

# Journal of the House

## FIFTY-FIRST DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Wednesday, March 24, 2010, 9:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.  
The roll was called with 122 members present.  
Reps. Fund and Johnson were excused on verified illness.  
Rep. Neufeld was excused on legislative business.  
Rep. Hawk was excused later in the day on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

We come to you today, O Lord,  
right before a break —  
needing some words of encouragement  
from You and Your Word.  
I pray these words from Your Proverbs . . .  
“Don't jump to conclusions—there may be  
a perfectly good explanation for what you just saw.  
In the heat of an argument,  
don't betray confidences;  
word is sure to get around,  
and no one will trust you.  
The right word at the right time  
is like a custom-made piece of jewelry . . .  
patient persistence pierces through indifference;  
gentle speech breaks down rigid defenses.”  
*(Proverbs 25:8-11; 15)*  
Remind us of these words throughout this day.  
Congratulations to our Emporia State Girls'  
Basketball Team for making the Final Four.  
Watch over them — keep them healthy —  
and help them to play well.  
In Your Son's Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Grant.

### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:  
Agriculture and Natural Resources: **SB 570, SB 571, SB 574.**  
Corrections and Juvenile Justice: **SB 520.**  
Local Government: **SB 561.**  
Taxation: **HB 2745.**  
General Government Budget: **SB 581.**

**CHANGE OF CONFEREES**

Speaker O'Neal announced the appointment of Rep. Hineman as a member of the conference committee on **SB 461** to replace Rep. Kelley.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

Speaker O'Neal announced that order of business, Final Action on Bills and Concurrent Resolutions, would be passed over until after General Orders this morning.

**MOTIONS TO CONCUR AND NONCONCUR**

On motion of Rep. Morrison, the House nonconcurred in Senate amendments to **HB 2540** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Morrison, Burgess and Trimmer as conferees on the part of the House.

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

**COMMITTEE OF THE WHOLE**

On motion of Rep. Landwehr, Committee of the Whole report, as follows, was adopted: Recommended that **SCR 1623** be adopted.

**SB 393; H. Sub. for SB 255; SB 435; H. Sub. for SB 312; H. Sub. for SB 174** (see further action, Afternoon Session) be passed over and retain a place on the calendar.

On motion of Rep. Slattery, **Sub. SB 353** be amended on page 5, by striking all in lines 8 through 11; in line 12, by striking "(E)" and inserting "(C)"; in line 14, by striking "(F)" and inserting "(D)"; in line 31, by striking "or";

On page 6, in line 11, after "section" by inserting "; or (12) any person who, on or after July 1, 2010, is convicted of promoting prostitution as defined by K.S.A. 21-3513 or patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto";

In the title, in line 10, after the semicolon where it appears the first time by inserting "prostitution; offender registration;"; and **Sub. SB 353** be passed as amended.

Committee report to **SB 434** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for Sub. SB 214** be adopted; and the substitute bill be passed.

Committee report to **SB 531** be adopted; and the bill be passed as amended.

Committee report to **HB 2446** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 75** be adopted; also, roll call was demanded on motion of Rep. Goico to amend on page 1, after line 41, by inserting the following:

"New Sec. 3. From and after January 1, 2011, the provisions of K.S.A. 16-320 through 16-334, and sections 3 through 5, and amendments thereto, may be cited as the preneed cemetery merchandise contract act.

New Sec. 4. From and after January 1, 2011, a cemetery corporation that accepts payment under any agreement, contract or plan governed by K.S.A. 16-320 et seq., and amendments thereto, shall:

(a) Maintain commercial insurance providing minimum coverage of \$100,000 against employee dishonesty or purchase a fidelity bond for the individual designated by the cemetery corporation as the financial officer in charge of supervising preneed transactions. Evidence of the commercial insurance maintained for compliance with this section shall be provided to the secretary of state within 10 days of a written request.

(b) If such insurance lapses, is canceled or otherwise ceases to be maintained by the cemetery corporation, the insurance carrier shall notify the secretary of state within 30 days.

New Sec. 5. From and after January 1, 2011, (a) except as provided by this section, all information which the secretary of state shall gather or record in making an investigation and examination of any cemetery corporation, or the reporting by the cemetery corporation or the trustee, shall be deemed to be confidential information, and shall not be disclosed by the secretary of state, any assistant, examiner or employee thereof, except to: (1) Officers

and the members of the board of directors of the cemetery corporation being audited; (2) the attorney general, when in the opinion of the secretary of state the same should be disclosed; and (3) the appropriate official for the municipality in which the cemetery is located, when in the opinion of the secretary of state the same should be disclosed.

(b) Upon request, the secretary of state may disclose to any person whether a cemetery corporation maintains a cemetery merchandise trust fund under K.S.A. 16-322, and amendments thereto, and whether such funds are maintained in compliance with the provisions of such laws.

(c) The provisions of subsection (a) shall expire on July 1, 2015, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2015.

Sec. 6. From and after January 1, 2011, K.S.A. 16-320 is hereby amended to read as follows: 16-320. The following definitions shall apply to this act:

(a) "*Preneed cemetery merchandise*" means burial vaults, grave liners, grave boxes, urns, memorials, markers, vases, memorial vases, tombstones, *uninstalled* lawn crypts, niches and mausoleum spaces and ~~all any~~ merchandise ~~commonly~~ sold or used in cemeteries. Caskets; grave lots, grave spaces; burial or interment rights; and developed or existing lawn crypts, mausoleum spaces or niches are not *preneed* cemetery merchandise.

(b) "*Preneed burial products or preneed services*" means any casket or service incidental to the burial of a body or the placement of a memorial, marker, vase or tombstone or any other service provided by a cemetery corporation.

(c) "*Cemetery merchandise trust fund*" means a special purpose trust fund required to administer payments received from the sale of *preneed* cemetery merchandise, *preneed* burial products or *preneed* services.

~~(d)~~ (d) "*Purchase price*" means the ~~gross~~ retail amount, less sales tax, if any, to be paid for *preneed* cemetery merchandise, *preneed* burial products or *preneed* services under the provisions of a ~~prepaid~~ *preneed* merchandise contract, including the cost of shipping. The purchase price does not include finance charges, sales tax, ~~charges for real property interests~~ the purchase price of existing grave spaces, burial or interment rights or charges for credit life insurance.

~~(e)~~ (e) "*Prepaid Preneed merchandise contract*" means any agreement for the sale of *preneed* cemetery merchandise, *preneed* burial products or *preneed* services by a cemetery corporation which requires payment of the purchase price, in whole or in part, prior to delivery of the *preneed* cemetery merchandise, *preneed* burial products or *preneed* services, which agreement is entered into from and after the effective date of this act.

~~(f)~~ (f) "*Cemetery corporation*" means any individual or entity required to maintain permanent maintenance ~~funds fund~~ under the provisions of K.S.A. 17-1312f, and amendments thereto.

~~(g)~~ (g) "*Minimum Funding requirement*" means that portion of the purchase price equal to ~~110% of the wholesale cost f.o.b. to the cemetery corporation~~ 50% of the retail price of the *preneed* cemetery merchandise covered described in a ~~prepaid~~ the *preneed* merchandise contract. Wholesale costs shall be determined by the cemetery corporation on the basis of such quotations and price lists as are available to the cemetery and 100% of the retail price of any *preneed* burial product or *preneed* service, including distributable earnings.

(h) "*Distributable earnings*" means income and capital gains, less any reasonable costs incurred by the trustee, including a reasonable fee for services and applicable taxes and costs.

(i) *The trustee means:* (1) A bank, savings and loan association, savings bank or credit union organized under the laws of this state with the authority to provide trust services;

(2) a federally chartered bank, savings and loan association, savings bank or credit union that has a physical location within the state of Kansas and the authority to provide trust services; or

(3) a trust company organized under the laws of this state.

Sec. 7. From and after January 1, 2011, K.S.A. 16-321 is hereby amended to read as follows: 16-321. (a) Any cemetery corporation entering into any prepaid merchandise contract shall establish and maintain a cemetery merchandise trust fund under K.S.A. 16-322. All prepaid merchandise contracts shall be in writing.

— (b) A cemetery corporation entering into a prepaid merchandise contract shall be entitled to retain all of the purchase price under the prepaid merchandise contract until it has received an amount equal to 35% of the purchase price of the cemetery merchandise sold in a prepaid merchandise contract.

— (c) After the cemetery corporation has received the amounts it is entitled to receive under subsection (b) of this section, all payments of the purchase price to the cemetery corporation under a prepaid merchandise contract shall be deposited by the cemetery corporation in a cemetery merchandise trust fund until such time as the requirements of subsection (d) of this section have been satisfied or delivery is made of the cemetery merchandise. Thereafter, all payments of the purchase price in excess of the minimum funding requirements may be retained by the cemetery corporation. Deposits shall be made within 10 business days after the moneys are received.

— (d) Annually, as of December 31, each cemetery corporation shall determine the wholesale cost for all cemetery merchandise covered by a prepaid merchandise contract for which funds are then held in a cemetery merchandise trust or in an individual merchandise account. If the amounts held with respect to a prepaid merchandise contract exceed the minimum funding requirement the excess shall be paid by the trustee of the cemetery merchandise trust to the cemetery corporation. In such event, no further deposit shall be required with respect to the prepaid merchandise contract until such time as the amounts held no longer exceed the minimum funding requirement. If the minimum funding requirement is not satisfied, no amount shall be paid to or withdrawn by the cemetery corporation and the cemetery corporation shall continue or shall resume, as the case may be, making the deposits required by subsection (c) of this section.

*(a) Any cemetery corporation entering into any preneed merchandise contract shall establish and maintain a cemetery merchandise trust fund under K.S.A. 16-322, and amendments thereto. The primary purpose of the cemetery merchandise trust fund is to maintain the corpus of the trust fund with the goal that the growth of the corpus will be at least equal to the wholesale costs of the preneed cemetery merchandise, preneed burial products or preneed services, at the time of delivery or need.*

*(b) All preneed cemetery merchandise contracts shall be in writing.*

*(c) A cemetery corporation entering into a preneed merchandise contract that allows the purchaser to make installment payments, shall be entitled to retain all purchaser payments until an amount equal to 25% of the purchase price is received, and thereafter, shall deposit at least 2/3 of each payment into the cemetery merchandise trust fund and the cemetery corporation may retain the balance of each such payment. The cemetery corporation's duty to deposit purchaser payments into the cemetery merchandise trust fund, whether received by installments or single payment, must comply with subparagraph (e) below.*

*(d) An administrative fee of not to exceed \$25 shall be charged for each preneed merchandise contract for preneed cemetery merchandise, preneed burial products or preneed services and forwarded on a quarterly basis to the secretary of state, in a form and manner approved by the secretary of state. The secretary of state shall promulgate rules and regulations to establish the administrative fee.*

*(e) Deposits to the cemetery merchandise trust fund shall be made within 30 days following the calendar month after the moneys are received.*

*(f) Within 30 days following the end of each quarter, the cemetery corporation shall provide the trustee and the secretary of state a report of all sales of preneed cemetery merchandise, preneed burial products and preneed services. The report shall be in a form and manner approved by the secretary of state. If the cemetery did not make a sale within 30 days following the end of each quarter, the cemetery corporation shall provide the trustee and the secretary of state a report indicating no sales to record. The report shall be in a form and manner approved by the secretary of state.*

*(g) Within 30 days following the end of each quarter, the cemetery corporation shall provide the trustee and the secretary of state a report of all verified deliveries of preneed cemetery merchandise, preneed burial products and preneed services along with any request for distribution from the trustee. The report shall be in a form and manner approved by the secretary of state. If the cemetery did not make a delivery within 30 days following the end of each quarter, the cemetery corporation shall provide the trustee and the secretary of state*

a report indicating there were no deliveries to record. The report shall be in a form and manner approved by the secretary of state.

(h) Within 30 days following the end of each quarter, the trustee shall provide the secretary of state a report of all deposits to and distributions from the cemetery merchandise trust fund. The report shall be in a form and manner approved by the secretary of state and shall include the total amount of the deposits, distributions and the name and contact information of the trust officer in charge of the account.

(i) Annually, as of December 31, the trustee of the merchandise trust fund shall apply the distributable earnings to all preneed cemetery merchandise, preneed burial products and preneed services for which funds are then held in a cemetery merchandise trust fund. The trustee shall report to the secretary of state the calculation of the distributable earnings within 30 days from December 31, in a form and manner approved by the secretary of state.

(j) The cemetery corporation shall obtain prior written approval from the secretary of state before the trust instrument shall be terminated, transferred or amended. The cemetery corporation shall provide the secretary of state a copy of the new or amended trust instrument before the new or amended trust instrument shall become effective.

