

# Journal of the House

FORTY-FIFTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Friday, March 18, 2011, 11:00 a.m.

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

The roll was called with 122 members present.

Reps. Fund and Schwab were excused on verified illness.

Rep. Grosserode was excused on excused absence by the Speaker.

Present later: Rep. Schwab.

Prayer by Chaplain Brubaker:

Our Heavenly Father,  
here we are in the middle of March Madness.  
I understand why we call it that.  
March weather is so unpredictable—  
snowy one day – warm and sunny the next.  
The political climate can be so unpredictable—  
calm and unified one day – frustration and debate the next.  
And, of course, college basketball is so unpredictable—  
low seeded teams surprising high seeds –  
middle seeded teams blowing our brackets.  
There is, however, one predictable element  
we can be assured of during this month—  
that is Your love, Father—  
it never changes and endures forever.  
So in the midst of all the unpredictable,  
may we remain firmly established in  
Your undying love.  
In Christ's Name I pray, Amen.

The Pledge of Allegiance was led by Rep. M. Holmes.

Kansas Trivia Question – Name 3 Kansas towns with the shortest names.

Answer: Amy, Gas, Elk, Way, Wea are some of them.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Appropriations: **HB 2393**; **SB 118**, **SB 154**.

Education: **SB 51**.  
 Federal and State Affairs: **SB 201**.  
 Health and Human Services: **Sub. SB 92**.  
 Insurance: **Sub. SB 138**.  
 Judiciary: **Sub. SB 81**.  
 Transportation: **HR 6017**.

#### **MESSAGES FROM THE SENATE**

Announcing passage of **SB 191, SB 215, SB 224**.  
 Announcing passage of **HB 2013, HB 2078, HB 2083, HB 2205, HB 2258**.  
 Announcing passage of **HB 2020**, as amended; **HB 2044**, as amended; **HB 2049**, as amended by **S. Sub. for HB 2049**; **HB 2076**, as amended; **HB 2172**, as amended; **HB 2192**, as amended; **HB 2282**, as amended.  
 Announcing adoption of **HCR 5009**.  
 Also, announcing rejection of **HB 2006**.  
 Also, the Senate accedes to the request of the House for a conference on **HB 2175** and has appointed Senators Umbarger, Marshall and Kultala as conferees on the part of the House.

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

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

**SB 191, SB 215, SB 224**.

#### **CONSENT CALENDAR**

No objection was made to **SB 15** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

#### **FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**SB 15**, AN ACT concerning insurance; relating to risk-based capital requirements for certain insurers; amending K.S.A. 2010 Supp. 40-2c01 and repealing the existing section, was considered on final action.

Call of the House was demanded.

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

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Kuether, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan,

Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Tyson, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: None.

Present but not voting: Landwehr.

Absent or not voting: Fund, Grosserode, Kelley, Schwab.

The bill passed.

**H. Sub. for SB 196**, AN ACT concerning taxation; relating to IMPACT program; income tax deductions, expensing of investment expenditures; promoting employment across Kansas act, qualifications for benefits; income tax credits; sales tax exemptions; creating job creation program fund, administration and expenditures; amending K.S.A. 2010 Supp. 74-50,104, 74-50,106, 74-50,107, 74-50,109, 74-50,110, 74-50,111, 74-50,210, 74-50,211, 74-50,212, 74-50,213, 79-32,160a, 79-32,206 and 79-3606 and repealing the existing sections; also repealing K.S.A. 2010 Supp. 74-50,151 and 74-50,152, was considered on final action.

Call of the House was demanded.

On roll call, the vote was: Yeas 105; Nays 17; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alford, Arpke, Aurand, Ballard, Billinger, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Donohoe, Fawcett, Feuerborn, Flaharty, Garber, D. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Hayzlett, Hedke, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, Kleebe, Knox, Landwehr, Mah, Mast, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Trimmer, Tyson, Vickrey, Victors, Ward, Weber, Wetta, Williams, B. Wolf, K. Wolf, Worley.

Nays: Bethell, Bollier, Burroughs, Dillmore, Finney, Frownfelter, S. Gatewood, Henderson, Kuether, Lane, Loganbill, McCray-Miller, Peterson, Ruiz, Tietze, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Fund, Grosserode, Schwab.

The substitute bill passed, as amended.

#### **MOTIONS TO CONCUR AND NONCONCUR**

On motion of Rep. Colloton, the House nonconcurrent in Senate amendments to **HB 2151** and asked for a conference.

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

On motion of Rep. Siegfried, the House resolved into the Committee of the Whole, with Rep. Kinzer in the chair.

