

Journal of the House

FORTY-SIXTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, March 17, 2010, 11:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.
The roll was called with 124 members present.
Rep. Johnson was excused on verified illness.

Prayer by Chaplain Brubaker:

Our Heavenly Father,
In the words of St. Patrick:
"May the Strength of God guide us.
May the Power of God preserve us.
May the Wisdom of God instruct us.
May the Hand of God protect us.
May the Way of God direct us.
May the Shield of God defend us.
May the Angels of God guard us
against the snares of the evil one.
May Christ be with us!
May Christ be before us!
May Christ be in us,
Christ be over all!
May Thy Grace, Lord,
always be ours,
this day, O Lord, and forevermore. Amen."
(*St. Patrick — "Prayer for the Faithful"*)

The Pledge of Allegiance was led by Rep. Fund.

In celebration of St. Patrick's Day, former Senator Rich Gannon played *When the Piper Plays and Highland Cathedral* on the bagpipes.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Taxation: **HB 2743**.

Education Budget: **HB 2742**.

CONSENT CALENDAR

No objection was made to **SB 541** appearing on the Consent Calendar for the first day.

No objection was made to **SB 508** appearing on the Consent Calendar for the third day.
The bill was advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 508, An act concerning discount cards; filing requirements with the secretary of state; amending K.S.A. 50-1,101 and 50-1,103 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, 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, George, 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, Pottorff, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Johnson.

The bill passed.

HB 2463, An act concerning taxation; establishing the committee on simplified state tax structure; prescribing membership, duties and responsibilities thereof, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 4; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crum, Davis, DeGraaf, Dillmore, Donohoe, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, 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, 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, Pottorff, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: T. Brown, Crow, Faber, Kuether.

Present but not voting: None.

Absent or not voting: Johnson.

The bill passed.

HB 2519, An act concerning sales taxation; relating to streamlined sales and use tax agreement; amending K.S.A. 2009 Supp. 79-3609, 79-3651, 79-3666 and 79-3672 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 75; Nays 49; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, T. Brown, Burroughs, Carlin, Colloton, Craft, Crow, Davis, Dillmore, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Grange, Grant, Hawk, Henderson, Henry, Hill, C. Holmes, Horst, Kleeb, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Meier, Menghini, Moxley, Neighbor, Otto, Pauls, Peterson, Phelps, Pottorff, Prescott, Proehl, Quigley, Rardin, Roth, Ruiz, Schroeder, Shultz, Slattery, Sloan, Spalding, Swanson, Swenson, Tafanelli, Tietze, Trimmer, Ward, Wetta, Whitham, Winn, B. Wolf, Worley.

Nays: A. Brown, Brunk, Burgess, Carlson, Crum, DeGraaf, Donohoe, Fund, Goico, Gordon, Goyle, Hayzlett, Hermanson, Hineman, M. Holmes, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Knox, Landwehr, Mast, McLeland, Merrick, Morrison, Myers, Neu-

feld, O'Brien, O'Neal, Olson, Palmer, Patton, Peck, Powell, Rhoades, Schwab, Schwartz, Seiwert, Siegfried, Suellentrop, D. Svaty, Talia, Vickrey, Williams, K. Wolf, Yoder.

Present but not voting: None.

Absent or not voting: Johnson.

The bill passed, as amended.

HB 2520. An act concerning taxation; relating to willful failure to collect tax or to commit other violations; amending K.S.A. 79-32,107 and K.S.A. 2009 Supp. 79-2971, 79-32,100c and 79-3643 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, 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, George, 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, Pottorff, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Kinzer.

Present but not voting: None.

Absent or not voting: Johnson.

The bill passed.

Sub. HB 2521. An act concerning taxation; relating to electronic filing of returns, reports or other documents; disclosure of information; intangibles tax, filing procedure; amending K.S.A. 12-1,104 and K.S.A. 2009 Supp. 79-3234, 79-3298 and 79-3607 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 106; Nays 18; Present but not voting: 0; Absent or not voting: 1.

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

Nays: A. Brown, DeGraaf, Donohoe, Faber, Hermanson, Huebert, Kelley, Kinzer, Landwehr, Mast, Merrick, Neufeld, Olson, Rhoades, Schwab, Schwartz, Siegfried, Vickrey.

Present but not voting: None.

Absent or not voting: Johnson.