Sec. 8. From and after January 1, 2011, K.S.A. 16-322 is hereby amended to read as follows: 16-322. (a) ~~Unless otherwise authorized by the preneed cemetery merchandise contract act, the cemetery corporation shall establish and maintain a cemetery merchandise trust fund with a bank, trust company or savings and loan association having trust powers. A copy of each contract or a written notice containing all relevant information regarding such prepaid merchandise contract for which deposits are made shall be furnished financial institutions. The institutions shall serve as trustees for the purposes of this act. The trustee may appoint one or more agents to provide administrative or investment advisory services, provided the trustee shall not assign or delegate the liability and fiduciary responsibilities owed to the cemetery merchandise trust fund to another financial institution or agent. Deposits to such fund shall be carried in the name of the cemetery corporation and the purchasers of the preneed cemetery merchandise contracts, amounts deposited therein may be commingled, but the accounting records shall establish a separate account for each prepaid merchandise contract and shall show the amounts deposited, and the income or loss accruing thereon, with respect to each prepaid merchandise contract. The trustee shall invest the trust funds subject to the requirements of subsections (a) through (f) of K.S.A. 58-24a02, and amendments thereto. The trustee shall reimburse the cemetery corporation for all income taxes and costs incurred with respect to the operation of such fund, and the trustee shall be reimbursed may recover from the earnings of such the cemetery merchandise trust fund for all reasonable costs incurred in serving as trustee, including a reasonable fee for its services. The taxes and costs shall may be paid from earnings of the fund prior to the allocation of earnings to the individual accounts preneed cemetery merchandise, preneed burial products or preneed services.~~

(b) No part of the moneys required by K.S.A. 16-321, and amendments thereto, to be held under a ~~prepaid preneed~~ merchandise contract shall ever be used for any purpose other than investment as authorized by K.S.A. 16-324, and amendments thereto, until delivery of the merchandise is made. With respect to any cemetery merchandise which is not affixed to real property, delivery shall occur when physical possession is tendered to the purchaser, and a bill of sale or similar instrument of title is delivered to the purchaser. With respect to preneed cemetery merchandise which is affixed to realty, delivery shall occur when construction or permanent installation of the merchandise has been completed. Upon delivery of the preneed cemetery merchandise, preneed burial products or preneed services, the cemetery corporation shall present the trustee with a verified statement, in a form and manner approved by the secretary of state pursuant to subsection (e) of K.S.A. 16-321, and amendments thereto, that delivery has been made. Upon such presentation the trustee shall pay to the cemetery corporation the amount of any funds held in trust with respect to the cemetery merchandise delivered and no further deposits shall be made with respect to such cemetery merchandise an amount equal to the market value allocated to preneed cemetery merchandise, preneed burial products or preneed services delivered.

(c) The trustee shall sign an affirmation, in a form and manner prescribed by the secretary of state, declaring that the trustee has read, understands and agrees to abide by the provisions

of this act. The statement shall be signed under penalty of perjury and shall contain the following:

(1) The names of the trustee, the cemetery corporation as trustor and the date the trust instrument shall become effective.

(2) If determined by a court of law that the underlying trust instrument is in conflict with Kansas statutes, that portion of the underlying trust instrument is null and void.

(3) The trust instrument shall comply with the requirements found in K.S.A. 16-320 et seq., and amendments thereto.

(4) The trust instrument shall be effective upon written approval of the secretary of state.

(5) The trustee shall submit quarterly reports to the secretary of state that shall be in a form and manner prescribed by the secretary of state and include the following:

(A) Deposits;

(B) withdrawals;

(C) all interest, dividends and income earned; and

(D) capital gains or capital losses.

(6) Within 30 days following December 31 of each year, the trustee shall report the allocation of distributable earnings to the secretary of state in a form and manner prescribed by the secretary of state.

(7) The trustee shall use deposit and withdrawal forms in a form and manner prescribed by the secretary of state.

(8) The trustee shall invest the trust funds subject to the requirements of subsections (a) through (f) of K.S.A. 58-24a02, and amendments thereto. Control of the trust funds by the trustor is prohibited.

(9) By accepting the trusteeship of the cemetery merchandise trust fund, the trustee submits personally to the jurisdiction of the courts of this state. The laws of the state of Kansas shall control.

(10) The trustee shall retain all liability and fiduciary responsibility for managing and administering the cemetery merchandise trust fund in accordance with the provisions of the preneed cemetery merchandise contract act.

Sec. 9. From and after January 1, 2011, K.S.A. 16-323 is hereby amended to read as follows: 16-323. ~~Any person who violates any provision of this act shall be deemed guilty of a class A misdemeanor.~~

(a) ~~Misuse of the cemetery merchandise trust fund or any money belonging thereto is using, investing, lending or permitting another to use moneys in the fund in a manner not authorized by law.~~

(b) ~~Misuse of the cemetery merchandise trust fund is a severity level 7, nonperson felony. A violation that results in a loss of \$25,000 or more shall have a presumptive sentence of imprisonment.~~

Sec. 10. From and after January 1, 2011, K.S.A. 16-325 is hereby amended to read as follows: 16-325. (a) The secretary of state, or the secretary's representative, shall, while auditing each cemetery corporation, pursuant to K.S.A. 17-1312a, and amendments thereto, audit the cemetery merchandise trusts required by this act, and approve the ~~cemetery's trustee's~~ determination of the ~~wholesale costs under subsection (d) of K.S.A. 16-321, and amendments thereto~~ distributable earnings. For such purposes, the secretary of state or the secretary's representative, is authorized to administer oaths and to examine under oath the directors, officers, employees and agents of any cemetery corporation. Such examination may be reduced to writing by the person taking it and the examiner may make findings as to the condition of each trust fund examined. For the purposes of such audits, the secretary of state may also require any officer of a cemetery corporation or the trustee to furnish and submit the books, records, papers and instruments of such cemetery corporation ~~to the examination.~~ The secretary of state shall be authorized to obtain trust accounting records from the trustee.

(b) ~~The secretary of state shall adopt rules and regulations for the purpose of providing oversight and auditing of the cemetery merchandise trust fund.~~

Sec. 11. From and after January 1, 2011, K.S.A. 16-329 is hereby amended to read as follows: 16-329. No cemetery corporation shall enter into any ~~prepaid~~ preneed merchandise contract until such corporation has filed with the secretary of state a notification of its

intention to sell and engage in such ~~prepaid~~ *preneed* merchandise contracts. Such notice shall include the name of the cemetery corporation, its principal place of business and the name and address of the trustee or trustees to be utilized under the provisions of this act.

Accounting records and information required by ~~this~~ *the preneed cemetery merchandise contract* act shall be maintained in a ~~format~~ *form and manner* approved by the secretary of state. A report of the merchandise trust ~~account~~ *fund* shall be required of the cemetery corporation ~~annually~~ *quarterly* as part of the corporation's ~~annual~~ *quarterly* report on a form provided or approved by the secretary of state.

Sec. 12. From and after January 1, 2011, K.S.A. 16-331 is hereby amended to read as follows: 16-331. Any cemetery corporation which refuses or neglects to establish or maintain a cemetery merchandise trust fund in accordance with the requirements of this act for a period of ~~90~~ *60* days after *written* demand to do so is made upon it by the secretary of state shall be deemed to have forfeited its ~~corporate franchise~~ *cemetery corporation*. The attorney general, upon the request of the secretary of state, shall then begin an action for the appointment of a receiver for such cemetery corporation and to dissolve the same.

Sec. 13. From and after January 1, 2011, K.S.A. 16-332 is hereby amended to read as follows: 16-332. Any cemetery corporation entering into a ~~prepaid~~ *preneed* cemetery merchandise contract shall provide in such contract that:

(a) A purchaser, under a ~~prepaid~~ *preneed* cemetery merchandise contract covered in this act who permanently moves to another state in the United States, may direct that the merchandise, so long as the same is not a part of nor affixed to real estate, be delivered to a cemetery in the state of the purchaser's residence, except that the purchaser may be required to pay the additional transportation costs which exceed those the cemetery would have incurred to provide and deliver the merchandise to the seller cemetery; or

(b) a purchaser who has entered into a ~~prepaid~~ *preneed* cemetery merchandise contract covered by this act may, upon the purchaser permanently changing residence to a place more than 150 miles from the cemetery, cancel the contract upon written notice to the cemetery, which notice shall then be forwarded by the cemetery to the trustee of the cemetery merchandise trust fund. Upon receipt of such notice, the ~~prepaid~~ *preneed* cemetery merchandise contract shall be ~~cancelled~~ *canceled*, and the trustee, after deducting that contract's share of applicable costs and taxes provided for in K.S.A. 16-322, *and amendments thereto*, shall pay to the purchaser not less than 85% of the funds held in trust for the contract pursuant to this act. The balance shall be paid to the cemetery corporation and the trustee shall be discharged from further obligation as to such contract.

Sec. 14. From and after January 1, 2011, K.S.A. 16-333 is hereby amended to read as follows: 16-333. Sales of *preneed* cemetery merchandise, *preneed burial products or preneed services* subject to this act shall be exempt from the provisions of K.S.A. 16-301 through 16-309, ~~inclusive~~, and ~~any~~ amendments thereto.

Sec. 15. From and after January 1, 2011, K.S.A. 16-334 is hereby amended to read as follows: 16-334. (a) Cemetery corporations subject to ~~an audit by the secretary of state pursuant to K.S.A. 16-325, and amendments thereto~~ *the preneed cemetery merchandise contract act*, shall file, in the office of the secretary of state, a copy of the agreement or document which establishes the trust between the cemetery corporation and the trustee.

(b) *The trust agreement shall acknowledge all contractual agreements subject to, governed by and construed accordingly to K.S.A. 16-320 et seq., and amendments thereto.*

New Sec. 16. From and after January 1, 2011, (a) a cemetery corporation that accepts payment under any agreement or contract governed by K.S.A. 17-1308 et seq., and amendments thereto, shall maintain commercial insurance providing minimum coverage of \$100,000 against employee dishonesty or purchase a fidelity bond for the individual designated by the cemetery corporation as the financial officer responsible for the administration of the permanent maintenance fund. Evidence of the commercial insurance maintained for compliance with this section shall be provided to the secretary of state within 10 days of the request.

(b) Each cemetery corporation governed by K.S.A. 17-1308 et seq., and amendments thereto, shall provide evidence of the commercial insurance maintained for compliance with this section. If such insurance lapses, is canceled or otherwise ceases to be maintained by

the cemetery corporation, the insurance carrier shall notify the secretary of state within 30 days.

New Sec. 17. From and after January 1, 2011, as used in K.S.A. 17-1308 through 17-1317 and sections 15 and 16, and amendments thereto, the following definitions shall apply to this act:

(a) "Burial space" means a grave lot, grave space, burial or interment right and developed or existing lawn crypts, mausoleum spaces or niches.

(b) "Cemetery corporation" means any individual or entity required to maintain a permanent maintenance fund under the provisions of K.S.A. 17-1312f, and amendments thereto.

(c) "Funding requirement" means that portion of the purchase price equal to 15% of the purchase price, but not less than \$25 of a burial space.

(d) "Permanent maintenance fund" means a certificate of deposit, a business savings account or an irrevocable trust fund whose proceeds are derived from not less than 15% of the purchase price of the following: Grave lots, grave spaces, burial or interment rights and developed or existing lawn crypts, mausoleum spaces or niches. The total amount of the deposit shall not be less than \$25 per burial space.

(e) "Purchase price" means the gross amount, less sales tax, if any, to be paid for cemetery burial space. The purchase price does not include finance charges or charges for credit life insurance.

(f) "Trustee" means: (1) A bank, savings and loan association, savings bank or credit union organized under the laws of this state with the authority to provide trust services;

(2) a federally chartered bank, savings and loan association, savings bank or credit union that has a physical location within the state of Kansas and the authority to provide trust services; or

(3) a trust company organized under the laws of this state.

(g) "Trustor" means the cemetery corporation responsible for making deposits in a permanent maintenance fund, which is subject of a trust.