**COMMITTEE OF THE WHOLE**

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

Recommended that **HCR 5017** be adopted.

On motion of Rep. Wetta to amend **SB 198**, the motion did not prevail, and the bill be passed..

Committee report to **SB 61** be adopted; also, roll call was demanded on motion of Rep. Frownfelter to amend on page 1, by striking all in line 36; on page 2, by striking all in line 1 through 16;

On page 1, in the title, in line 2 by striking "allocation of credits," in line 3, by striking "unitary group;"

On roll call, the vote was: Yeas 50; Nays 67; Present but not voting: 0; Absent or not voting: 8.

Yeas: Ballard, Bethell, Bollier, Boman, Brookens, Burroughs, Carlin, Colloton, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Grant, Henderson, Henry, Hill, Hineman, Kelley, Kinzer, Kuether, Lane, Loganbill, Mah, McCray-Miller, Meier, Montgomery, Moxley, Pauls, Phelps, Proehl, Roth, Ruiz, Slattery, Sloan, Spalding, Swanson, Tietze, Trimmer, Tyson, Victors, Ward, Wetta, Winn, K. Wolf, Wolfe Moore, Worley.

Nays: Alford, Arpke, Aurand, Billinger, Bowers, Brown, Bruchman, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Crum, DeGraaf, Denning, Donohoe, Fawcett, Garber, Goico, Gonzalez, Goodman, Gordon, Grange, Gregory, Hayzlett, Hedke, Hermanson, Hildabrand, Hoffman, C. Holmes, M. Holmes, Howell, Johnson, Kelly, Kerschen, Kiegerl, Kleeb, Knox, Mast, McLeland, Meigs, Mosier, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Peck, Pottorff, Powell, Prescott, Rhoades, Rubin, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Siegfried, Smith, Suellentrop, Vickrey, Weber, Williams, B. Wolf.

Present but not voting: None.

Absent or not voting: Fund, Grosserode, Huebert, Landwehr, Mesa, Peterson, Schwab, Shultz.

The motion of Rep. Frownfelter did not prevail.

Also, roll call was demanded on motion of Rep. Bethell to amend **SB 61** on page 1, following line 7, by inserting "New Section 1. Beginning July 1, 2011, any new tax credit, deduction, or tax exemption which is forecasted by the division of budget to result in a decrease to state revenues, shall expire on July 1 of the fourth year after enactment, unless the legislature acts to continue the credit, deduction or exemption. A law that enacts a new tax credit, deduction or tax exemption or substantially amends an existing credit, deduction or exemption shall state that the credit, deduction or exemption expires at the end of four years and that the credit, deduction or exemption shall be reviewed by the legislature before the scheduled date."; And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 1, by striking "income"; in line 3, after "program;" by inserting "new credits, deductions and exemptions, expiration;"

On roll call, the vote was: Yeas 50; Nays 71; Present but not voting: 0; Absent or not voting: 4.

Yeas: Ballard, Bethell, Bollier, Bowers, Brookens, Burroughs, Carlin, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood,

Grange, Grant, Henderson, Henry, Hill, Hineman, Kerschen, Kuether, Landwehr, Lane, Loganbill, Mah, McCray-Miller, Meier, Moxley, Pauls, Phelps, Pottorff, Proehl, Roth, Ruiz, Slattery, Sloan, Spalding, Swanson, Tietze, Trimmer, Victors, Ward, Wetta, Williams, Winn, K. Wolf, Wolfe Moore, Worley.

Nays: Alford, Arpke, Aurand, Billinger, Boman, Brown, Bruchman, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Colloton, Crum, DeGraaf, Denning, Donohoe, Fawcett, Garber, Goico, Gonzalez, Goodman, Gordon, Gregory, Hayzlett, Hedke, Hermanson, Hildabrand, Hoffman, C. Holmes, M. Holmes, Howell, Johnson, Kelley, Kelly, Kiegerl, Kinzer, Kleeb, Knox, Mast, McLeland, Meigs, Mesa, Montgomery, Mosier, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Peck, Powell, Prescott, Rhoades, Rubin, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Smith, Suellentrop, Tyson, Vickrey, Weber, B. Wolf.

Present but not voting: None.

Absent or not voting: Fund, Grosserode, Huebert, Peterson.

The motion of Rep. Bethell did not prevail, and **SB 61** be passed as amended.