The substitute bill passed, as amended.

HB 2621. An act concerning income taxation; relating to certain credits; repealing certain credits; angel investor tax credit, procedure; amending K.S.A. 39-7,132 and 65-7107 and K.S.A. 2009 Supp. 74-8133 and repealing the existing sections; also repealing K.S.A. 79-32,200 and K.S.A. 2009 Supp. 79-32,204, 79-32,207 and 79-32,242, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 1; Present but not voting: 1; Absent or not voting: 1.

Yeas: Aurand, Ballard, Barnes, Benlon, Bethell, 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, George, 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, 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, Pottorff, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Landwehr.

Present but not voting: Bollier.

Absent or not voting: Johnson.

The bill passed, as amended.

Sub. HB 2689, An act concerning sales taxation; relating to countywide retailers' sales tax; Pottawatomie and Kingman counties; amending K.S.A. 12-197 and K.S.A. 2009 Supp. 12-187, as amended by section 1 of 2010 Senate Substitute for House Bill No. 2353, 12-189, as amended by section 2 of 2010 Senate Substitute for House Bill No. 2353, and 12-192, as amended by section 3 of 2010 Senate Substitute for House Bill No. 2353 and repealing the existing sections, was considered on final action.

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

Yeas: 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, George, 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, Pottorff, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Aurand.

Present but not voting: None.

Absent or not voting: Johnson.

The substitute bill passed.

SB 430, An act concerning income taxation; relating to credits, limitations; amending K.S.A. 2009 Supp. 74-50,154, 74-8133, 74-99c09, 79-32,211 and 79-32,264 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Barnes, 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, George, 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, 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, Pottorff, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

ini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Talia, Tietze, Trimmer, Vickrey, Wetta, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Dillmore, Landwehr, Tafanelli, Ward, Whitham.

Present but not voting: None.

Absent or not voting: Johnson.

The bill passed, as amended.

SB 463, An act concerning county bonded debt limits; amending K.S.A. 2009 Supp. 10-306 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 106; Nays 18; Present but not voting: 0; Absent or not voting: 1.

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

Nays: Bollier, A. Brown, Brunk, DeGraaf, Donohoe, Huebert, Kelley, Kiegerl, Kinzer, Landwehr, Mast, Patton, Peck, Schwab, Schwartz, Siegfried, Suellentrop, Yoder.

Present but not voting: None.

Absent or not voting: Johnson.

The bill passed.

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

COMMITTEE OF THE WHOLE

On motion of Rep. Whitham, Committee of the Whole report, as follows, was adopted: Recommended that **SB 544**, **SB 441**, **SB 437** be passed.

Committee report to **SB 439** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 458** be adopted; and the substitute bill be passed.

Committee report to **SB 386** be adopted; and the bill be passed as amended.

Committee report to **HB 2729** be adopted; and the bill be passed as amended.

Committee report to **SB 369** be adopted; also, on motion of Rep. Kinzer be amended on page 12, in line 9, before "79-3234," by inserting "79-1437f.,"

Also, on motion of Rep. Otto, **SB 369** be amended on page 1, after line 15, by inserting the following:

"Section 1. On and after July 1, 2010, K.S.A. 45-219 is hereby amended to read as follows: 45-219. (a) Any person may make abstracts or obtain copies of any public record to which such person has access under this act. If copies are requested, the public agency may require a written request and advance payment of the prescribed fee. A public agency shall not be required to provide copies of radio or recording tapes or discs, video tapes or films, pictures, slides, graphics, illustrations or similar audio or visual items or devices, unless such items or devices were shown or played to a public meeting of the governing body thereof, but the public agency shall not be required to provide such items or devices which are copyrighted by a person other than the public agency.

(b) Copies of public records shall be made while the records are in the possession, custody and control of the custodian or a person designated by the custodian and shall be made under the supervision of such custodian or person. When practical, copies shall be made in

the place where the records are kept. If it is impractical to do so, the custodian shall allow arrangements to be made for use of other facilities. If it is necessary to use other facilities for copying, the cost thereof shall be paid by the person desiring a copy of the records. In addition, the public agency may charge the same fee for the services rendered in supervising the copying as for furnishing copies under subsection (c) and may establish a reasonable schedule of times for making copies at other facilities.