Sec. 18. From and after January 1, 2011, K.S.A. 17-1311 is hereby amended to read as follows: 17-1311. (a) A cemetery corporation shall maintain, ~~in a trust company located within the state of Kansas, a state or national bank located within the state of Kansas, a state or federally chartered savings and loan association located within the state of Kansas or a federally chartered savings bank located within the state of Kansas with a trustee,~~ a percentage of the purchase price of each burial ~~lot space~~ sold by it, or any payment on such burial ~~lot space~~, not less than 15% of such purchase price, for the permanent maintenance of the cemetery within which the burial ~~lot space~~ lies, but the total amount set aside shall not be less than \$25 for each burial ~~lot space~~ at the time of conveyance of such ~~lot burial space~~. ~~If the cemetery corporation allows the purchaser of the burial space to make installment payments, not less than 15% of such installment payment shall be deposited into the permanent maintenance fund.~~ Deposits to the permanent maintenance fund shall be made within ~~45 days of receipt of moneys for which deposits are required to be made 30 days following the end of each calendar month after the moneys are received.~~ Moneys placed in such fund under the provisions of K.S.A. 17-1308, and amendments thereto, shall be credited for the purposes of fulfilling such requirement. Moneys in such fund may be held and invested ~~to the same extent as is provided in subject to the requirements of subsection (a) through (f) of K.S.A. 58-24a02,~~ and amendments thereto, but the total amount of money invested in any mortgage upon real property shall not exceed an amount equal to 75% of the market value of such property at the time of such investment. ~~The income of the permanent maintenance fund shall be used exclusively for the maintenance of the cemetery.~~ No part of the principal of the fund shall ever be used for any purpose except for ~~such~~ investment. In no event shall any loan of the funds be made to any stockholder, officer or employee of such cemetery corporation, or to any person related, by blood or marriage, to a stockholder, officer or employee. The treasurer of such corporation may deposit, to the credit of such fund, donations or bequests for the fund and may retain property so acquired without limitation as to time and without regard to its suitability for original purchase. ~~As used in this section, the term "burial lot" means a plotted space for one grave. Such maintenance shall include, but not be limited to, mowing, road maintenance and landscaping.~~



but shall not include administrative costs, expense of audits or the portion of any capital expense for equipment used to maintain portions of a cemetery not sold for burial purposes or in use for grave sites:

*(b) The primary purpose of the permanent maintenance fund is to maintain the corpus of the fund. The income earned from the permanent maintenance fund may be dispersed to the cemetery. All capital gains shall be allocated to principal.*

*(c) The cemetery corporation shall obtain prior written approval from the secretary of state before any trust instrument shall be terminated, transferred or amended. The cemetery corporation shall provide the secretary of state a copy of the new or amended trust instrument before the new or amended trust instrument shall become effective.*

*(d) An administrative fee of not to exceed \$25 shall be charged for each interment sold and forwarded on a quarterly basis to the secretary of state, in a form and manner approved by the secretary of state. The secretary of state shall promulgate rules and regulations to establish the administrative fee.*

Sec. 19. From and after January 1, 2011, K.S.A. 17-1311a is hereby amended to read as follows: 17-1311a. (a) Misuse of the permanent maintenance fund or any money belonging thereto is using, lending or permitting another to use, moneys in the fund in a manner not authorized by law, by a custodian or other person having charge or control of such fund or moneys by virtue of his position.

*(b) Misuse of the permanent maintenance fund is a severity level 7, nonperson felony. A violation that results in a loss of \$25,000 or more shall have a presumptive sentence of imprisonment.*

Sec. 20. From and after January 1, 2011, K.S.A. 17-1312 is hereby amended to read as follows: 17-1312. ~~The permanent maintenance fund required to be established by K.S.A. 17-1311, and amendments thereto, shall at all times be in the custody of a trust company located within the state of Kansas, a state or national bank located within the state of Kansas, a state or federally chartered savings and loan association located within the state of Kansas or a federally chartered savings bank located within the state of Kansas. Each cemetery corporation shall establish a trust for moneys deposited in the permanent maintenance fund in accordance with this section. If the market value of the trust is less than \$45,000, the trust may have an individual trustee so long as the trust's assets are maintained in a segregated account. If the market value of the trust is \$45,000 or more, the trustee shall be a trust company located within the state of Kansas, a state or national bank located within the state of Kansas, a state or federally chartered savings and loan association located within the state of Kansas or a federally chartered savings bank located within the state of Kansas. Any such trust company, bank, savings and loan association or federally chartered savings bank with which the custody of a permanent maintenance fund has been entrusted may invest, reinvest, exchange, retain, sell and manage the moneys within such fund. If the treasurer of any cemetery corporation shall entrust the custody of the permanent maintenance fund to a savings and loan association or associations or federally chartered savings bank or banks, the amount of moneys in the custody of any such association or savings bank shall not exceed the amount for which deposits in such savings and loan association or savings bank are insured by the federal savings and loan insurance corporation or other insurer approved by the state commissioner of insurance. If the treasurer of any cemetery corporation shall entrust the custody of the permanent maintenance fund to a bank or banks or federally chartered savings bank or banks, the amount of money in the custody of any such bank or savings bank shall not exceed the amount for which deposits in such bank or savings bank are insured by the federal deposit insurance corporation or other insurer approved by the state bank commissioner. Such trust company, bank, savings and loan association, federally chartered savings bank or individual trustee may serve without bond and may be reasonably compensated for its services out of the income of the fund. It shall be a provision of any such trust agreement that no moneys, other than income from the trust, shall be paid over to the cemetery corporation by the trustee, except upon the written permission of the secretary of state.~~

*(a) If the market value of the permanent maintenance fund is less than \$100,000, the permanent maintenance funds may be held in certificates of deposit or in a business savings account which is insured by the federal deposit insurance corporation or national credit*

union administration, in a bank, savings and loan association, savings bank or credit union organized under the laws of this state providing the fund assets are maintained in a segregated account. If the cemetery's permanent maintenance fund has a market value of less than \$100,000, the cemetery corporation shall comply with the reporting requirements of this act.

(b) (1) Unless otherwise authorized by subsection (a), each cemetery corporation shall establish and maintain a permanent maintenance fund. If the market value of the permanent maintenance fund is more than \$100,000, the cemetery corporation shall establish and maintain the permanent maintenance fund in an irrevocable trust with a trustee. The trustee may appoint one or more agents to provide administrative or investment advisory services, provided the trustee shall not assign or delegate the liability and fiduciary responsibilities owed to the permanent maintenance fund to another financial institution or agent. The trustee may invest, reinvest, exchange, retain, sell and manage the moneys within such fund, pursuant to subsections (a) through (f) of K.S.A. 58-24a01, and amendments thereto. Such trustee may be reasonably compensated for its services out of the income of the fund. It shall be a provision of any such trust agreement that no moneys, other than income from the trust, shall be paid over to the cemetery corporation by the trustee, except upon the written permission of the secretary of state.

(2) The trustee may recover from the earnings of the permanent maintenance fund for all reasonable costs incurred in serving as trustee, including a reasonable fee for its services. The taxes and costs may be paid from earnings of the fund prior to the distribution of the income. If all income is exhausted, any remaining capital gains tax liability may be paid out of the realized capital gains before the balance reverts to principal.

(3) The trustee shall be solely responsible for the investment of the moneys held under a cemetery permanent maintenance fund. The trust instrument must state that control of the trust funds by the trustor is prohibited.

(4) The trustee shall sign an affirmation, in a form and manner prescribed by the secretary of state, declaring that the trustee has read, understands and agrees to abide by the provisions in this act. The statement shall be signed under penalty of perjury and shall contain the following:

(A) The names of the trustee, the cemetery corporation as trustor, and the date the trust instrument shall become effective.

(B) If determined by a court of law that the underlying trust instrument is in conflict with Kansas statutes, that portion of the underlying trust instrument is null and void.

(C) The trust instrument shall comply with the requirements found in K.S.A. 17-1308 et seq., and amendments thereto.

(D) The trust instrument shall be effective upon written approval of the secretary of state.

(E) The trustee shall submit a quarterly report to the secretary of state. The report shall be in a form and manner approved by the secretary of state and it shall contain the following:

- (i) Deposits to principal;
- (ii) any withdrawals from principal;
- (iii) all interest, dividends, and income earned;
- (iv) interest withdrawn;
- (v) capital gains or capital losses; and
- (vi) capital gains taxes paid from capital gains.

(F) The trustee shall provide deposit and withdrawal forms in a form and manner prescribed by the secretary of state.

(G) The trustee shall invest the trust funds subject to the requirements of subsections (a) through (f) of K.S.A. 58-24a02, and amendments thereto. Control of the trust funds by the trustor is prohibited.

(H) By accepting the trusteeship of the permanent maintenance fund, the trustee submits personally to the jurisdiction of the courts of this state. The laws of the state of Kansas shall control.

(I) The trustee acknowledges the primary purpose of the permanent maintenance fund is to maintain the corpus of the trust.

(J) The trustee shall retain all liability and fiduciary responsibility for managing and administering the permanent maintenance fund.

Sec. 21. From and after January 1, 2011, K.S.A. 17-1312a is hereby amended to read as follows: 17-1312a. (a) Each cemetery corporation formed under the laws of the state of Kansas and each foreign corporation granted a certificate of authority to own or operate a cemetery within the state of Kansas shall register with the secretary of state before commencing business in Kansas. Each cemetery corporation shall prepare and forward to the secretary of state at the time it is required to make ~~an annual~~ *a quarterly* report under the Kansas general corporation code, or if no such report is required then on January 1 in each year, a statement verified by the treasurer of said corporation describing the corpus and any accumulated income on the preceding December 31, or on the last day of its fiscal year if it does not use the calendar year in its accounts, in each permanent maintenance fund established by said corporation, the cost and the market value on said date of each security then held in each such fund, and the income of and disbursements from each such fund during the calendar or fiscal year then ended. This statement shall otherwise be in such form as the secretary of state shall prescribe *provisions of this act*.

(b) *Within 30 days following the end of each quarter, the cemetery corporation shall provide the trustee and the secretary of state a report of all sales of burial spaces. The report shall be in a form and manner approved by the secretary of state. If the cemetery did not make a sale, within 30 days following the end of each quarter, the cemetery corporation shall provide the trustee and the secretary of state a report indicating no sales to record. The report shall be in a form and manner approved by the secretary of state.*

(c) *Within 30 days following the end of each quarter, the trustee shall provide the secretary of state a report of all deposits to and distributions from the permanent maintenance fund. The report shall be in a form and manner approved by the secretary of state and shall include the total amount of the deposits, distributions and the name and contact information of the trust officer in charge of the account.*

(d) *Monthly, the trustee of the permanent maintenance fund shall determine and disperse to the cemetery corporation, the income for the permanent maintenance fund, less reasonable costs, taxes and fees. The trustee shall report to the secretary of state the calculation of the dispersed income within 30 days from month's end, in a form and manner approved by the secretary of state.*

(e) Whenever the secretary of state shall determine that any cemetery corporation required by this act to be registered has failed or refused to do so, the secretary of state may notify the county attorney or district attorney of the county in which such cemetery corporation is located, and such county attorney or district attorney shall commence prosecution against such cemetery corporation. Any cemetery corporation which fails to register with the secretary of state shall be liable for a civil penalty of not to exceed \$1,000.

~~(f)~~ (f) Whenever and as often as deemed necessary, the secretary of state, or an employee designated by the secretary of state, may audit or otherwise examine any cemetery corporation books and accounts. Whenever such an audit or examination is so made, the cemetery corporation shall pay such expenses as shall be assessed by the secretary of state pursuant to K.S.A. 75-442, *and amendments thereto*.

Sec. 22. From and after January 1, 2011, K.S.A. 17-1312d is hereby amended to read as follows: 17-1312d. Any cemetery corporation which shall refuse or neglect to establish or maintain a permanent maintenance fund in accordance with the requirements of this act for each cemetery owned by it for a period of ~~ninety (90)~~ 60 days after demand to do so is made upon it by the secretary of state shall be deemed to have forfeited its ~~franchise cemetery corporation~~. The attorney general, upon the request of the secretary of state, shall then begin action for the appointment of a receiver for such cemetery corporation and to dissolve the same.

Sec. 23. From and after January 1, 2011, K.S.A. 17-1312e is hereby amended to read as follows: 17-1312e. (a) Except as provided by this section, all information which the secretary of state shall gather or record in making an investigation and examination of any cemetery corporation, *or the reporting by the cemetery corporation or trustee*, shall be deemed to be confidential information, and shall not be disclosed by the secretary of state, any assistant, examiner or employee thereof, except to: (1) *Officers and the members of the board of directors* of the cemetery corporation being audited; ~~and~~ (2) the attorney general, when in the opinion of the secretary of state the same should be disclosed; *and* (3) *the appropriate*

official for the municipality in which the cemetery is located when in the opinion of the secretary of state the same should be disclosed.

(b) Upon request, the secretary of state may disclose to any person whether a cemetery corporation maintains a ~~cemetery merchandise trust fund under K.S.A. 16-322, and amendments thereto,~~ or a permanent maintenance fund under K.S.A. 17-1311, and amendments thereto, and whether such funds are maintained in compliance with the provisions of such laws.