On motion of Rep. Carlson, **H. Sub. for SB 1** (committee report recommending a substitute bill was adopted on page 538 on March 17, 2011) be amended on page 2, in line 2, by striking the comma; by striking all in lines 3 and 4; in line 5, by striking "1986,";

On page 3, by striking all in lines 42 and 43;

By striking all on pages 4 through 13;

On page 14, by striking all in lines 1 through 21, and inserting:

"Sec. 3. K.S.A. 2010 Supp. 79-32,110 is hereby repealed.";

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 2 by striking all after the semicolon; in line 3, by striking "distribution;" also in line 3, by striking ", 79-3603, 79-"; in line 4, by striking "3620, 79-3703 and 79-3710"; also in line 4, by striking "sections" and inserting "section";

Also, on motion of Rep. Brown, **H. Sub. for SB 1** be amended on page 2, in line 6, after "occurred" by inserting ", except that in no event shall the corporation normal income tax rate be less than 3.5% of the taxable income of such corporation";

Also, on motion of Rep. O'Hara to amend **H. Sub. for SB 1**, Rep. Phelps requested the question be divided. Part A of the motion of Rep. O'Hara did not prevail. Part B of the motion of Rep. O'Hara was withdrawn;

Also, on motion of Rep. Schroeder to amend, the motion did not prevail, and **H. Sub. for SB 1** be passed as amended.

Committee report to **SB 193** be adopted; and the bill be passed as amended.

Committee report to **HB 2117** be adopted; also, on motion of Rep. Patton be amended on page 7, following line 28, by inserting:

"New Sec. 3. (a) On or after July 1, 2011, any qualified new company as defined in subsection (c)(1), shall be eligible to retain 95% of the qualified new company's Kansas payroll withholding taxes upon wages paid by such qualified new company for a period of one year from the date the qualified company establishes a new business and commences business operations.

(b) Any qualified new company shall submit in a form and in a manner prescribed by the secretary, information that proves that the applicant is a qualified new company, including the date of establishment of the new business and commencement of business

operations, the number of employees hired by the qualified new company, the amount of gross wages being paid to each employee and such other information as required by the secretary. If the qualified new company fails to meet the provisions of this section, the qualified new company shall not be entitled to any further benefits provided under this section. In such case, the qualified new company shall be required to remit to the state an amount equal to the aggregate Kansas payroll withholding taxes retained by the qualified new company pursuant to this section as of the date the qualified new company fails to comply with the provisions of this section.

(c) As used in this section: (1) "Qualified new company" means a company which establishes a new business and commences business operations on or after July 1, 2011, and has 10 or less employees. If a company commences business operations with 10 or less employees and hires additional employees during the first year of operation to exceed this ten-employee limitation, such company shall still qualify for benefits pursuant to this section for the first 10 employees for such first year of operation but shall not be eligible for such benefits for any employees above the first 10 employees. Such company shall include a person, for-profit corporation, limited liability company, S corporation, partnership, registered limited liability partnership, and sole proprietorship that is subject to the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto. No company or person shall be eligible under this section if such person, company or ownership interest of such company had an ownership interest in a business of the same nature or character within the one-year period prior to commencement of the new business, or if the secretary determines such company created the new company for the purpose of avoiding taxation; and

(2) "secretary" means the secretary of the department of revenue.

(d) The secretary of revenue is hereby authorized to adopt rules and regulations necessary to administer the provisions of this section.";

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 1, by striking "sales and use"; also in line 1, after "of" by inserting "sales and use"; in line 2, by striking the first semicolon and inserting a comma; also in line 2, after "exemptions;" by inserting "income taxation, retention of Kansas payroll withholding taxes by certain employers, requirements and procedures;"

Also, on motion of Rep. Smith to amend **HB 2117**, Rep. Dillmore requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane.

Also, on motion of Rep. Fawcett to amend **HB 2117**, Rep. Dillmore requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane.

Also, on motion of Rep. Brunk to amend **HB 2117**, the motion was withdrawn.

Also, on motion of Rep. Collins to amend **HB 2117**, Rep. Dillmore requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane.

On motion of Rep. Brunk to amend **HB 2117**, the motion did not prevail. Also, on further motion of Rep. Brunk to amend, the motion did not prevail, and the bill be passed as amended.

**REPORTS OF STANDING COMMITTEES**

Committee on **Commerce and Economic Development** recommends **HB 2336** be amended on page 1, in line 10, by striking all after "employment" where it appears for the first time; by striking all in line 11; in line 12, by striking "disability"; also in line 12, by striking "support the"; in line 13, by striking "employment of" and inserting "provide services and support to help obtain employment for"; in line 15, following the period, by inserting "Nothing in this section shall be construed to require any employer to give preference to hiring people with a disability."; in line 24, by striking all after "Sec. 3."; by striking all in lines 25 through 36;

On page 2, by striking lines 1 through 28 and inserting:

"(a) The governor shall designate one cabinet agency as the lead agency member to establish measurable goals and objectives for the state of Kansas to ensure implementation of this act. Such lead agency shall track the measurable progress of public agencies in implementing this act. All state agencies shall fully cooperate with and provide data and information necessary to assist the lead agency in carrying out its duties.