(c) Except as provided by subsection (f) or where fees for inspection or for copies of a public record are prescribed by statute, each public agency may prescribe reasonable fees for providing access to or furnishing copies of public records, subject to the following:

(1) In the case of fees for copies of records, the fees shall not exceed the actual cost of furnishing copies, including the cost of staff time required to make the information available.

(2) In the case of fees for providing access to records maintained on computer facilities, the fees shall include only the cost of any computer services, including staff time required.

(3) Fees for access to or copies of public records of public agencies within the legislative branch of the state government shall be established in accordance with K.S.A. 46-1207a and amendments thereto.

(4) Fees for access to or copies of public records of public agencies within the judicial branch of the state government shall be established in accordance with rules of the supreme court.

(5) Fees for access to or copies of public records of a public agency within the executive branch of the state government shall be established by the agency head. Any person requesting records may appeal the reasonableness of the fees charged for providing access to or furnishing copies of such records to the secretary of administration whose decision shall be final. A fee for copies of public records which is equal to or less than \$.25 per page shall be deemed a reasonable fee.

(d) Except as otherwise authorized pursuant to K.S.A. 75-4215 and amendments thereto, each public agency within the executive branch of the state government shall remit all moneys received by or for it from fees charged pursuant to this section to the state treasurer in accordance with K.S.A. 75-4215 and amendments thereto. Unless otherwise specifically provided by law, the state treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the state general fund or an appropriate fee fund as determined by the agency head.

(e) Each public agency of a political or taxing subdivision shall remit all moneys received by or for it from fees charged pursuant to this act to the treasurer of such political or taxing subdivision at least monthly. Upon receipt of any such moneys, such treasurer shall deposit the entire amount thereof in the treasury of the political or taxing subdivision and credit the same to the general fund thereof, unless otherwise specifically provided by law.

(f) Any person who is a certified shorthand reporter may charge fees for transcripts of such person's notes of judicial or administrative proceedings in accordance with rates established pursuant to rules of the Kansas supreme court.

(g) *Nothing in the open records act shall require a public agency to allow a person to obtain copies of a public record by inserting, connecting or otherwise attaching an electronic device to the computer or other electronic device of the public agency.*;

And by renumbering the remaining sections accordingly;

On page 15, in line 40, after "K.S.A." by inserting "45-219,";

In the title, in line 11, after "K.S.A." by inserting "45-219,";

Also, on motion of Rep. Patton to amend **SB 369**, the motion was withdrawn and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2673** be amended on page 1, in line 31, by striking all following "exceed"; in line 32, by striking all preceding "and" and inserting "\$1,200 annually per licensed bed";

On page 3, in line 27, by striking all following "(5)"; by striking all in lines 28 through 30; in line 31, by striking "(6)"; in line 34, by striking "(7)" and inserting "(6)";

On page 4, in line 18, by striking "(f)in" and inserting "(f) in"; in line 27, by striking "(f)is" and inserting "(f) is";

On page 5, in line 3, following “Kansas” by inserting “association of”; in line 5, preceding “one”, by inserting “one person appointed by the Kansas hospital association;”; also in line 5, by striking “ap-”; in line 6, by striking all preceding “who”; also in line 6, preceding “an”, by inserting “a member of the Kansas adult care executive association appointed by the governor;”; in line 7, preceding “not” by inserting “and whose employing home is”; and the bill be passed as amended.

(Having been referred separately, **HB 2673** is now in Committee on **Aging and Long Term Care.**)

Committee on **Appropriations** recommends **Substitute for SB 311** be amended on page 3, by striking all in lines 18 through 25; in line 26, by striking “(5)” and inserting “(4)”; in line 32, by striking “(6)” and inserting “(5)”;

On page 4, by striking all in lines 1 through 38; in line 39, by striking “(d)” and inserting “(c)”;

On page 5, in line 4, by striking “(e)” and inserting “(d)”; and the substitute bill be passed as amended.

Committee on **Appropriations** recommends **SB 313** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 313,” as follows:

“HOUSE Substitute for SENATE BILL No. 313

By Committee on Appropriations

“AN ACT concerning the state general fund; relating to certain state and school district contractual bond obligations; imposing a limitation on the issuance of certain bonds issued by the Kansas development finance authority; establishing a maximum on state general fund bonded debt; limiting transfers to the school district capital improvements fund; prescribing certain powers, duties and functions with respect thereto; amending K.S.A. 2009 Supp. 75-2319 and repealing the existing section.”; and the substitute bill be passed.