(c) *The provisions of subsection (a) shall expire on July 1, 2015, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2015.*

Sec. 24. From and after January 1, 2011, K.S.A. 17-1312g is hereby amended to read as follows: 17-1312g. (a) Cemetery corporations subject to an audit by the secretary of state pursuant to K.S.A. 17-1312a, and amendments thereto, shall file, in the office of the secretary of state, a copy of the agreement or document which establishes the trust between the cemetery corporation and the trustee.

(b) *The trust agreement shall acknowledge all contractual agreements subject to and governed by K.S.A. 17-1308 et seq., and amendments thereto.*

(c) *The secretary of state shall promulgate rules and regulations for the purpose of providing oversight and auditing of the permanent maintenance fund.*

Sec. 25. From and after January 1, 2011, K.S.A. 17-1366 is hereby amended to read as follows: 17-1366. As used in this act: (a) "Abandoned cemetery" means any cemetery owned by a corporation, as defined in K.S.A. 17-1312f, *and amendments thereto*, in which: (1) For a period of at least one year, there has been a failure to cut grass or weeds or care for graves, grave markers, walls, fences, driveways and buildings; or ~~for~~ (2) *for a period of 60 days* which proper records have not been maintained and ~~annual quarterly~~ *quarterly* reports ~~have not been~~ made to the secretary of state, pursuant to the provisions of K.S.A. 17-1312a et seq., and amendments thereto; and

(b) "municipality" means the cemetery district in which all or any portion of an abandoned cemetery is located. If no portion of such cemetery is located within a cemetery district, the term shall mean the city in which all or any portion of an abandoned cemetery is located unless such cemetery is not within the corporate limits of a city, in which case such term shall mean the county in which such cemetery is located.

Sec. 26. From and after January 1, 2011, K.S.A. 16-320, 16-321, 16-322, 16-323, 16-324, 16-325, 16-329, 16-331, 16-332, 16-333, 16-334, 17-1311, 17-1311a, 17-1312, 17-1312a, 17-1312d, 17-1312e, 17-1312g and 17-1366 are hereby repealed.;

And by renumbering the remaining sections accordingly;

In the title, in line 9, by striking all after "ACT"; by striking all in lines 10 and 11 and inserting: "relating to cemetery corporations; concerning cemetery merchandise contracts; relating to the permanent maintenance fund; amending K.S.A. 16-320, 16-321, 16-322, 16-323, 16-325, 16-326, 16-329, 16-331, 16-332, 16-333, 16-334, 17-1311, 17-1311a, 17-1312, 17-1312a, 17-1312d, 17-1312e, 17-1312g and 17-1366 and repealing the existing sections; also repealing K.S.A. 16-324.;"

On roll call, the vote was: Yeas 54; Nays 65; Present but not voting: 0; Absent or not voting: 6.

Yeas: Bowers, Brookens, A. Brown, Brunk, Burgess, Carlson, Crum, DeGraaf, Faber, Goico, Grange, Hayzlett, Hermanson, Hill, Hineman, C. Holmes, Horst, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Lane, Long, Maloney, Mast, McLeland, Morrison, O'Brien, Olson, Otto, Patton, Pauls, Peck, Pottorff, Proehl, Rhoades, Roth, Schroeder, Seiwert, Shultz, Siegfried, Suellentrop, D. Svaty, Swanson, Tafanelli, Vickrey, Wetta, Whitham, Yoder.

Nays: Aurand, Ballard, Barnes, Benlon, Bollier, T. Brown, Burroughs, Carlin, Colloton, Craft, Crow, Davis, Dillmore, Donohoe, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Gordon, Goyle, Grant, Hawk, Henderson, Henry, M. Holmes, Huebert, Kuether, Light, Loganbill, Lukert, Mah, McCray-Miller, Meier, Menghini, Moxley, Myers, Neighbor, O'Neal, Palmer, Peterson, Phelps, Powell, Prescott, Quigley, Rardin, Ruiz, Schwab, Schwartz, Slattery, Sloan, Spalding, Swenson, Talia, Tietze, Trimmer, Ward, Williams, Winn, B. Wolf, K. Wolf, Worley.

Present but not voting: None.  
 Absent or not voting: Bethell, Fund, George, Johnson, Merrick, Neufeld.  
 The motion of Rep. Goico did not prevail; and **H. Sub. for SB 75** be passed.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**HB 2685**. An act concerning the personal and family protection act; amending K.S.A. 2009 Supp. 21-4218, 75-7c10 and 75-7c11 and repealing the existing sections, was considered on final action.

Call of the House was demanded.

On roll call, the vote was: Yeas 65; Nays 57; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Barnes, Bowers, Brookens, A. Brown, Brunk, Burgess, Burroughs, Carlson, DeGraaf, Donohoe, Faber, Frownfelter, D. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hayzlett, Hermanson, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Knox, Landwehr, Light, Long, Mast, McLeland, Meier, Merrick, Morrison, Myers, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Powell, Prescott, Proehl, Rhoades, Schwab, Schwartz, Seiwert, Siegfried, Suellentrop, D. Svaty, Swenson, Tafanelli, Vickrey, Ward, Williams, B. Wolf, Yoder.

Nays: Ballard, Benlon, Bethell, Bollier, T. Brown, Carlin, Colloton, Craft, Crow, Crum, Davis, Dillmore, Feuerborn, Finney, Flaharty, Furtado, Garcia, S. Gatewood, Hawk, Henderson, Henry, Hill, Hineman, C. Holmes, M. Holmes, Horst, Kleeb, Kuether, Lane, Loganbill, Lukert, Mah, Maloney, McCray-Miller, Menghini, Moxley, Neighbor, Phelps, Pottorff, Quigley, Rardin, Roth, Ruiz, Schroeder, Shultz, Slattey, Sloan, Spalding, Swanson, Talia, Tietze, Trimmer, Wetta, Whitham, Winn, K. Wolf, Worley.

Present but not voting: None.  
 Absent or not voting: Fund, Johnson, Neufeld.  
 The bill passed, as amended.

#### EXPLANATIONS OF VOTE

MR. SPEAKER: I am in opposition to **HB 2685**, legislation that would prohibit the state's seven public universities, 19 community colleges, and six technical colleges from exercising meaningful efforts to make their campuses weapons-free.

**HB 2685** seeks to amend the Personal and Family Protection Act to preclude state agencies and municipalities, including state universities, community colleges, and technical colleges, from prohibiting the carrying of a concealed weapon anywhere on campus where there is not a metal detector or other electronic equipment and personnel to detect the presence of weapons. The Board of Regents has substantial concerns about the implications of this legislation.—SYDNEY CARLIN

MR. SPEAKER: I support citizen's rights to concealed carry but am concerned about the fiscal impact, which will cost the state over \$2.8 million. Mr. Speaker, this money places an additional burden on the schools, students and taxpayers of Kansas. I vote no on **HB 2685**.—PAT MALONEY, STEVE LUKERT

MR. SPEAKER: A nation in which the government provides entirely for the personal security of its citizens is called a "police state." While law enforcement is necessary to an orderly society, citizens must be allowed to provide their own personal security to maintain liberty. The concealed carry statutes have enabled greater ability to provide for our own personal security. I vote yes for **HB 2685** to maintain greater security in unsecured public buildings.—JOE SEIWERT

MR. SPEAKER: **HB 2685** highlights the central philosophical divide in government; "shall government take care of individuals" or "shall government stay out of the way and let individuals care for themselves?" Posting a sign prohibiting the concealed carry of a weapon reveals the futility of government caring for us. Does government by posting a sign, and thereby denying my right to care for my own security, cause me and others to be more secure or less secure? The sign does not provide security, it takes away security. I vote yes on **HB 2685**.—FORREST KNOX

MR. SPEAKER: By denying law abiding, licensed citizens the right to carry a concealed firearm in a public building government is taking on the burden of providing security. By then not providing adequate security measures they are opening up for themselves liability risks. I vote yes for **HB 2685**.—PHIL HERMANSON, MARC RHOADES, ANTHONY R. BROWN

**H. Sub. for SB 25.** An act concerning social workers; social worker safety awareness training; amending K.S.A. 2009 Supp. 65-6313 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 99; Nays 23; Present but not voting: 0; Absent or not voting: 3.

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

Nays: A. Brown, Carlson, Donohoe, Faber, Goico, Hayzlett, Hermanson, Huebert, Kelley, Kiegerl, Kinzer, Landwehr, Mast, McLeland, Morrison, Myers, O'Brien, Patton, Rhoades, Schwartz, Seiwert, Suellentrop, Whitham.

Present but not voting: None.

Absent or not voting: Fund, Johnson, Neufeld.

The substitute bill passed, as amended.

**H. Sub. for SB 234.** An act concerning civil procedure; relating to garnishment; amending K.S.A. 60-734, 60-737, 60-740, 61-3507 and 61-3510 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 2; Present but not voting: 0; Absent or not voting: 3.

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, 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, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, 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, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Peterson, Ward.

Present but not voting: None.

Absent or not voting: Fund, Johnson, Neufeld.

The substitute bill passed, as amended.

**H. Sub. for SB 269.** An act concerning compensation awards under eminent domain procedure; amending K.S.A. 26-511 and repealing the existing section, was considered on final action.

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

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, 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, Maloney, Mast, McCray-Miller, McLeland, Meier, Merrick, Morrison, Moxley, Myers, Neighbor, 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, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Kuether, Mah, Menghini, Tietze, Winn.

Present but not voting: None.

Absent or not voting: Fund, Johnson, Neufeld.

The substitute bill passed.

**H. Sub. for SB 305.** An act concerning the Kansas tort claims act; relating to charitable health care providers; amending K.S.A. 2009 Supp. 75-6102 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

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, 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, 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: Fund, Johnson, Neufeld.

The substitute bill passed.

**H. Sub. for SB 306.** An act concerning the personal and family protection act; amending K.S.A. 2009 Supp. 21-4201, 21-4204, 21-4218, 75-7c01, 75-7c02, 75-7c03, 75-7c04, 75-7c05, 75-7c06, 75-7c07, 75-7c08, 75-7c10, 75-7c12 and 75-7c19 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 75-7c11, was considered on final action.

On roll call, the vote was: Yeas 107; Nays 15; Present but not voting: 0; Absent or not voting: 3.

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

Nays: Benlon, Colloton, Crow, Flaharty, Furtado, Garcia, Henderson, Kuether, Loganbill, McCray-Miller, Neighbor, Ruiz, Tietze, Trimmer, Winn.

Present but not voting: None.

Absent or not voting: Fund, Johnson, Neufeld.

The substitute bill passed.

**H. Sub. for SB 310.** An act concerning marriage license fees; relating to poverty; amending K.S.A. 2009 Supp. 23-108a and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 64; Nays 58; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Carlson, Craft, Crum, DeGraaf, Donohoe, Faber, S. Gatewood, George, Goico, Goyle, Grange, Hayzlett, Hermanson, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, King, Kinzer, Kleeb, Knox, Long, Maloney, Mast, Meier, Merrick, Morrison, Myers, O'Brien, O'Neal, Olson, Palmer, Patton, Pauls, Peck, Powell, Prescott, Proehl, Rhoades, Schroeder, Schwab, Seiwert, Shultz, Siegfried, Suellentrop, Swanson, Talia, Ward, Wetta, Whitham, Williams, B. Wolf, Yoder.

Nays: Ballard, Barnes, Benlon, Bethell, Burroughs, Carlin, Colloton, Crow, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, Gordon, Grant, Hawk, Henderson, Henry, Hill, Hineman, Kiegerl, Kuether, Landwehr, Lane, Light, Loganbill, Lukert, Mah, McCray-Miller, McLeland, Menghini, Moxley, Neighbor, Otto, Peterson, Phelps, Pottorff, Quigley, Rardin, Roth, Ruiz, Schwartz, Slatery, Sloan, Spalding, D. Svaty, Swenson, Tafanelli, Tietze, Trimmer, Vickrey, Winn, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Fund, Johnson, Neufeld.

The substitute bill passed.

**SB 359.** An act concerning school districts; relating to special education; amending K.S.A. 72-983 and K.S.A. 2009 Supp. 72-978 and 72-988 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 107; Nays 15; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlson, Colloton, Craft, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Finney, Frownfelter, 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, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, O'Brien, O'Neal, Olson, Otto, Patton, Pauls, Peck, Peterson, Pottorff, Powell, Prescott, Proehl, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slatery, Sloan, Spalding, Suellentrop, Swanson, Swenson, Tafanelli, Talia, Ward, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Carlin, Crow, Feuerborn, Flaharty, Huebert, Kuether, Meier, Palmer, Phelps, Quigley, D. Svaty, Tietze, Trimmer, Vickrey, Wetta.