(b) The lead agency designated by the governor shall issue an annual report on or before January 30 each year which shall be presented to the governor and to the chairperson of each of the senate committee on ways and means and the house committee on appropriations. The report shall detail progress toward the goals and objectives and full implementation of this act. The report also shall identify barriers to achieving the outcomes along with the effective strategies and policies that can help realize the employment first initiative. The lead agency shall be responsible for compiling data and coordinating the preparation of the annual report. All state agencies shall cooperate with the lead agency on the creation and dissemination of the annual report."; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 23** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL NO. 23," as follows:

"HOUSE Substitute for SENATE BILL NO. 23

By Committee on Corrections and Juvenile Justice

"AN ACT concerning children and minors; relating to jury trials; relating to high school diplomas for children in the custody of the secretary and children in need of care; amending K.S.A. 2010 Supp. 38-2344 and 38-2357 and repealing the existing sections."; and the substitute bill be passed.

**(H. Sub. for SB 23** was thereupon introduced and read by title.)

Committee on **Education** recommends **SB 11** be amended on page 1, in line 10, after the comma, by inserting "as provided by this section,"; in line 12, after "207" by inserting "on September 20 of the current school year"; following line 12, by inserting:

"Sec. 2. K.S.A. 2010 Supp. 72-1046b is hereby amended to read as follows: 72-1046b. (a) As used in this section:

(1) "School district" means a school district organized and operating under the laws of this state and no part of which is located in Johnson county, Sedgwick county, Shawnee county; or Wyandotte county.

(2) "Non-resident pupil" or "pupil" means a pupil who is enrolled and in attendance at a school located in a district in which such pupil is not a resident and who (A) lives

~~at 2 1/2~~ or more miles from the attendance center the pupil would attend in the district in which the pupil resides and is not a resident of Johnson county, Sedgwick county, Shawnee county or Wyandotte county or (B) is a member of the family of a pupil meeting the condition prescribed in subpart (A).

(3) "Member of the family" means a brother or sister of the whole or half blood or by adoption, a stepbrother or stepsister, and a foster brother or foster sister.

(b) The board of education of any school district may allow any pupil who is not a resident of the district to enroll in and attend school in such district. The board of education of such district may furnish or provide transportation to any non-resident pupil who is enrolled in and attending school in the district pursuant to this section. If the district agrees to furnish or provide transportation to a non-resident pupil, such transportation shall be furnished or provided until the end of the school year. Prior to providing or furnishing transportation to a non-resident pupil, the district shall notify the board of education of the district in which the pupil resides that transportation will be furnished or provided.

(c) Pupils attending school in a school district in which the pupil does not reside pursuant to this section shall be counted as regularly enrolled in and attending school in the district where the pupil is enrolled for the purpose of computations, except computation of transportation weighting, under the school district finance and quality performance act and for the purposes of the statutory provisions contained in article 83 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto. Such non-resident pupil shall not be charged for the costs of attendance at school.

Sec. 3. K.S.A. 2010 Supp. 72-1046b is hereby repealed.";

Also on page 1, in the title, in line 1, by striking "transportation of" and inserting "certain"; in line 2, by striking "residing on the Leavenworth military reservation" and inserting "; amending K.S.A. 2010 Supp. 72-1046b and repealing the existing section"; and the bill be passed as amended.

Committee on **Education** recommends **Sub. SB 33** be amended on page 1, in line 10, after "licensed" by inserting "by the state board of healing arts"; in line 11, after "surgery" by inserting "or chiropractic";

On page 2, by striking all in lines 6 through 22;

And by renumbering sections accordingly;

On page 1, in the title, in line 2, by striking "high"; and the bill be passed as amended.

Committee on **Elections** recommends **SB 129** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL NO. 129," as follows:

"HOUSE Substitute for SENATE BILL NO. 129

By Committee on Elections

"AN ACT concerning elections; amending K.S.A. 25-321, 25-2203, 25-2352, 25-2411, 25-2416, 25-2423 and 25-2431 and K.S.A. 2010 Supp. 8-1324, 25-1122, 25-1122d, 25-1123, 25-1124, 25-1128, 25-2309, 25-2320, 25-2908, 25-3002 and 65-2418 and repealing the existing sections."; and the substitute bill be passed.