(**H. Sub. for SB 313** was thereupon introduced and read by title.)

Committee on **Appropriations** recommends **SB 446** be amended on page 1, following line 16, by inserting the following:

“New Section 1. Sections 1 through 14, and amendments thereto, shall be known and may be cited as the council on efficient government act.

New Sec. 2. (a) It is the public policy of this state to provide the highest quality services at the lowest possible cost to taxpayers. Efficiency can only be achieved, however, if decisions about how government services are provided are governed by the following fundamental principles:

(1) The state government should not compete with private businesses that provide the same goods and services;

(2) the state government should not replicate, duplicate or compete with not-for-profit organizations that provide the same goods and services;

(3) the state government should not replicate, duplicate or compete with the federal government or local units of government that provide the same goods and services;

(4) there are certain functions and operations of state government that are inherently governmental and cannot be outsourced, and these activities are intimately related to the public interest; and

(5) when activities are clearly not governmental functions and operations, the state government should conduct a rigorous comparison of private business or not-for-profit organizational costs with the costs of the state government providing those functions and operations.

(b) The purpose of the council on efficient government is:

(1) To ensure that each state agency focuses on its core mission, and delivers goods and services effectively and efficiently by leveraging resources and contracting with private business suppliers or not-for-profit organizations if those entities can more effectively and efficiently provide such goods and services thereby reducing the cost of government while expanding those services to the greatest number of citizens;

(2) to develop a comprehensive and detailed process to analyze opportunities to improve the efficiency, cost-effectiveness and quality of state governmental services, operations, functions and activities; and

(3) to evaluate for feasibility, cost-effectiveness and efficiency, business cases that potentially could be outsourced and make recommendations to state agencies prior to the outsourcing of goods or services.

New Sec. 3. As used in sections 1 through 14, and amendments thereto:

(a) "Activity" means the provision of goods or services or the performance of any function or operation by a state agency.

(b) "Affiliated" means a person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity.

(c) "Business case" means any proposal to outsource a state agency activity or eliminate replication or duplication of a state agency activity and operations carried out by a private business, not-for-profit organization or other government agency.

(d) "Contractor" means any private business or not-for-profit organization that contracts with a state agency to perform an activity previously performed by such state agency.

(e) "State agency" means any department, authority, office or other governmental agency of this state. The term shall not include any political subdivision of the state, municipality or other unit of local government.

New Sec. 4. (a) There is hereby created a body politic and corporate to be known as the council on efficient government. The council on efficient government is hereby constituted a public instrumentality and the exercise of the authority and powers conferred by this act shall be deemed and held to be the performance of an essential governmental function.

(b) The council shall consist of 11 members as follows:

(1) One member, who shall be either the lieutenant governor or the chief executive of a state agency, who shall be appointed by the governor;

(2) two members, who shall be engaged in private business and are not members of the legislature, appointed by the governor;

(3) three members, who shall be engaged in private business and only one of whom may be a member of the legislature, appointed by the president of the senate;

(4) three members, who shall be engaged in private business and only one of whom may be a member of the legislature, appointed by the speaker of the house of representatives;

(5) one member, who shall be engaged in private business and who shall not be a member of the legislature, appointed by the minority leader of the senate; and

(6) one member, who shall be engaged in private business and who shall not be a member of the legislature, appointed by the minority leader of the house of representatives.

(c) Members shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the council shall exercise any power, duty or function as a member of the council until confirmed by the senate.

(d) Members shall serve for a term of two years. Terms of members appointed pursuant to this section shall expire on March 15. In the case of the member who is a state official, such member shall serve for a term of two years, or until such member ceases to hold public office, whichever occurs first. Members shall serve until a successor is appointed and confirmed.

(e) After the expiration of a member's term, or whenever a vacancy occurs a member shall be appointed as described in subsection (a). In the event of a vacancy the appointment shall be for the remainder of the unexpired portion of the term. Any member is eligible for reappointment for successive two-year terms.

(f) No member shall appoint a designee to serve in such member's place on the council.

(g) The council shall annually elect a member as chairperson. The member appointed pursuant to paragraph (a)(1) and any member who is a member of the legislature is not eligible to serve as chairperson.