Present but not voting: None.

Absent or not voting: Fund, Johnson, Neufeld.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. SPEAKER: I vote no on **SB 359**. Census based funding for special education is a drastic change to the way the state allocates special education funding. The Special Education ask Force said that they need more information, after a year of study, before making this change. I have no idea how this will affect the school districts I represent. Therefore, I vote no.—MARTI CROW, ED TRIMMER, ANNIE KUETHER, SHIRLEY PALMER, GERALDINE FLAHARTY, EBER PHELPS

**SB 362.** An act concerning school districts; relating to contracts of employment; amending K.S.A. 72-5452 and K.S.A. 2009 Supp. 72-5437 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 109; Nays 13; Present but not voting: 0; Absent or not voting: 3.



Yeas: Aurand, Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlson, Colloton, Craft, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Frownfelter, Furtado, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, 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, Mast, McCray-Miller, McLeland, Meier, Merrick, Morrison, Moxley, Myers, Neighbor, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Phelps, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Carlin, Crow, Flaharty, Garcia, Henderson, Mah, Maloney, Menghini, Peterson, Pottorff, Ruiz, Wetta, Winn.

Present but not voting: None.

Absent or not voting: Fund, Johnson, Neufeld.

The bill passed, as amended.

**H. Sub. for SB 377.** An act concerning construction; relating to retention in public and private construction contracts; liens; establishing the state construction registry; amending K.S.A. 16-1802, 16-1804, 16-1902, 16-1904, 60-1103, 60-1110 and 60-1111 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 84; Nays 38; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Barnes, Bethell, Bowers, Brookens, A. Brown, T. Brown, Burgess, Burroughs, Craft, Crum, DeGraaf, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Garcia, D. Gatewood, S. Gatewood, George, Goico, Goyle, Grange, Grant, Hawk, Hayzlett, Henry, Hermanson, Hineman, C. Holmes, M. Holmes, Horst, Jack, Kelley, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Light, Loganbill, Lukert, McCray-Miller, Merrick, Morrison, Myers, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Phelps, Powell, Prescott, Proehl, Rardin, Rhoades, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Suellentrop, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Whitham, Williams, B. Wolf, Worley, Yoder.

Nays: Ballard, Benlon, Bollier, Brunk, Carlin, Carlson, Colloton, Crow, Davis, Dillmore, Furtado, Gordon, Henderson, Hill, Huebert, Kerschen, Lane, Long, Mah, Maloney, Mast, McLeland, Meier, Menghini, Moxley, Neighbor, Peterson, Pottorff, Quigley, Roth, Ruiz, Slattery, Sloan, Spalding, D. Svaty, Wetta, Winn, K. Wolf.

Present but not voting: None.

Absent or not voting: Fund, Johnson, Neufeld.

The substitute bill passed, as amended.

**H. Sub. for SB 381.** An act concerning crimes, punishment and criminal procedure; relating to justified threat or use of force; amending K.S.A. 21-3211, 21-3212, 21-3213, 21-3214, 21-3215, 21-3216, 21-3217 and 21-3218 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 2; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, 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, 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: Crow, Kuether.  
 Present but not voting: None.  
 Absent or not voting: Fund, Johnson, Neufeld.  
 The substitute bill passed.

**SB 388.** An act concerning insurance; relating to the regulation thereof; amending K.S.A. 2009 Supp. 40-2,103, 40-2c01 and 40-19c09 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 93; Nays 29; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Barnes, Bethell, Bollier, Bowers, Brookens, A. Brown, Brunk, Burgess, Burroughs, Carlson, Craft, Crum, DeGraaf, Donohoe, Faber, Feuerborn, Finney, Frownfelter, Furtado, D. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hayzlett, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Light, Long, Lukert, Maloney, Mast, McCray-Miller, McLeland, Meier, Merrick, Morrison, Moxley, Myers, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Tietze, Trimmer, Vickrey, Wetta, Whitham, Williams, B. Wolf, Worley, Yoder.

Nays: Ballard, Benlon, T. Brown, Carlin, Colloton, Crow, Davis, Dillmore, Flaharty, Garcia, S. Gatewood, Hawk, Henderson, Kuether, Lane, Loganbill, Mah, Menghini, Neighbor, Peterson, Quigley, Rardin, Roth, Slattery, Spalding, Talia, Ward, Winn, K. Wolf.

Present but not voting: None.  
 Absent or not voting: Fund, Johnson, Neufeld.  
 The bill passed, as amended.

**H. Sub. for SB 427.** An act concerning taxation; relating to amnesty from assessment or payment of penalties and interest with respect to certain taxes; requirements and procedures, was considered on final action.

On roll call, the vote was: Yeas 60; Nays 62; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Bethell, A. Brown, Brunk, Burgess, Carlson, Colloton, Craft, Crum, DeGraaf, Donohoe, Faber, George, Goico, Gordon, Goyle, Grange, Hayzlett, Hermanson, Hill, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, King, Kinzer, Kleeb, Knox, Landwehr, Mast, McLeland, Merrick, Myers, O'Brien, O'Neal, Olson, Otto, Patton, Peck, Pottorff, Powell, Prescott, Proehl, Rhoades, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Suellentrop, Swanson, Tafanelli, Vickrey, Whitham, B. Wolf, Yoder.

Nays: Ballard, Barnes, Benlon, Bollier, Bowers, Brookens, T. Brown, Burroughs, Carlin, Crow, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Grant, Hawk, Henderson, Henry, Hineman, Kiegerl, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Meier, Menghini, Morrison, Moxley, Neighbor, Palmer, Pauls, Peterson, Phelps, Quigley, Rardin, Roth, Ruiz, Schroeder, Slattery, Spalding, D. Svaty, Swenson, Talia, Tietze, Trimmer, Ward, Wetta, Williams, Winn, K. Wolf, Worley.

Present but not voting: None.  
 Absent or not voting: Fund, Johnson, Neufeld.  
 The substitute bill did not pass.

#### EXPLANATIONS OF VOTE

MR. SPEAKER: I vote no on **H. Sub. for SB 427**. Proponents of this bill were in such a hurry to pass it, that they didn't pay attention to the testimony or the flaws in the bill. Knowingly passing flawed legislation is bad policy.

The fiscal note states that it's possible to collect up to \$7 million, but the administrative costs are estimated at \$625,000 in FY2011. KDOR cannot absorb this cost, having cut their budget 26.6%.

It undermines our current collection efforts by allowing pay plans. Amnesty is supposed to encourage full payment, by eliminating penalty and interest. We could actually lose money on this.—JULIE MENGHINI, TOM HAWK

MR. SPEAKER: I vote no on **H. Sub. for SB 427**. The *Amnesty lasts too long*. The amnesty that Kansas did in 2003 lasted two months, and most of the money came the last 15 days. Dragging it out takes valuable staff resources from collections, and won't produce more revenue. This period is a full three months and will definitely impact current collections.

*This amnesty encourages bad habits*. If you are currently have tax debt and are on a pay plan, which most are, then this encourages people to break their current pay plan, wait until September, and get relieved of the interest that you would otherwise have had to pay.—STAN FROWNFEELER

MR. SPEAKER: I vote no on **H. Sub. for SB 427**. It *encourages people to delay paying their 2010 taxes*. Since the bill applies to the 2009 tax year liability, you could just blow off the filing deadline (April 15, 2010), not even file until September 1, then apply for amnesty in September (you would have to file your return then and set up a pay plan), but YOU WOULD HAVE UNTIL JUNE 30, 2011 TO PAY—WITH NO PENALTY AND INTEREST! Better than a payday loan!—MELODY MCCRAY-MILLER

MR. SPEAKER: I vote no on **H. Sub. for SB 427**. *This amnesty is a money loser in 2011*. While this bill might bring in a few extra dollars this year, (the discussion in committee was about \$9 million after expenses) we will see collections drop in the next year of an equal amount. Accelerating these collections is disruptive to our normal collections process and data from the previous amnesty and the experience of other states will show that over time, you don't gain as much as a well focused collection effort, which we currently have in Kansas.—CINDY NEIGHBOR

MR. SPEAKER: I vote yes on **H. Sub. for SB 427**. For those of us who have been in the Legislature for some time, the benefits of tax amnesty programs have proven to be reliable. In most years, this would be viewed as a nominal amount of money to be generated, but in such desperate times it is simply foolish to ignore this opportunity while our most vulnerable suffer. It's one of the most harmless mechanisms available to us in raising critical revenue, and a common sense way to balance this budget without raising taxes.—ARLEN SIEGFREID

**SB 452**, An act concerning alcoholic beverages; relating to licenses and eligibility; alcoholic beverages; amending K.S.A. 2009 Supp. 41-102, 41-311 and 41-727 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

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, 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, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seivert, 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: Fumd, Johnson, Neufeld.

The bill passed, as amended.

**H. Sub. for Sub. SB 514**, An act establishing the community defense act; amending K.S.A. 2009 Supp. 22-3901 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 106; Nays 16; Present but not voting: 0; Absent or not voting: 3.

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

Nays: Crow, Finney, Flaharty, Frownfelter, Garcia, Henderson, Kuether, Lane, Mah, McCray-Miller, Menghini, Peterson, Rardin, Ruiz, Tietze, Winn.

Present but not voting: None.

Absent or not voting: Fund, Johnson, Neufeld.

The substitute bill passed, as amended.

**SB 519.** An act concerning courts; relating to electronic communication and payment; amending K.S.A. 19-4716, 20-365, 22-2502, 22-2504 and 59-2203 and K.S.A. 2009 Supp. 8-2118, 28-172a and 38-2305 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

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, 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, 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: Fund, Johnson, Neufeld.

The bill passed.

**SB 537.** An act concerning liens and claims against real or personal property; amending K.S.A. 58-4301 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

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, 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, 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: Fund, Johnson, Neufeld.

The bill passed, as amended.

**SCR 1614.** A PROPOSITION to amend article 11 of the constitution of the state of Kansas by adding a new section thereto, concerning a budget stabilization fund and a debt prepayment fund in the state treasury, was considered on final action.

On roll call, the vote was: Yeas 102; Nays 20; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, T. Brown, Burgess, Burroughs, Carlin, Carlson, Craft, Crow, Davis, Feuerborn, Finney, Flaharty, Frownfelter, 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, Kiegerl, King, Kleeb, Knox, Lane, Light, Long, Lukert, Mah, Maloney, McCray-Miller, McLeland, Meier, Morrison, Moxley, Neighbor, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, 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: A. Brown, Brunk, Colloton, Crum, DeGraaf, Dillmore, Donohoe, Faber, Huebert, Kelley, Kinzer, Kuether, Landwehr, Loganbill, Mast, Menghini, Merrick, Myers, Peck, Siegfried.

Present but not voting: None.

Absent or not voting: Fund, Johnson, Neufeld.

A two-thirds majority of the members elected to the House having voted in the affirmative, the resolution was adopted as amended.

#### EXPLANATION OF VOTE

MR. SPEAKER: I vote no on **SCR 1614**. Kansas certainly needs an emergency fund. However, we need one that provides real benefits for Kansas by providing a significant amount of money to help the Legislature deal with economic downturns. If **SCR 1614** had been in place since 1990, the fund would only have \$260 million at the start of FY 2010. And that amount would only be there if no money was removed during the 2002 recession. **SCR 1614** is a constitutional amendment, therefore we only have one shot at getting it right. In its current form **SCR 1614** is not right.—VIRGIL PECK, JR., ARLEN SIEGFREID

#### INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, Rep. Peck moved, pursuant to House Rule 2303, that the House reconsider its adverse action on **HCR 5032** in not adopting the resolution under that order of business, Final Action on Bills and Concurrent Resolutions (see HJ, page 1226). Roll call was demanded.

On roll call, the vote was: Yeas 75; Nays 47; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Bethell, Bowers, Brookens, A. Brown, Brunk, Burgess, Carlson, Craft, Crum, DeGraaf, Donohoe, Faber, D. Gatewood, George, Goico, Gordon, Grange, Hayzlett, Hermanson, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Light, Lukert, Maloney, Mast, McLeland, Meier, Merrick, Morrison, Moxley, Myers, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Pottorff, Powell, Prescott, Proehl, Rhoades, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Spalding, Suellentrop, Swanson, Tafanelli, Vickrey, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Ballard, Barnes, Benlon, Bollier, T. Brown, Burroughs, Carlin, Colloton, Crow, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, S. Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Hill, Kuether, Lane, Loganbill, Long, Mah,

McCray-Miller, Menghini, Neighbor, Peterson, Phelps, Quigley, Rardin, Roth, Ruiz, Slatery, Sloan, D. Svaty, Swenson, Talia, Tietze, Trimmer, Ward, Winn.