(**H. Sub. for SB 129** was thereupon introduced and read by title.)

Committee on **Energy and Utilities** recommends **HR 6008** be amended on page 1, in line 23, by striking "greenhouse"; after "regulation" by inserting "of greenhouse gas emissions"; in the title, in line 2, by striking "train wreck" and inserting "mandate"; and the resolution be adopted as amended.



Committee on **Financial Institutions** recommends **SB 185** be passed.

Committee on **Government Efficiency** recommends that **Sub. HB 2221** be amended by substituting a new bill as recommended by Committee on Government Efficiency as reported in the Journal of the House on February 23, 2011, and the substitute bill be amended:

On page 1, in line 7, after "(a)" by inserting "As used in this section, "state agency" has the meaning ascribed thereto by K.S.A. 75-3701, and amendments thereto, and includes the governor's department, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance, each agency of the executive branch, the legislature and each agency of the legislative branch, the judicial branch and each agency of the judicial branch.

(b)";

And redesignating the subsections accordingly;

Also on page 1, in line 13, after the period by inserting "Under this program monetary or non-monetary awards may be made to state employees. Non-monetary awards may include, but are not limited to, a medal, an annual award luncheon held by the employee's respective state agency or public recognition by the Kansas house of representatives or the Kansas senate." in line 19, by striking "(f)" and inserting "(g)";

On page 2, in line 5, after "of" by inserting "state"; in line 11, by striking all before "shall" and inserting "(g) (1) (A) The secretary of administration"; in line 13, after "reductions" by striking "in that" and inserting "to their respective state"; in line 17, by striking all before "for" and inserting "awarded a monetary or non-monetary employee award or awards"; in line 18, by striking "(a)" and inserting "(b)"; also in line 18, before "agency" by inserting "state"; also in line 18, by striking "Such a"; in line 19, by striking all before "for" and inserting "Monetary awards"; by striking all in lines 30 through 33 and inserting the following:

"Should multiple employees make similar suggestions for cost reduction, as determined by the state agency, each employee shall submit to the head of the state agency a list of each employee's percentage contribution to the suggestion for cost reduction. Upon adoption of the suggestion by the state agency, the head of the state agency shall make the final determination as to each employee's percentage contribution. Such multiple employees shall then share the documented cost reduction in such percentage shares as determined by the head of the state agency, up to a maximum of \$5,000 per employee."

Also on page 2, in line 34, after "The" by inserting "state";

On page 3, following line 2, by inserting the following:

(3) Each state agency that has awarded an employee under the state agency's employee suggestion program pursuant to this subsection shall report all information related to the award to the secretary of administration.

(4) At the beginning of each regular session of the legislature, the secretary of administration shall provide all information received by state agencies pursuant to subsection (f)(3) to the appropriate committees of the legislature.

(5) The secretary of administration shall provide all information regarding the state employee suggestion program to all state agencies by a pamphlet, brochure or by publication on the official website of the department of administration."

Also on page 3, following line 14, by inserting the following:

(i) Any person elected or appointed to a state agency position shall not be a

recipient of a monetary or non-monetary award under this section."; and the substitute bill be passed as amended."

Committee on **Government Efficiency** recommends **SB 115** be amended on page 1, by striking all in lines 5 through 7 and inserting the following:

"New Section 1. (a) The legislature finds that performance measures are an important management tool that has been utilized by state agencies for numerous years.

(b) The legislature finds that the use of quantifiable performance measures can be used by the governor and the legislature to assess the effectiveness over time of programs and actions of each state agency.

New Sec. 2. As used in sections 1 through 3, and amendments thereto:

(a) "State agency" shall be defined as set forth in K.S.A. 75-3049, and amendments thereto, except that the university of Kansas hospital authority shall not be included in such definition for the purposes of sections 1 through 3, and amendments thereto; and

(b) "performance measures" means a quantitative or qualitative indicator used to assess state agency performance, including outcome and output indicators.

New Sec. 3. (a) Each state agency shall consult with a representative of the department of legislative research and the director of the budget or the director's designee to modify each agency's performance measures to standardize those performance measures and to utilize best practices across all state agencies.

(b) On or before October 1 of each year, each state agency shall submit an annual report based on those performance measures to the legislative budget committees, the director of the budget and the secretary of administration.

(c) The required reports in subsection (b) sent to the department of administration shall be posted on the website created pursuant to K.S.A. 2010 Supp. 74-72,123, and amendments thereto.