(h) The council shall meet at least four times a year at the call of the chairperson. A quorum shall consist of a majority of the members of the council.

(i) Members attending council meetings shall be entitled to compensation and expenses as provided in K.S.A. 75-3223, and amendments thereto.

New Sec. 5. (a) In order to achieve its purpose as provided in this act, the council on efficient government shall:

(1) Review and evaluate the possibility of outsourcing goods or services provided by a state agency to a private business or not-for-profit organization that is able to provide the same type of good or service and whether such action would result in cost savings to the state;

(2) review and evaluate the possibility of outsourcing operations or functions of a state agency to a private business or not-for-profit organization that is able to more efficiently and cost-effectively perform such operation or function;

(3) review and evaluate instances where a state agency is providing goods or services in competition with one or more private businesses to determine ways to eliminate such competition;

(4) review and evaluate instances where a state agency is providing goods or services that replicate, duplicate or compete with one or more not-for-profit organizations or federal or local units of government;

(5) make any requests it deems necessary to state agencies for an inventory of such agency's activities that may be outsourced, or that compete with, replicate or duplicate activities provided by private entities or federal or local units of government;

(6) develop and implement a standard process for reviewing business cases pursuant to this act;

(7) make recommendations to state agencies regarding the outsourcing of operations, functions and the provision of goods and services based on the council's review and evaluation of business cases pursuant to this act; and

(8) identify and distribute information regarding the best practices in outsourcing efforts to state agencies.

(b) The council may appoint advisory groups, provided, at least one member of the council is appointed to each such group.

(c) The council shall annually prepare and submit a report to the governor, the committee on ways and means of the senate and the committee on appropriations of the house of representatives. The report shall be submitted no later than January 15, and shall contain details of the council's activities for the immediately preceding year and include the following:

(1) Recommendations on methods of delivering government services that would improve the efficiency, effectiveness and delivery of government services;

(2) outsourcing efforts of state agencies, including the number of business cases reviewed, those recommended for outsourcing and the state agency action on the business case; and

(3) information on all outsourcing contracts entered into the preceding year, including, the dollar value of each outsourcing contract, descriptions of performance results, any breach of contract or inadequate performance, and the status of extensions, renewals and amendments of outsourcing contracts.

New Sec. 6. The staff of the legislative research department shall provide such assistance as may be requested by the council on efficient government.

New Sec. 7. (a) A business case may be submitted by the governor, any member of the legislature, any state agency, a private business, a not-for-profit organization or any government entity that is not a state agency. A business case shall be submitted in the manner and form prescribed by the council.

(b) A business case shall include the following:

(1) A description of the state agency activity the council is to review and evaluate;

(2) a description of the private market for such activity; and

(3) a proposal as to the price to be paid by the state agency if such activity were outsourced.

(c) If the business case is submitted by a state agency, the following shall also be included in the business case:

(1) A description and analysis of the agency's performance with respect to such activity;

(2) an analysis comparing the potential costs and savings to the agency between outsourcing the activity and continuing to perform such activity;

(3) a citation to existing legal authority for outsourcing such activity;

(4) a transition plan that addresses changes in personnel, equipment, office location and communication with clients and the general public should such activity be outsourced;

(5) a description of any legislative action necessary to accomplish the outsourcing of such activity; and

(6) a description of specific performance standards that a contractor must meet in performing such activity, including:

(A) Specific and measurable goals to be met by the contractor;

(B) a plan to ensure compliance by the contractor with all applicable laws and regulations; and

(C) a contingency plan addressing the contractor's nonperformance or inadequate performance of such activity.

(d) If the business case is submitted by an entity other than a state agency, the council shall send a copy of the submitted business case to the state agency currently performing the activity in question. The state agency shall have 30 days from receipt of the business case to submit a response to the council. The response shall include those items set forth in subsection (c).

(e) The council may review and evaluate any business case that is submitted to the council to determine: (1) If there is competition, replication or duplication of an activity by a state agency with a private business, not-for-profit organization or other government entity; (2) whether such activity may be outsourced by such state agency; and (3) the costs and savings that will likely result from such outsourcing.

(f) In conducting its review and evaluation of a business case the council shall consider the state agency's response submitted pursuant to subsection (d), if applicable, and determine whether the activity in question is an inherent governmental function that cannot be outsourced, or a commercial activity which may be performed by an entity other than the state agency. The council may hold public hearings, seek advice from advisory groups and request additional information from the state agency.