Present but not voting: None.

Absent or not voting: Fund, Johnson, Neufeld.

The motion of Rep. Peck to reconsider action did not prevail.

#### CHANGE OF CONFEREES

Speaker O'Neal announced the appointment of Rep. A. Brown as a member of the conference committee on **S. Sub. for HB 2115** to replace Rep. Kiegerl.

#### REPORT OF STANDING COMMITTEE

Your Committee on **Calendar and Printing** recommends on requests for resolutions and certificates that

**Request No. 117**, by Representative Burgess, congratulating Merle E. Ross on his 80th birthday;

**Request No. 118**, by Representative Kiegerl, congratulating Samuel Peterson on attaining the rank of Eagle Scout;

**Request No. 119**, by Representative Mast, congratulating the Girls Basketball Team of Olpe High School on winning the 2A State Championship;

**Request No. 120**, by Representative Mast, congratulating Ronnie Bo Harris, Jr. for being recognized as the Best Weather Reporter, KTKA Channel 49;

**Request No. 121**, by Representative Fund, congratulating Patricia Biggs for her reappointment to the Kansas Parole Board;

**Request No. 122**, by Representative Kiegerl, congratulating Jenny Baker for being named Teacher of the Year - USD 231 Gardner Edgerton;

**Request No. 123**, by Representative Kiegerl, congratulating Brian McGee for being named Teacher of the Year - USD 231 Gardner Edgerton;

**Request No. 124**, by Representative Grange, congratulating Ruth Miller on her 80th birthday on March 28, 2010;

be approved and the Chief Clerk of the House be directed to order the printing of said certificates and order drafting of said resolutions.

On motion of Rep. Merrick, the committee report was adopted.

On motion of Rep. Merrick, the House recessed until 1:30 p.m.

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#### AFTERNOON SESSION

The House met pursuant to recess with Speaker O'Neal in the chair.

#### MESSAGES FROM THE SENATE

Announcing passage of **SB 575, SB 579, SB 580**.

Announcing passage of **HB 2535, HB 2544**.

Announcing passage of **HB 2551**, as amended; **HB 2585**, as amended by **S. Sub. for HB 2585; HB 2691**, as amended.

The Senate accedes to the request of the House for a conference on **HB 2472** and has appointed Senators Reitz, Huntington and Kultala as conferees on the part of the Senate.

Also, the Senate concurs in House amendments to **SB 410**.

The Senate concurs in House amendments to **SB 460**.

The Senate concurs in House amendments to **Sub. SB 475**.

The Senate concurs in House amendments to **SB 491**.

The Senate concurs in House amendments to **SB 500**.

The Senate nonconcurrs in House amendments to **Sub. SB 67**, requests a conference and has appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **H. Sub. for SB 83**, requests a conference and has appointed Senators Barnett, V. Schmidt and Kelly as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **H. Sub. for SB 146**, requests a conference and has appointed Senators Emler, Vratil and Hensley as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **H. Sub. for SB 293**, requests a conference and has appointed Senators Umbarger, Marshall and Kultala as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **H. Sub. for SB 300**, requests a conference and has appointed Senators Umbarger, Marshall and Kultala as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **H. Sub. for SB 313**, requests a conference and has appointed Senators Emler, McGinn and Kelly as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **SB 346**, requests a conference and has appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **SB 368**, requests a conference and has appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **H. Sub. for SB 449**, requests a conference and has appointed Senators Barnett, V. Schmidt and Kelly as conferees on the part of the Senate.

The President announced the appointment of Senator Kelly as a member of the conference committee on **SB 62** to replace Senator Haley.

#### **INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS**

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

**SB 575, SB 579, SB 580.**

#### **INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **Sub. SB 67**.

Speaker O'Neal thereupon appointed Reps. Colloton, Patton and McCray-Miller as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 83**.

Speaker O'Neal thereupon appointed Reps. Landwehr, Crum and Flaharty as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 146**.

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

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 293**.

Speaker O'Neal thereupon appointed Reps. Hayzlett, Vickrey and Long as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 300**.

Speaker O'Neal thereupon appointed Reps. Hayzlett, Vickrey and Long as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 313**.

Speaker O'Neal thereupon appointed Reps. Yoder, Merrick and Feuerborn as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **SB 346**.

Speaker O'Neal thereupon appointed Reps. Colloton, Patton and McCray-Miller as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **SB 368**.

Speaker O'Neal thereupon appointed Reps. Kinzer, Whitham and Pauls as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 449**.

Speaker O'Neal thereupon appointed Reps. Landwehr, Crum and Flaharty as conferees on the part of the House.

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

#### COMMITTEE OF THE WHOLE

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

Recommended that **SB 393** be passed.

Committee report to **SB 389** be adopted; also, on motion of Rep. Bethell to amend, the motion did not prevail. Also, on motion of Rep. A. Brown to amend, the motion did not prevail; and the bill be passed as amended.

Committee report to **SB 435** be adopted; also, on motion of Rep. Colloton to amend, Rep. Patton requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane.

Also, on motion of Rep. McCray-Miller, **SB 435** be amended on page 1, after line 34, by inserting the following:

“New Sec. 2. (a) On and after January 1, 2011, an optically scanable “uniform citizen contact data form” shall be completed and ready for use by all Kansas law enforcement officers to collect data on each traffic or pedestrian stop. The uniform citizen contact data form shall replace the various traffic tickets used by the law enforcement agencies throughout the state of Kansas. The uniform citizen contact data form shall be designed by the Kansas criminal justice coordinating council in consultation with representatives from the police officers, sheriffs, Kansas highway patrol, national association for the advancement of colored persons, american civil liberties union, Kansas human rights commission, national council of La Raza and Kansas civil rights advocates.

(b) The data collected at each stop shall include:

- (1) Officer identification number;
- (2) law enforcement agency code;
- (3) month, day and year of stop;
- (4) hour and minute of stop;
- (5) who was stopped, a motorist or pedestrian;
- (6) gender of person stopped, male or female;
- (7) specific age of person stopped;
- (8) race of person stopped, African-American, Hispanic, Native American, caucasian, Asian, or other as stated by the person stopped or by officer observation;
- (9) reason for stop: Violation of the criminal code; violation of a county resolution or city ordinance; calls for service; suspect or vehicle description or pre-existing knowledge or information, such as a warrant; citizens assist or welfare; or traffic violation such as a moving violation, equipment failure or license plate violation. If a moving violation, the officer shall indicate the specific violation;
- (10) result of stop: Citation, warning or arrest;
- (11) if person was arrested, what crime or violation was alleged;
- (12) number of passengers in the vehicle;
- (13) what was the nature of the search conducted on the pedestrian, driver or passenger, or of the vehicle or property or no search was conducted;



(14) search authority: By consent; tow inventory; odor of drugs or alcohol or both; plain view contraband; incidental to arrest; dog alert; search warrant; or other;

(15) was contraband discovered. If yes, was it illegal drugs; drug paraphernalia; weapons; alcohol; currency or stolen property; or other;

(16) stop location in agency boundaries, using the specific address of each stop including street address or highway mile marker, city and county;

(17) duration of stop listing the number of minutes; less than 5 minutes, 5-9 minutes, 10-19 minutes, 20-29 minutes, 30-39 minutes, 40-49 minutes, 50-59 minutes or 60 or more minutes;

(18) vehicle license plate number; and

(19) signature of law enforcement officer making the stop.

(c) Such uniform citizen contact data form shall be fully implemented and used by all Kansas law enforcement agencies by January 1, 2011.

(d) A copy of this completed form shall be given by the law enforcement officer to the motorist or pedestrian who was stopped.

(e) Within 15 days after each stop, such forms shall be mailed, faxed, optically scanned or sent electronically by each Kansas law enforcement agency to the office of the department of vehicles where such data shall be compiled into a statewide citizen contact database.

(f) The Kansas attorney general shall monthly compile data received from law enforcement agencies and make such data available to the public and all law enforcement agencies.

(g) The data will be analyzed by statistical experts for patterns of racial profiling at least once every three months. The results of each three-month analysis shall be posted on the official website of the attorney general starting with the data collected from January 1, 2011 through March 31, 2011.

(h) Law enforcement agencies or individual officers who need to correct such agency's or individual's racially biased behavior shall be contacted by the attorney general's office within two weeks after a pattern of racial discrimination is identified as one standard deviation above the mean for all races of motorists and pedestrians stopped in a five block radius in a town or city or a 10 mile section of road or highway.

(i) An annual report summarizing the types of citizen contacts and which law enforcement agencies need to end their racially biased policing shall be prepared by the attorney general and submitted to the legislature, governor and Kansas law enforcement agencies on or before January 31 of each year. Each annual report shall be posted on the official website of the attorney general.

(j) The department of transportation shall be responsible for implementing the provisions of this section.”;

And by renumbering the remaining sections accordingly;

Also, on motion of Rep. Colloton to amend **SB 435**, the motion was withdrawn.

Also, on further motion of Rep. Colloton to amend **SB 435**, Rep. Patton requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 312** be adopted; also, roll call was demanded on motion of Rep. Brunk to amend on page 7, following line 18, by inserting the following:

“New Sec. 3. (a) Subject to the provisions of K.S.A. 79-2925b, and amendments thereto, if the total taxable real property valuation in any municipality increases due to increases in the assessed valuation of existing real property, then the governing body shall lower the mill levy rate to such rate that would equal the amount of ad valorem property taxes levied in the next previous year. This subsection shall not apply to ad valorem taxes levied under K.S.A. 72-6431, 76-6b01 and 76-6b05, and amendments thereto, or any other ad valorem tax levy which was previously approved by the voters of such municipality. Property that, in the current year, is new construction, is located within added jurisdictional territory, or has changed in use shall not be considered when determining whether the total taxable real property valuation has increased from the prior year.

(b) If the total taxable real property valuation in any municipality decreases, then the governing body may increase the mill levy rate, subject to any statutory restrictions, to a

rate that would equal the amount of ad valorem property taxes levied in the next previous year.

(c) The provisions of subsection (a) shall not apply to or limit the levy of ad valorem taxes for the payment of principal and interest on bonds, temporary notes and no-fund warrants or judgments rendered against any such taxing subdivision.

(d) For the purposes of this section, "Municipality" means any county, township, city, municipal university, school district, community college, drainage district and any other taxing district or political subdivision which levies taxes on property.

Sec. 4. K.S.A. 2009 Supp. 79-2925b is hereby amended to read as follows: 79-2925b. (a) Without adoption of a resolution or ordinance so providing, the governing body of any taxing subdivision shall not approve any appropriation or budget, as the case requires, which may be funded by revenue produced from property taxes, and which provides for funding with such revenue in an amount exceeding that of the next preceding year, except with regard to revenue produced and attributable to the taxation of: (1) New improvements to real property;

(2) increased personal property valuation, other than increased valuation of oil and gas leaseholds and mobile homes;

(3) property located within added jurisdictional territory; and

(4) property which has changed in use.

(b) The provisions of this section shall be applicable to all fiscal and budget years commencing on and after the effective date of this act.

(c) The provisions of this section shall not apply to community colleges or unified school districts.

(d) The provisions of this section shall not apply to revenue received from property tax levied for the sole purpose of repayment of the principal of and interest upon bonded indebtedness, temporary notes and no-fund warrants.

(e) *Any resolution adopted pursuant to this section shall be published in the official county newspaper of the county where such taxing subdivision is located.*;

And by renumbering the remaining sections accordingly;

Also on page 7, in line 19, by striking "and" and inserting a comma; also in line 19, preceding "are", by inserting "and 79-2925b";

On page 1, in the title, in line 10, following the semicolon, by inserting "revenues produced by property tax levies; mill levy adjustments; resolutions, publication requirements"; in line 11, by striking "and" where it first appears, and inserting a comma; also in line 11, following "79-2005" by inserting "and 79-2925b";

On roll call, the vote was: Yeas 45; Nays 72; Present but not voting: 0; Absent or not voting: 8.

Yeas: A. Brown, Brunk, Burgess, Carlson, Crum, DeGraaf, Donohoe, Goico, Gordon, Goyle, Grange, Hayzlett, Hermanson, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleebe, Knox, Landwehr, Mast, McLeland, Meier, Merrick, O'Brien, O'Neal, Olson, Otto, Patton, Peck, Powell, Rhoades, Schwab, Schwartz, Seiwert, Siegfried, Suellentrop, Talia, Vickrey, Ward, Whitham, Yoder.