New Sec. 4. Sections 1 through 3, and amendments thereto, shall be part of and supplemental to article 30 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 5. K.S.A. 2010 Supp. 74-72,123 is hereby amended to read as follows: 74-72,123. (a) As used in the Kansas taxpayer transparency act:

(1) "Searchable website" means a website that allows the public to search and aggregate the information identified in subsection (b) including requirements that the website offer the public the ability to efficiently search and display data, and ascertain the total amounts of revenues and expenditures (A) of funds established within the state treasury in an aggregate or summary form in a manner determined by the secretary of administration, (B) of compensation paid to public employees employed by state agencies, and (C) of bond debt as specified in this act.

(2) "Agency" means any entity or instrumentality of the state of Kansas as defined in K.S.A. 75-3701, and amendments thereto, and any other entity or instrumentality delegated statutory authority by the legislature to issue bonds and to collect revenue for the purpose of repaying bonds issued under authority delegated by statute.

(3) "Board" means the public finance transparency board.

(b) No later than March 1, 2009, the secretary of administration shall develop and operate a single, searchable website accessible by the public at no cost to access, that includes:

(1) Annual expenditures, as determined by the secretary of administration and as available within the central accounting system and state payroll system, shall include,

but not be limited to:

- (A) Disbursements by any state agency from funds established within the state treasury;
  - (B) bond debt payments;
  - (C) salaries and wages including, but not limited to, compensation paid to individual employees of state agencies;
  - (D) contractual services including, but not limited to, amounts paid to individual vendors;
  - (E) commodities including, but not limited to, amounts paid to individual vendors;
  - (F) capital outlay including, but not limited to, amounts paid to individual vendors;
  - (G) debt service including, but not limited to, amounts of bond interest paid and sources of funds paid for individual bond issues;
  - (H) aid to local units including, but not limited to, amounts paid to individual units of government for individually identifiable aid programs;
  - (I) other assistance and benefits;
  - (J) capital improvements including, but not limited to, amounts of bond principal paid and sources of funds paid for individual bond issues; and
  - (K) tax expenditures as reported by the secretary of revenue in the annual tax expenditure report.
- (2) Annual revenues, as determined by the secretary of administration and as available within the central accounting system, shall include, but not be limited to:
- (A) Receipts or deposits by any state agency into funds established within the state treasury;
  - (B) taxes including, but not limited to, compulsory contributions imposed by the state for the purpose of financing services;
  - (C) agency earnings including, but not limited to, amounts collected by each agency for merchandise sold, services performed, licenses and permits issued, or regulation;
  - (D) revenue for the use of money and property including, but not limited to, amounts received for compensation for the use of state-owned money and property;
  - (E) gifts, donations and federal grants including, but not limited to, amounts received from public and private entities to aid in support of a specific function or other governmental activity;
  - (F) other revenue including, but not limited to, receipts not classified elsewhere; and
  - (G) non-revenue receipts including, but not limited to, all receipts that do not constitute revenue.
- (3) Annual bonded indebtedness which shall include, but not be limited to the amount of the total original obligation stated in terms of principal and interest, the term of the obligation, the source of funding for repayment of the obligation, the amounts of principal and interest previously paid to reduce the obligation, the balance remaining of the obligation, any refinancing of the obligation, and the cited statutory authority to issue such bonds.
- (4) The annual performance measures report of each state agency as required pursuant to section 3, and amendments thereto.
- ~~(4)~~ (5) Any other relevant information specified by the secretary of administration after consulting with and seeking the advice of the public finance transparency board as established in K.S.A. 2010 Supp. 74-72,124, and amendments thereto.
- (c) The single website provided for in subsection (b) of this section shall include data

for fiscal year 2003 and each fiscal year thereafter. The website shall be designed so that such data shall be retained on the single website for not less than 10 years and shall include data for the most recent fiscal years. Data that is available in the central accounting system and state payroll system shall be on the single website as soon as possible, but not later than 45 days after the last day of the preceding fiscal year. The secretary of administration shall develop policies and procedures to make data available from any other source. Nothing in this act shall require the secretary of administration to provide information on the website that is not available in the central accounting system and the state payroll system at the time of initial implementation of the website. After implementation of the initial website, the public finance transparency board shall advise the secretary of administration on incorporating additional information described by this act from any other source of information available to the secretary of administration including information submitted by state agencies pursuant to subsection (d) of this section.

(d) Any state agency shall provide, at the request of the secretary of administration, such information as is necessary to accomplish the purposes of this act.

(e) Nothing in this act shall permit or require the disclosure of information which is considered confidential by state or federal law.