(g) Any member of the council that is either employed by the state agency which is performing the activity that is the subject of a business case under review, or is affiliated with a private business or not-for-profit organization that could perform such activity shall not participate in the review and evaluation of that particular business case.

(h) Upon completion of its review and evaluation the council shall prepare a report on its findings and recommendations. Copies of the council's final report on a business case shall be sent to the entity that initially submitted the business case, and the state agency which performs the activity that is the subject of the business case.

(i) Any state agency receiving a report pursuant to subsection (h) shall submit a response to the council within 45 days after receipt of the report. The response shall include the agency decision with respect to outsourcing or eliminating the activity, the reasons supporting the decision and the implementation date, if any.

New Sec. 8. Any contract entered into by a state agency with a private business or not-for-profit organization which is an agreement for the private business or not-for-profit organization to perform an activity previously performed by the state agency shall include the following:

(a) A specific scope of work statement clearly identifying the activity to be performed by the contractor;

(b) if services are being provided, an agreement as to what constitutes adequate provision of such services, and the ability of the state agency to resume provision of such services if not adequately provided by the contractor;

(c) a specific transition plan providing for the transfer of the activities in question to the contractor;

(d) specific and measurable performance standards that must be met by the contractor;

(e) a provision granting the state agency access to all relevant documents and records of the contractor necessary for the purposes of verifying the contractor is meeting all performance standards and auditing the contractor's performance;

(f) a provision requiring the contractor to interview and consider for employment any state employee previously employed by the state agency who expresses an interest in such employment; and

(g) a contingency plan for transferring such activity back to the state agency in the event the contractor does not meet the required performance standards.

New Sec. 9. (a) When any contract for the purchase of goods or services by any state agency, as that term is defined in K.S.A. 75-3701, and amendments thereto, is not awarded to a vendor after such vendor has submitted the lowest bid for such contract, the director of purchases of the department of administration shall prepare a written explanation detailing the reasons why such vendor was not awarded the contract and why the deficiencies in such vendor's bid could not be remedied to the satisfaction of the director. In the event the contract is awarded by a state agency other than the department of administration, such state agency shall prepare a written explanation detailing the reasons why such vendor was not awarded the contract and why the deficiencies in such vendor's bid could not be remedied to the satisfaction of the head of such state agency, and submit such written explanation to the director of purchases of the department of administration.

(b) On or before January 12, the director of purchases of the department of administration shall transmit to the standing committee on appropriations of the house of representatives, the standing committee on ways and means of the senate and the council on efficient government a report that shall include all written explanations prepared in accordance with this section during the immediately preceding year.

(c) The provisions of this section shall not apply to contracts that are subject to the provisions of K.S.A. 75-5801 et seq., and amendments thereto, or K.S.A. 75-1250 et seq., and amendments thereto, or to contracts in support of the planning, development or implementation of a road, bridge or public transportation construction program of the department of transportation.

New Sec. 10. (a) When any contract for the purchase of goods or services by any state agency, as that term is defined in K.S.A. 75-3701, and amendments thereto, is not awarded to a vendor that is: (1) Domiciled in this state; (2) proposing to have the work which is the subject matter of the contract performed by employees subject to Kansas income withholding taxes; and (3) subject to Kansas income taxes, the director of purchases of the department of administration shall prepare a written explanation detailing the reasons why such vendor was not awarded the contract and why the deficiencies in such vendor's bid could not be remedied to the satisfaction of the director. In the event the contract is awarded by a state agency other than the department of administration, such state agency shall prepare a written explanation detailing the reasons why such vendor was not awarded the contract and why the deficiencies in such vendor's bid could not be remedied to the satisfaction of the head of such state agency, and submit such written explanation to the director of purchases of the department of administration.

(b) On or before January 12, the director of purchases of the department of administration shall transmit to the standing committee on appropriations of the house of representatives, the standing committee on ways and means of the senate and the council on efficient government a report that shall include all written explanations prepared in accordance with this section during the immediately preceding year.

(c) The provisions of this section shall not apply to contracts that are subject to the provisions of K.S.A. 75-5801 et seq., and amendments thereto, or K.S.A. 75-1250 et seq., and amendments thereto, or to contracts in support of the planning, development or implementation of a road, bridge or public transportation construction program of the department of transportation or to contracts for building construction.