Nays: Aurand, Ballard, Barnes, Benlon, Bollier, Bowers, Brookens, T. Brown, Burroughs, Carlin, Colloton, Craft, Crow, Dillmore, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Grant, Henderson, Henry, Hill, Hineman, C. Holmes, M. Holmes, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Menghini, Morrison, Moxley, Neighbor, Palmer, Pauls, Peterson, Phelps, Pottorff, Prescott, Proehl, Quigley, Rardin, Roth, Ruiz, Schroeder, Shultz, Slattery, Sloan, Spalding, D. Svaty, Swanson, Swenson, Tafanelli, Tietze, Trimmer, Wetta, Williams, Winn, B. Wolf, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Bethell, Davis, Fund, Hawk, Horst, Johnson, Myers, Neufeld.

The motion of Rep. Brunk did not prevail; and **H. Sub. for SB 312** be passed.

Committee report recommending a substitute bill to **H. Sub. for SB 174** be adopted; also, on motion of Rep. Kiegerl to amend, Rep. Peck requested a ruling on the amendment being germane to the bill. The Rules Vice-Chair ruled the amendment not germane. Rep.

Kiegerl challenged the ruling, the question being, "Shall the Rules Chair be sustained?" Rep. Kiegerl subsequently withdrew his challenge of the Rules Chair.

Also, on motion of Rep. Peck to amend **H. Sub. for SB 174**, the motion did not prevail. Also, roll call was demanded on motion to recommend **H. Sub. for SB 174** favorably for passage.

On roll call, the vote was: Yeas 58; Nays 61; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Bowers, A. Brown, Brunk, Burgess, Carlson, Crum, DeGraaf, Donohoe, Faber, Goico, Gordon, Grange, Hayzlett, Hermanson, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleebe, Knox, Landwehr, Mast, McLeland, Merrick, Morrison, Myers, O'Brien, O'Neal, Olson, Otto, Patton, Peck, Pottorff, Powell, Prescott, Proehl, Rhoades, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Suellentrop, Swanson, Tafanelli, Talia, Vickrey, Whitham, B. Wolf.

Nays: Ballard, Barnes, Benlon, Bollier, Brookens, T. Brown, Burroughs, Carlin, Colloton, Craft, Crow, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goyle, Grant, Henderson, Henry, Hill, Himeman, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Meier, Menghini, Moxley, Neighbor, Palmer, Pauls, Peterson, Phelps, Quigley, Rardin, Roth, Ruiz, Slattery, Spalding, D. Svaty, Swenson, Tietze, Trimmer, Ward, Wetta, Williams, Winn, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Bethell, Fund, Hawk, Johnson, Neufeld, Yoder.

The motion to recommend **H. Sub. for SB 174** favorably for passage did not prevail.

Committee report recommending a substitute bill to **H. Sub. for SB 255** be adopted; also, roll call was demanded on motion of Rep. A. Brown to amend on page 18, after line 3, by inserting the following:

"Sec. 5. K.S.A. 2009 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3%, and commencing July 1, 2010, at the rate of 6.3%, and commencing July 1, 2013, at the rate of 5.5%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) the gross receipts from intrastate, interstate or international telecommunications services and any ancillary services sourced to this state in accordance with K.S.A. 2009 Supp. 79-3673, and amendments thereto, except that telecommunications service does not include: (1) Any interstate or international 800 or 900 service; (2) any interstate or international private communications service as defined in K.S.A. 2009 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice data service; (4) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (5) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for 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, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1)

The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the

use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. Any amount of sales tax paid pursuant to the Kansas retailers sales tax act on the isolated or occasional sale of motor vehicles or trailers on and after July 1, 2004, which the base for computing the tax was the value pursuant to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments thereto, when such amount was higher than the amount of sales tax which would have been paid under the law as it existed on June 30, 2004, shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Such refund shall be in an amount equal to the difference between the amount of sales tax paid by the taxpayer and the amount of sales tax which would have been paid by the taxpayer under the law as it existed on June 30, 2004. Each claim for a sales tax refund shall be verified and submitted not later than six months from the effective date of this act 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 tax paid as provided by this act. All such 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 of taxation or the director's designee. No refund for an amount less than \$10 shall be paid pursuant to this act. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building, facility or utility structure damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice loading and attendant winds, terrorism or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership

corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility;

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(5) "utility structure" shall mean transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility; and

(6) "windstorm" shall mean straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) on and after January 1, 2005, the gross receipts received from the sale of prewritten computer software and the sale of the services of modifying, altering, updating or maintaining prewritten computer software, whether the prewritten computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services;

(u) the gross receipts received from the sale of prepaid calling service and prepaid wireless calling service as defined in K.S.A. 2009 Supp. 79-3673, and amendments thereto; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq., and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 6. K.S.A. 2009 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act 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, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) (1) The state treasurer shall credit 5/98 of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit 5/106 of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited

as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) On July 1, 2006, the state treasurer shall credit 19/265 of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) On July 1, 2007, the state treasurer shall credit 13/106 of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and on and after July 1, 2010, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5) *On July 1, 2013, and thereafter, the state treasurer shall credit 17/110 of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a STAR bond project district occupied by a STAR bond project or taxpayers doing business with such entity financed by a STAR bond project as defined in K.S.A. 2009 Supp. 12-17,162, and amendments thereto, that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state or the project was designated as a STAR bond project as defined in K.S.A. 2009 Supp. 12-17,162, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such STAR bond project.

Sec. 7. K.S.A. 2009 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 5.3%, and commencing July 1, 2010, at the rate of 6.3%, and commencing July 1, 2013, at the rate of 5.5%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 8. K.S.A. 2009 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act 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, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A revolving fund, designated as "compensating tax refund fund" not to exceed \$10,000 shall be set apart and maintained by the director from compensating tax collections and estimated tax collections and held by the state treasurer for prompt payment of all compensating tax refunds. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) (1) The state treasurer shall credit 5/98 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 4.9%, and deposited

as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit 5/106 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) On July 1, 2006, the state treasurer shall credit 19/265 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) On July 1, 2007, the state treasurer shall credit 13/106 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and on and after July 1, 2010, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5) On July 1, 2013, and thereafter, the state treasurer shall credit 17/110 of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund created by subsection (d) of K.S.A. 79-3620, and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3620, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

This subsection shall not apply to a project designated as a special bond project as defined in subsection (z) of K.S.A. 12-1770a, and amendments thereto.”;

And by renumbering sections accordingly;

Also on page 18, in line 7, by striking “and”; in line 8, after the comma, by inserting “79-3603, 79-3620, 79-3703 and 79-3710”;

On page 1, in the title, in line 10, after the second semicolon, by inserting “state rate of tax, distribution of revenue;”; in line 13, by striking “and”; in line 15, after “2353” by inserting “, 79-3603, 79-3620, 79-3703 and 79-3710”;

On roll call, the vote was: Yeas 0; Nays 115; Present but not voting: 0; Absent or not voting: 10.

Yeas: None.

Nays: Aurand, Ballard, Barnes, Benlon, 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, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, 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.

Present but not voting: None.

Absent or not voting: Bethell, Fund, Grant, Hawk, Johnson, Kiegerl, Lane, Light, Neufeld, Yoder.

The motion of Rep. A. Brown did not prevail.



Also, on motion of Rep. Hineman to amend **H. Sub. for SB 255**, Rep. Menghini requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane.

Also, on motion of Rep. Aurand to amend **H. Sub. for SB 255**, Rep. Menghini requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. Also, roll call was demanded on the motion of Rep. Aurand to amend on page 18, after line 3, by inserting the following:

“Sec. 5. K.S.A. 2009 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3%, *except that for the period commencing July 1, 2010, and ending June 30, 2012, at the rate of 5.7%*. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) the gross receipts from intrastate, interstate or international telecommunications services and any ancillary services sourced to this state in accordance with K.S.A. 2009 Supp. 79-3673, and amendments thereto, except that telecommunications service does not include: (1) Any interstate or international 800 or 900 service; (2) any interstate or international private communications service as defined in K.S.A. 2009 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice data service; (4) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (5) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for 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, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. Any amount of sales tax paid pursuant to the Kansas retailers sales tax act on the isolated or occasional sale of motor vehicles or trailers on and after July 1, 2004,

which the base for computing the tax was the value pursuant to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments thereto, when such amount was higher than the amount of sales tax which would have been paid under the law as it existed on June 30, 2004, shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Such refund shall be in an amount equal to the difference between the amount of sales tax paid by the taxpayer and the amount of sales tax which would have been paid by the taxpayer under the law as it existed on June 30, 2004. Each claim for a sales tax refund shall be verified and submitted not later than six months from the effective date of this act 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 tax paid as provided by this act. All such 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 of taxation or the director's designee. No refund for an amount less than \$10 shall be paid pursuant to this act. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building, facility or utility structure damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice loading and attendant winds, terrorism or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility;

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(5) "utility structure" shall mean transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility; and

(6) "windstorm" shall mean straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) on and after January 1, 2005, the gross receipts received from the sale of prewritten computer software and the sale of the services of modifying, altering, updating or maintaining prewritten computer software, whether the prewritten computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services;

(u) the gross receipts received from the sale of prepaid calling service and prepaid wireless calling service as defined in K.S.A. 2009 Supp. 79-3673, and amendments thereto; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq., and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 6. K.S.A. 2009 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act 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, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) (1) The state treasurer shall credit 5/98 of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit 5/106 of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) On July 1, 2006, the state treasurer shall credit 19/265 of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) ~~On July 1, 2007,~~ The state treasurer shall credit 13/106 of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5) *On July 1, 2010, the state treasurer shall credit 13/114 of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.7%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers

doing business within that portion of a STAR bond project district occupied by a STAR bond project or taxpayers doing business with such entity financed by a STAR bond project as defined in K.S.A. 2009 Supp. 12-17,162, and amendments thereto, that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state or the project was designated as a STAR bond project as defined in K.S.A. 2009 Supp. 12-17,162, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such STAR bond project.

Sec. 7. K.S.A. 2009 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 5.3%, *except that for the period commencing July 1, 2010, and ending June 30, 2012, at the rate of 5.7%*. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 8. K.S.A. 2009 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act 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, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A revolving fund, designated as "compensating tax refund fund" not to exceed \$10,000 shall be set apart and maintained by the director from compensating tax collections and estimated tax collections and held by the state treasurer for prompt payment of all compensating tax refunds. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) (1) The state treasurer shall credit 5/98 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit 5/106 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) On July 1, 2006, the state treasurer shall credit 19/265 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) ~~On July 1, 2007,~~ The state treasurer shall credit 13/106 of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5) *On July 1, 2010, the state treasurer shall credit 13/114 of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.7%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund created by subsection (d) of K.S.A. 79-3620, and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3620, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

This subsection shall not apply to a project designated as a special bond project as defined in subsection (z) of K.S.A. 12-1770a, and amendments thereto.

Sec. 9. K.S.A. 2009 Supp. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. ~~On and after July 1, 2002, and before January 1, 2003, the rate of such tax shall be \$.70 on each 20 cigarettes or fractional part thereof or \$.875 on each 25 cigarettes, as the case requires. On and after January 1, 2003~~ *July 1, 2010*, the rate of such tax shall be ~~\$.79~~ *\$.99* on each 20 cigarettes or fractional part thereof or ~~\$.99~~ *\$1.241* on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided.

The taxes imposed by this act are hereby levied upon all sales of cigarettes made to any department, institution or agency of the state of Kansas, and to the political subdivisions thereof and their departments, institutions and agencies.

Sec. 10. K.S.A. 2009 Supp. 79-3310c is hereby amended to read as follows: 79-3310c. ~~(1)~~ On or before July 30, ~~2002~~ *2010*, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on July 1, ~~2002~~ *2010*. A tax of ~~\$.46~~ *\$.20* on each 20 cigarettes or fractional part thereof or ~~\$.575~~ *\$.251* on each 25 cigarettes, as the case requires and ~~\$.46 or \$.575~~ *\$.20 or \$.251*, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to July 1, ~~2002~~ *2010*, is hereby imposed and shall be due and payable in equal installments on or before July 30, ~~2002~~ *2010*, on or before September 30, ~~2002~~ *2010*, and on or before December 30, ~~2002~~ *2010*. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

~~(2) On or before January 30, 2003, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on January 1, 2003. A tax of \$.09 on each 20 cigarettes or fractional part thereof or \$.115 on each 25 cigarettes, as the case requires and \$.09 or \$.115, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to January 1, 2003, is hereby imposed and shall be due and payable in equal installments on or before January 30, 2003, on or before March 30, 2003, and on or before June 30, 2003. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.~~

Sec. 11. K.S.A. 2009 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied stamps only to licensed wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and stamps

applied by the heat process and meter imprints shall be supplied to wholesale dealers at a discount of ~~90%~~ .66% on and after July 1, ~~2002~~ 2010, ~~and before January 1, 2003, and 80%~~ thereafter from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the bond. Failure on the part of any wholesale dealer to remit as herein specified shall be cause for forfeiture of such dealer's bond. All revenue received from the sale of such stamps or meter imprints 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. The state treasurer shall first credit such amount as the director shall order to the cigarette tax refund fund and shall credit the remaining balance to the state general fund. A refund fund designated the cigarette tax refund fund not to exceed \$10,000 at any time shall be set apart and maintained by the director from taxes collected under this act and held by the state treasurer for prompt payment of all refunds authorized by this act. Such cigarette tax refund fund shall be in such amount as the director shall determine is necessary to meet current refunding requirements under this act.