Sec. 6. K.S.A. 75-3715 is hereby amended to read as follows: 75-3715. The director of the budget shall:

(a) Keep in continuous touch with the operations, plans and needs of state agencies, and with the sources and amounts of revenue and other receipts of the state;

(b) analyze the quantity and quality of services rendered by each agency, and the needs for such services and for any new services;

(c) prepare under the supervision of the incoming governor, the budget report for submission to the legislature;

(d) prepare a legislative measure or measures reflecting the incoming governor's budget;

(e) consider and act on applications for transfers between appropriations of the same agency as provided by law;

(f) survey such work programs and periodical allotment requests submitted by state agencies as are required by this act;

(g) report to the governor and to the incoming governor on the operation of the budget system and advise and assist the governor, incoming governor, state finance council, legislature and its ways and means and appropriations committees on request, concerning any matters relating to the budget; ~~and~~

(h) provide management analysis service to state agencies;

(i) consult with each state agency and a representative of the legislative research department to modify each agency's performance measures to standardize those performance measures and to utilize best practices across all state agencies.

Sec. 7. K.S.A. 75-3716 is hereby amended to read as follows: 75-3716. The director of the budget shall prepare the budget report, with the related legislative measure or measures, for the incoming governor's approval and submission to the legislature. The director of the budget shall, on or before September ~~first~~ 1 of each year, furnish to every state agency or person authorized to spend or receive state funds a sufficient number of budget estimate forms. The forms shall be prepared by the director of the budget and shall be so designed as to show actual expenditures for at least the last preceding

completed fiscal year, estimated expenditures for the current fiscal year, and requests for each succeeding fiscal year, and data for like periods with respect to receipts and actual or estimated balances at the end of such fiscal years.

The director of the budget may require the estimated expenditures to be classified so as to set forth the data by funds, state agencies, character and objects of expenditures, which expenditures may also be required to be classified by functions and activities. The director of the budget may require the revenue estimates to show the basis upon which the estimates were made and the factors involved in the same, and to be classified so as to show receipts by funds, and sources and types of income. The director of the budget may require such further detail, work programs, supplemental and supporting data, and such information as may be necessary to carry out the provisions of this act.

The director shall also consider the annual performance measures reports submitted to the director pursuant to section 3, and amendments thereto.

New Sec. 8. Sections 8 through 22, and amendments thereto,

shall be known and may be cited as the Kansas advisory council on privatization and public-private partnerships act.

New Sec. 9. (a) For the purposes of sections 1 through 4, and amendments thereto, it is the public policy of this state to provide the highest quality services at the lowest possible cost to taxpayers. Efficiency can only be achieved, however, if decisions about how government services are provided are governed by the following fundamental principles:

- (1) The state government should not compete with private businesses that provide the same goods and services;
  - (2) the state government should not replicate, duplicate or compete with not-for-profit organizations that provide the same goods and services;
  - (3) the state government should not replicate, duplicate or compete with the federal government or local units of government that provide the same goods and services;
  - (4) there are certain functions and operations of state government that are inherently governmental and cannot be outsourced, and these activities are intimately related to the public interest; and
  - (5) when activities are clearly not governmental functions and operations, the state government should conduct a rigorous comparison of private business or not-for-profit organizational costs with the costs of the state government providing those functions and operations.
- (b) The purpose of the Kansas advisory council on privatization and public-private partnerships is:
- (1) To ensure that each state agency focuses on its core mission, and delivers goods and services effectively and efficiently by leveraging resources and contracting with private business suppliers or not-for-profit organizations if those entities can more effectively and efficiently provide such goods and services thereby reducing the cost of government while expanding those services to the greatest number of citizens;
  - (2) to develop a comprehensive and detailed process to analyze opportunities to improve the efficiency, cost-effectiveness and quality of state governmental services, operations, functions and activities; and
  - (3) to evaluate for feasibility, cost-effectiveness and efficiency, business cases that potentially could be outsourced and make recommendations to state agencies prior to

the outsourcing of goods or services.

New Sec. 10. As used in sections 8 through 22, and amendments thereto:

- (a) "Activity" means the provision of goods or services or the performance of any function or operation by a state agency.
- (b) "Affiliated" means a person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity.
- (c) "Business case" means any proposal to outsource a state agency activity or eliminate replication or duplication of a state agency activity and operations carried out by a private business, not-for-profit organization or other government agency.
- (d) "Contractor" means any private business or not-for-profit organization that contracts with a state agency to perform an activity previously performed by such state agency.
- (e) "State agency" means any department, authority, office or other governmental agency, including the board of regents and any postsecondary educational institution, of this state. The term shall not include any political subdivision of the state, municipality or other unit of local government.