(d) For purposes of this section, the term "building construction" means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure, including multilevel parking structures and stand-alone parking lots.

New Sec. 11. (a) Any contract for the purchase of goods or services by any state agency, as that term is defined in K.S.A. 75-3701, and amendments thereto, which includes a provision for the automatic renewal or extension of such contract, shall be reviewed by the head of such agency to determine if such contract shall be allowed to be automatically renewed or extended. Such review shall include an evaluation of the cost savings the agency might benefit from if the agency were to terminate the contract and issue a new request for proposal. If the head of the state agency determines that it is in the agency's best interest to allow the contract to be automatically renewed or extended, then the head of the state agency shall prepare a written explanation detailing the reasons why such contract was

allowed to be automatically renewed or extended and submit such written explanation to the director of purchases of the department of administration.

(b) On or before January 12, the director of purchases of the department of administration shall transmit to the standing committee on appropriations of the house of representatives, the standing committee on ways and means of the senate and the council on efficient government a report that shall include all written explanations prepared in accordance with this section during the immediately preceding year.

(c) The provisions of this section shall not apply to contracts that are subject to the provisions of K.S.A. 75-5801 et seq., and amendments thereto, or K.S.A. 75-1250 et seq., and amendments thereto, or to contracts in support of the planning, development or implementation of a road, bridge or public transportation construction program of the department of transportation.

New Sec. 12. The provisions of sections 1 through 14, and amendments thereto, shall not apply to any activity conducted by or under the authority of the state board of regents, or to any contract entered into by the state board of regents or any postsecondary educational institution, as defined by K.S.A. 74-3201b, and amendments thereto.

New Sec. 13. (a) The director of purchases and any state agency authorized by statute or by delegation of authority by the director of purchases to administer purchasing procedures using competitive bidding procedures for contracts for supplies, materials, equipment and contractual services shall draft or cause to be drafted specifications for bids in a manner that does not limit the bidding, directly or indirectly, to any one specific contractor, subcontractor, manufacturer or supplier. When preparing specifications for such purposes which require specific materials, products, items or services, the director of purchases and any such state agency shall use specific brand or trade names only for reference. When preparing specifications for contracts for supplies, materials, equipment and contractual services, the director of purchases and any such state agency shall specify all materials required by American national standards institute (ANSI) number or builders hardware manufacturers association (BHMA) product number. No product or manufacturer shall be given preference over any other product or manufacturer in any specifications prepared by or for the director of purchases or any such state agency for contracts for supplies, materials, equipment and contractual services.

(b) No specifications for bids to be administered by the director of purchases or by any state agency authorized by statute or by delegation of authority by the director of purchases to administer purchasing procedures using competitive bidding procedures, shall be drafted or caused to be drafted by an outside specification writer who is a representative, supplier, owner or employee of a manufacturer or who is in any other way associated or under contract with a manufacturer.

(c) The provisions of this section shall not apply to contracts that are subject to the provisions of K.S.A. 75-5801 et seq., and amendments thereto, or K.S.A. 75-1250 et seq., and amendments thereto, or to contracts in support of the planning, development or implementation of a road, bridge or public transportation construction program of the department of transportation or to contracts for building construction.

(d) For purposes of this section, the term "building construction" means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure, including multilevel parking structures and stand-alone parking lots.

New Sec. 14. If any provision of sections 1 through 14, and amendments thereto, or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or application of the act which can be given effect without the invalid provisions or application and to this end the provisions of sections 1 through 14, and amendments thereto, are declared to be severable.;

And by renumbering sections accordingly;

Also on page 1, in line 17, by striking "Section" and inserting "Sec.;"

On page 1, in the title, in line 9, by striking all following "concerning"; in line 10, by striking all preceding the semicolon and inserting "state contracts; relating to procurement of goods and services for state agencies; bid specifications; creating the council on efficient government"; and the bill be passed as amended.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolutions were introduced and read by title:

HOUSE RESOLUTION No. 6026—

By Representative Shultz

A RESOLUTION congratulating and commending Kansas Insurance Commissioner Sandy Praeger, recipient of the American Medical Association's top government service award, the Dr. Nathan Davis Award.

