and the bill be passed as amended.

Committee on **Taxation** recommends **SB 430** be amended on page 5, after line 5, by inserting the following:

“Sec. 2. K.S.A. 2009 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 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 total amount of tax credits which may be allowed under this section shall not exceed \$4,000,000 during the tax year 2007 and \$6,000,000 for tax year 2008 and each tax year thereafter, *except that for tax year 2011, the total amount of tax credits which may be allowed under this section shall not exceed \$5,000,000.* 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 who has not owed any Kansas income tax under the provisions of article 32, chapter 79 of the Kansas Statutes Annotated 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 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 the transferee as a credit against the 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 in-

vestors or the transferees of investors, according to a reasonable fee schedule adopted by the corporation.

Sec. 3. K.S.A. 2009 Supp. 74-99c09 is hereby amended to read as follows: 74-99c09. (a) Any money received by the center from any source shall be maintained in interest-bearing accounts in Kansas banks or Kansas savings and loan associations. Any accounts so maintained shall be administered by the center for entrepreneurship under guidelines developed and implemented by the center and approved by the secretary of commerce.

(b) The Kansas center for entrepreneurship shall be subject to audit by the legislative division of post audit in accordance with the provisions of the legislative post audit act.

(c) A credit against the tax imposed by the Article 32, Chapter 79 of the Kansas Statutes Annotated on the Kansas taxable income of a contributor and against the tax imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for a contribution to the Kansas center for entrepreneurship. The credit shall be a total maximum amount equal to 75% of a contributor's donation to the Kansas center for entrepreneurship, subject to the limitation set forth. This tax credit may be used in its entirety in the taxable year in which the contribution is made. The provisions of this section shall be applicable to all taxable years beginning after December 31, 2004. If the amount by which that portion of the credit allowed by this section exceeds the contributor's liability in any one taxable year, the remaining portion of the credit may be carried forward until the total amount of the credit is used. If the contributor is a corporation having an election in effect under subchapter S of the federal internal revenue code or a partnership, the credit provided by this section shall be claimed by the shareholders of these corporations or the partners of a partnership in the same manner as these shareholders or partners account for their proportionate shares of the income or loss of these corporations or partnerships.

(d) The secretary of revenue shall not allow tax credits of more than \$50,000 that are attributable to an individual contributor in the Kansas center for entrepreneurship each year. In no event shall the total amount of tax credits allowed under this section exceed \$2,000,000 for any one fiscal year, *except that for fiscal year 2011, the total amount of credits allowed under this section shall not exceed \$1,800,000.*

(e) The Kansas center for entrepreneurship, along with the department, shall develop a system for application for registration of an authorization of tax credits authorized pursuant to this act and shall control distribution of all tax credits to contributors pursuant to this act. The Kansas center for entrepreneurship, along with the department, shall also develop rules for the administration of and disbursements from its accounts.

(f) The Kansas center for entrepreneurship shall distribute funds to regional or local community seed capital funds or economic development agencies based on the following criteria: (1) The organization can provide a 40% match; (2) the organization provides a plan that assures funds will be used as seed capital for qualified entrepreneurs; (3) the funds will be used in a distressed or rural community; or (4) other criteria as deemed necessary by the Kansas center for entrepreneurship.”;

And by renumbering the remaining sections accordingly;

Also on page 5, in line 27, after the stricken material, by inserting “In no event shall the total amount of credits allowed under this section exceed \$3,750,000 for fiscal year 2010.”;

On page 7, in line 22, by striking “74-99c09,”; in line 24, by striking “79-32,211,”; in line 28, after the second comma, by inserting “and for tax year 2009, for the tax credit provided under K.S.A. 2009 Supp. 74-99c09, and amendments thereto.”;

On page 8, after line 32, by inserting the following:

“(e) For any tax credit or credits earned pursuant to K.S.A. 74-8133, and amendments thereto, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a) from tax years 2009 or 2010, may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 74-8133, and amendments thereto.”;

Also on page 8, in line 34, after “74-50,154,” by inserting “74-8133, 74-99c09,”;

On page 1, in the title, in line 11, after “74-50,154,” by inserting “74-8133, 74-99c09,”; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 544** be passed.



Committee on **Transportation** recommends **SB 518**, as amended by Senate Committee, be amended on page 1, in line 29, by striking "A" and inserting "Except as provided under subsection (g), a"; in line 30, by striking all following "charge"; in line 31, by striking all preceding "per" and inserting "of \$20";

On page 2, in line 7, by striking "A" and inserting "Except as provided under subsection (g), a"; in line 26, by striking "\$2" and inserting "10%";

On page 3, following line 13, by inserting the following:

"(g) After July 1, 2010, the fees charged under subsections (a) and (b) may be established by the superintendent of the Kansas highway patrol by rules and regulations in an amount not to exceed \$25."; and the bill be passed as amended.

**Transportation and Public Safety Budget Committee** recommends **HB 2387** be amended on page 1, in line 15, by striking "2008" and inserting "2009";

On page 2, in line 5, by striking "2008" and inserting "2009";

On page 1, in the title, in line 11, by striking "2008" and inserting "2009"; and the bill be passed as amended.

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

#### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was thereupon introduced and read by title:

HOUSE CONCURRENT RESOLUTION No. 5036—

By Committee on Judiciary

A PROPOSITION to amend article 2 of the constitution of the state of Kansas by adding a new section thereto, affirming the legislature's authority to limit the amount of recovery for noneconomic damages in any claim for personal injury.

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

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 2 of the constitution of the state of Kansas is amended by adding a new section thereto to read as follows:

"§ 31. **Limitation on noneconomic damages.** (a) The legislature may enact laws limiting the amount of noneconomic damages awarded for any claim for personal injury. No provision of this constitution shall limit the powers of the legislature herein conferred, including the power of the legislature to specify circumstances in which such limitations would not apply.

(b) Noneconomic damages, including damages for pain and suffering, are losses for which there is no unit value, mathematical formula or rule of calculation and include, but shall not be limited to, mental anguish, disability, disfigurement, inconvenience, humiliation, loss of capacity to enjoy life, bereavement, loss of society, loss of companionship, loss of reputation and all other losses which are intangible in nature."

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

*"Explanatory statement.* This amendment would allow the legislature to limit awards for pain and suffering, or noneconomic damages, that a person could recover in a personal injury action. The amendment also allows the legislature to specify circumstances in which the limitations would not apply, for example when the conduct of the party causing the injury was due to criminal acts, or negligence due to substance abuse or impairment. Nothing in this amendment would affect awards or recovery of actual economic losses, such as lost wages, past or future medical bills, rehabilitation and long term care costs, nor would this amendment affect awards for punitive damages in any way.

“Noneconomic damages” are commonly referred to as pain and suffering, but also can include mental anguish, disability, disfigurement, inconvenience, humiliation, loss of capacity to enjoy life, bereavement, loss of society, loss of companionship, loss of reputation, loss of consortium, and other losses for which there is no unit value, mathematical formula or known rule for calculation. A “personal injury” includes all actionable injuries to an individual as distinguished from injuries to the individual’s property, and includes bodily and emotional injuries as well as injuries to reputation and character.

“A vote for this amendment would affirm the authority of the legislature to limit the amount of noneconomic damages a person could recover in any claim for personal injury.

“A vote against this amendment would leave the legislature without the express authority to adopt limits on awards for noneconomic damages in personal injury claims.”

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 November in the year 2010 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.

#### REPORT ON ENGROSSED BILLS

**HB 2676** reported correctly re-engrossed March 10, 2010.

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Friday, March 12, 2010.

SUSAN W. KANNARR, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