The wholesale cigarette dealer shall affix to each package of cigarettes stamps or tax meter imprints required by this act prior to the sale of cigarettes to any person, by such dealer or such dealer's agent or agents, within the state of Kansas. The director is empowered to authorize wholesale dealers to affix revenue tax meter imprints upon original packages of cigarettes and is charged with the duty of regulating the use of tax meters to secure payment of the proper taxes. No wholesale dealer shall affix revenue tax meter imprints to original packages of cigarettes without first having obtained permission from the director to employ this method of affixation. If the director approves the wholesale dealer's application for permission to affix revenue tax meter imprints to original packages of cigarettes, the director shall require such dealer to file a suitable bond payable to the state of Kansas executed by a corporate surety authorized to do business in Kansas. The director may, to assure the proper collection of taxes imposed by the act, revoke or suspend the privilege of imprinting tax meter imprints upon original packages of cigarettes. All meters shall be under the direct control of the director, and all transfer assignments or anything pertaining thereto must first be authorized by the director. All inks used in the stamping of cigarettes must be of a special type devised for use in connection with the machine employed and approved by the director. All repairs to the meter are strictly prohibited except by a duly authorized representative of the director. Requests for service shall be directed to the director. Meter machine ink imprints on all packages shall be clear and legible. If a wholesale dealer continuously issues illegible cigarette tax meter imprints, it shall be considered sufficient cause for revocation of such dealer's permit to use a cigarette tax meter.

A licensed wholesale dealer may, for the purpose of sale in another state, transport cigarettes not bearing Kansas indicia of tax payment through the state of Kansas provided such cigarettes are contained in sealed and original cartons.

Sec. 12. K.S.A. 2009 Supp. 79-3312 is hereby amended to read as follows: 79-3312. The director shall redeem any unused stamps or meter imprints that any wholesale dealer presents for redemption within six months after the purchase thereof, at the face value less ~~90%~~ .66% on and after July 1, ~~2002~~ 2010, ~~and before January 1, 2003, and 80%~~ thereafter thereof if such stamps or meter imprints have been purchased from the director. The director shall prepare a voucher showing the net amount of such refund due, and the director of accounts and reports shall draw a warrant on the state treasurer for the same. Wholesale dealers shall be entitled to a refund of the tax paid on cigarettes which have become unfit for sale upon proof thereof less ~~90%~~ .66% on and after July 1, ~~2002~~, and before January 1, 2003, and ~~80%~~ thereafter 2010, of such tax.”;

And by renumbering sections accordingly;

Also on page 18, in line 7, by striking “and”; in line 8, after the comma, by inserting “79-3310, 79-3310c, 79-3311, 79-3312, 79-3603, 79-3620, 79-3703 and 79-3710”;

On page 1, in the title, in line 10, after the second semicolon, by inserting "state rate of tax, distribution of revenue; tax upon cigarettes, rates;"; in line 13, by striking "and"; in line 15, after "2353" by inserting " , 79-3310, 79-3310c, 79-3311, 79-3312, 79-3603, 79-3620, 79-3703 and 79-3710";

On roll call, the vote was: Yeas 18; Nays 98; Present but not voting: 0; Absent or not voting: 9.

Yeas: Aurand, Bollier, Brookens, A. Brown, Colloton, Craft, Dillmore, Faber, M. Holmes, Horst, Kerschen, Prescott, Proehl, Sloan, Spalding, Swanson, Tafanelli, Whitham.

Nays: Ballard, Barnes, Benlon, Bowers, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Crow, Crum, Davis, DeGraaf, Donohoe, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, Huebert, Jack, Kelley, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Suellentrop, D. Svaty, Swenson, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Williams, Winn, B. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Bethell, Fund, George, Hawk, Johnson, Light, Neufeld, K. Wolf, Yoder.

The motion of Rep. Aurand did not prevail; and **H. Sub. for SB 255** be passed.

#### INTRODUCTION OF ORIGINAL MOTIONS

On emergency motion of Rep. Merrick pursuant to House Rule 2311, **SB 393; Sub. SB 353; SB 434; H. Sub. for Sub. SB 214; SB 389** were advanced to Final Action on Bills and Concurrent Resolutions.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**SB 393**, An act concerning agriculture; relating to administrative hearings; amending K.S.A. 34-298, 65-6a34a, 83-308 and 83-407 and K.S.A. 2009 Supp. 2-2122, 2-2449, 2-2469, 2-2512, 2-3311, 65-780 and 74-596 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 119; Nays 0; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Ballard, Barnes, Benlon, 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, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, 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, 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.

Nays: None.

Present but not voting: None.

Absent or not voting: Bethell, Fund, Hawk, Johnson, Neufeld, Yoder.

The bill passed.

**Sub. SB 353**, An act concerning trafficking; relating to human trafficking; aggravated human trafficking; prostitution; offender registration; forfeiture; amending K.S.A. 21-3446, 21-3447, 21-4643 and 22-4906 and K.S.A. 2009 Supp. 22-4902, 38-2361, 60-4104, 75-451, 75-452 and 75-453 and repealing the existing sections, was considered on final action.



On roll call, the vote was: Yeas 119; Nays 0; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Ballard, Barnes, Benlon, 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, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, 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, 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.

Nays: None.

Present but not voting: None.

Absent or not voting: Bethell, Fund, Hawk, Johnson, Neufeld, Yoder.

The substitute bill passed, as amended.

**SB 434.** An act concerning crimes, punishment and criminal procedure; relating to unlawful sexual relations; sentencing; offender registration; trafficking in contraband in a correctional institution; deferral of parole board hearings; amending K.S.A. 21-3520 and K.S.A. 2009 Supp. 21-3826, 21-4704, 22-3717 and 22-4902 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 119; Nays 0; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Ballard, Barnes, Benlon, 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, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, 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, 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.

Nays: None.

Present but not voting: None.

Absent or not voting: Bethell, Fund, Hawk, Johnson, Neufeld, Yoder.

The bill passed, as amended.

**H. Sub. for Sub. SB 214.** An act concerning cities; relating to annexation of territory; amending K.S.A. 2009 Supp. 12-520 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 1; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Ballard, Barnes, Benlon, 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, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, 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, 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.

Nays: Kuether.

Present but not voting: None.

Absent or not voting: Bethell, Fund, Hawk, Johnson, Neufeld, Yoder.

The substitute bill passed.

**SB 389**, An act concerning dental benefits under health insurance, was considered on final action.

On roll call, the vote was: Yeas 114; Nays 5; Present but not voting: 0; Absent or not voting: 6.

Yeas: Ballard, Barnes, Benlon, Bollier, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, 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, O'Brien, O'Neal, Olson, Otto, Palmer, Pauls, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, 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.

Nays: Aurand, A. Brown, Patton, Peck, Schwab.

Present but not voting: None.

Absent or not voting: Bethell, Fund, Hawk, Johnson, Neufeld, Yoder.

The bill passed, as amended.

#### MESSAGES FROM THE GOVERNOR

**HB 2283, HB 2323, HB 2445, HB 2456, HB 2552, HB 2584, HB 2609, HB 2619** approved on March 24, 2010.

#### MESSAGES FROM THE SENATE

Announcing passage of **HB 2649**.

Announcing passage of **HB 2434**, as amended; **Sub. HB 2509**, as amended by **S. Sub. for Sub. HB 2509; HB 2554**, as amended; **Sub. HB 2538**, as amended by **S. Sub. for Sub. HB 2538**.

The President announced the appointment of Senator Vratil as a member of the conference committee on **SB 368** to replace Rep. D. Schmidt.

Also, the Senate nonconcur in House amendments to **SCR 1614**, requests a conference and has appointed Senators D. Schmidt, Vratil and Kelly as conferees on the part of the Senate.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Kinzer, the House nonconcurred in Senate amendments to **S. Sub. for HB 2039** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Kinzer, Whitham and Pauls as conferees on the part of the House.

On motion of Rep. Colloton, the House nonconcurred in Senate amendments to **Sub. HB 2517** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Colloton, Patton and McCray-Miller as conferees on the part of the House.

On motion of Rep. Gordon, the House nonconcurred in Senate amendments to **HB 2551** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Gordon, Donohoe and Benlon as conferees on the part of the House.

On motion of Rep. Kinzer, the House nonconcurred in Senate amendments to **S. Sub. for HB 2585** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Kinzer, Whitham and Pauls as conferees on the part of the House.

On motion of Rep. Whitham, the House nonconcurred in Senate amendments to **HB 2691** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Whitham, Hineman and Burroughs as conferees on the part of the House.

On motion of Rep. Gordon, the House nonconcurred in Senate amendments to **HB 2434** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Gordon, Donohoe and Benlon as conferees on the part of the House.

On motion of Rep. Colloton, the House nonconcurred in Senate amendments to **S. Sub. for Sub. HB 2509** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Colloton, Patton and McCray-Miller as conferees on the part of the House.

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 bill was thereupon introduced and read by title:

**HB 2746**, An act concerning sales taxation; relating to imposition of tax on certain services; exemptions, repealed; rate of taxation; establishing the special sales tax exemption revenue fund; amending K.S.A. 2009 Supp. 12-189a, 79-3602, 79-3603, 79-3606, 79-3620, 79-3703 and 79-3710 and repealing the existing sections, by Committee on Taxation.

#### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion Rep. Davis, **HCR 5037**, by Reps. O'Neal, Merrick and Davis, as follows, was introduced and adopted.

HOUSE CONCURRENT RESOLUTION No. 5037—

A CONCURRENT RESOLUTION relating to the 2010 regular session of the legislature; extending such session beyond 90 calendar days; and providing for adjournment thereof.

*Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected to the House of Representatives and two-thirds of the members elected to the Senate concurring therein:* That the 2010 regular session of the legislature shall be extended beyond 90 calendar days; and

*Be it further resolved:* That the legislature shall adjourn at the close of business of the daily session convened on March 24, 2010, and shall reconvene at 10:00 a.m. on March 29, 2010; and

*Be it further resolved:* That the legislature shall adjourn at the close of business of the daily session convened on March 30, 2010, or at the close of business of the daily session convened on March 31, 2010, or at the close of business of the daily session convened on April 1, 2010, and shall reconvene at 10:00 a.m. on April 28, 2010; and

*Be it further resolved:* That the legislature may adjourn and reconvene at any time during the period on and after April 28, 2010, to May 28, 2010, but the legislature shall reconvene at 10:00 a.m. on May 28, 2010, at which time the legislature shall continue in session and shall adjourn *sine die* at the close of business on May 28, 2010; and

*Be it further resolved:* That the secretary of the senate and the chief clerk of the house of representatives and employees specified by the director of legislative administrative services for such purpose shall attend their duties each day during periods of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

*Be it further resolved:* That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in subsections (a) and (b) of K.S.A.

46-137a, and amendments thereto, for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

*Be it further resolved:* That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law, or by the Legislative Coordinating Council or by the President of the Senate or the Speaker of the House of Representatives and members of a conference committee attending a meeting of the conference committee authorized by the President of the Senate and the Speaker of the House of Representatives during any period of adjournment for which members are not authorized compensation and allowances pursuant to K.S.A. 46-137a, and amendments thereto, shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212, and amendments thereto.

#### **INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 213**.

Speaker O'Neal thereupon appointed Reps. C. Holmes, Patton and Pauls as conferees on the part of the House.

#### **CHANGE OF CONFEREES**

Speaker O'Neal announced the appointment of Rep. King as a member of the conference committees on **SB 293, SB 300** to replace Rep. Vickrey.

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

**HB 2566** reported correctly engrossed March 23, 2010.

Also, **HB 2446** reported correctly engrossed March 24, 2010.

#### **REPORT ON ENROLLED RESOLUTIONS**

**HCR 5012, HCR 5013; HR 6028** reported correctly enrolled and properly signed on March 24, 2010.

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Monday, March 29, 2010.

SUSAN W. KANNARR, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