WHEREAS, Kansas Insurance Commissioner Sandy Praeger was recently honored with the American Medical Association's Dr. Nathan Davis Award, which is the top government service award for an elected statewide official; and

WHEREAS, The award, named for the founding father of the AMA, recognizes elected and career officials in federal, state or municipal service whose outstanding contributions have promoted the art and science of medicine and the betterment of public health; and

WHEREAS, This is the second time that Commissioner Praeger has been given the award, also winning in 1999 when she was a member of the Kansas Senate; and

WHEREAS, This is currently Commissioner Praeger's second term as Kansas Insurance Commissioner. She also chairs the Health Insurance and Managed Care Committee and is a member of several other committees of the National Association of Insurance Commissioners (NAIC). In addition to her consumer advocacy, she serves as a health expert to the national media, such as MSNBC, CNN, Fox Business News, The New York Times, Washington Post, USA Today and the Wall Street Journal. Her past achievements include being the most immediate past President of the NAIC, serving one term in the Kansas House of Representatives and three terms in the Kansas Senate; and

WHEREAS, While working in the Kansas legislature, she worked to gain passage of patient protection laws, external review of health plans and insurance and the expansion of Kansas children's health insurance. In 2001, she led the successful campaign for mental health parity in Kansas. She has also been recognized for her leadership by the Kansas Association for the Medically Underserved on the issue of health care access and The Center for Populations Options for legislation she sponsored to create teen pregnancy prevention programs; and

WHEREAS, Currently, Commissioner Praeger is responsible for regulating all insurance sold in Kansas and overseeing the nearly 1,700 insurance companies and 90,000 agents licensed to do business in the state. She is also an influential national voice for health care and insurance issues, especially those facing small businesses and has testified before the U.S. Congress repeatedly concerning these issues; and

WHEREAS, Commissioner Praeger has worked diligently to ensure consumers have access to quality, affordable health care. Her passion for championing parity in the health care system has been made evident time and again: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate Sandy Praeger for being the recipient of the American Medical Association's Dr. Nathan Davis Award and commend her for her tireless efforts as an advocate for the American people in the health care and insurance field and wish her continued success and happiness in the future; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to send three enrolled copies of this resolution to Representative Shultz.

HOUSE RESOLUTION No. 6027—

By Representative Brunk

A RESOLUTION congratulating and commending Tiffany Nickel for being named Ms. Wheelchair Kansas 2010.

WHEREAS, Tiffany Nickel of Bel Aire was crowned Ms. Wheelchair Kansas on Sunday, March 14, 2010 at the culmination of the three-day event in Topeka. As Ms. Wheelchair Kansas, Tiffany Nickel will serve as a role model and spokesperson for people with disabilities by appearing at public events and meetings throughout the state; and

WHEREAS, Tiffany received a Bachelor of Science degree in Education from Emporia State University in 1995, and is an inter-related intermediate special education teacher in Wichita Public Schools, where she has taught for the past 10 years. She is also the Executive Director of the Kansas Disability Coalition, Inc. and is involved with many additional volunteer activities and is the President of Wheelchair Sports, Inc.; and

WHEREAS, The contest seeks to empower participants through enhanced self-awareness and confidence, to educate the public and to advocate for people with disabilities; and

WHEREAS, Tiffany will advance to the national Ms. Wheelchair America program to be held in August in Grand Rapids, Michigan. The Ms. Wheelchair America program was created in 1972, and this is the seventh year that Kansas will be represented at the national competition; and

WHEREAS, Tiffany has shown incredible determination in her life, proving to others that people with disabilities have tremendous abilities. She believes that, "anything is possible as long as you have a support system, as well as a great set of tires and a charged battery": Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate and commend Tiffany Nickel for being named Ms. Wheelchair Kansas 2010 and exhibiting all the strength and character that serve to make her a wonderful role model, not only for people with disabilities and those who are wheelchair mobile, but to all Kansans. The members of the Kansas House of Representatives are happy to share in the pride of her family and friends and extend our best wishes for her continued success and happiness; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to give one enrolled copy of this resolution to Tiffany Nickel, and one enrolled copy to be presented to the Ms. Wheelchair Kansas organization.

REPORT ON ENGROSSED BILLS

Sub. HB 2521; HB 2621 reported correctly engrossed March 17, 2010.

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Thursday, March 18, 2010.

SUSAN W. KANNARR, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