New Sec. 11. (a) There is hereby created a body politic and corporate to be known as the Kansas advisory council on privatization and public-private partnerships. The Kansas advisory council on privatization and public-private partnerships is hereby constituted a public instrumentality and the exercise of the authority and powers conferred by the Kansas advisory council on privatization and public-private partnerships act shall be deemed and held to be the performance of an essential governmental function.

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

- (1) One member, who shall be either the lieutenant governor or the chief executive of a state agency, who shall be appointed by the governor;
  - (2) two members, who shall be engaged in private business and are not members of the legislature, appointed by the governor;
  - (3) three members, who shall be engaged in private business and only one of whom may be a member of the legislature, appointed by the president of the senate;
  - (4) three members, who shall be engaged in private business and only one of whom may be a member of the legislature, appointed by the speaker of the house of representatives;
  - (5) one member, who shall be engaged in private business and who shall not be a member of the legislature, appointed by the minority leader of the senate; and
  - (6) one member, who shall be engaged in private business and who shall not be a member of the legislature, appointed by the minority leader of the house of representatives.
- (c) Members shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the council shall exercise any power, duty or function as a member of the council until confirmed by the senate.
- (d) Members shall serve for a term of two years. Terms of members appointed pursuant to this section shall expire on March 15. In the case of the member who is a state official, such member shall serve for a term of two years, or until such member ceases to hold public office, whichever occurs first. Members shall serve until a

successor is appointed and confirmed.

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

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

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

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

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

New Sec. 12. In order to achieve its purpose as provided in the Kansas advisory council on privatization and public-private partnerships act, the council shall:

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

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

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

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

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

(6) develop and implement a standard process for reviewing business cases pursuant to the Kansas advisory council on privatization and public-private partnerships act;

(7) make recommendations to state agencies regarding the outsourcing of operations, functions and the provision of goods and services based on the council's review and evaluation of business cases pursuant to the Kansas advisory council on privatization and public-private partnerships act; and

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

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

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

- (1) Recommendations on methods of delivering government services that would improve the efficiency, effectiveness and delivery of government services;
- (2) outsourcing efforts of state agencies, including the number of business cases reviewed, those recommended for outsourcing and the state agency action on the business case; and
- (3) information on all outsourcing contracts entered into the preceding year, including, the dollar value of each outsourcing contract, descriptions of performance results, any breach of contract or inadequate performance, and the status of extensions, renewals and amendments of outsourcing contracts.

New Sec. 13. The staff of the legislative research department shall provide such assistance as may be requested by the Kansas advisory council on privatization and public-private partnerships.

New Sec. 14. A business case may be submitted by the governor, any member of the legislature, any state agency, a private business, a not-for-profit organization or any government entity that is not a state agency. A business case shall be submitted in the manner and form prescribed by the council.

(b) A business case shall include the following:

- (1) A description of the state agency activity the council is to review and evaluate;
- (2) a description of the private market for such activity; and
- (3) a proposal as to the price to be paid by the state agency if such activity were outsourced.

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

- (1) A description and analysis of the agency's performance with respect to such activity;
- (2) an analysis comparing the potential costs and savings to the agency between outsourcing the activity and continuing to perform such activity;
- (3) a citation to existing legal authority for outsourcing such activity;
- (4) a transition plan that addresses changes in personnel, equipment, office location and communication with clients and the general public should such activity be outsourced;
- (5) a description of any legislative action necessary to accomplish the outsourcing of such activity; and
- (6) a description of specific performance standards that a contractor must meet in performing such activity, including:
  - (A) Specific and measurable goals to be met by the contractor;
  - (B) a plan to ensure compliance by the contractor with all applicable laws and regulations; and
  - (C) a contingency plan addressing the contractor's nonperformance or inadequate performance of such activity.

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

(e) The council may review and evaluate any business case that is submitted to the council to determine: (1) If there is competition, replication or duplication of an activity



by a state agency with a private business, not-for-profit organization or other government entity; (2) whether such activity may be outsourced such state agency; and (3) the costs and savings that will likely result from such outsourcing.

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

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

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

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

New Sec. 15. Any contract entered into by a state agency with a private business or not-for-profit organization which is an agreement for the private business or not-for-profit organization to perform an activity previously performed by the state agency shall include the following:

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

(b) if services are being provided, an agreement as to what constitutes adequate provision of such services, and the ability of the state agency to resume provision of such services if not adequately provided by the contractor; (c) a specific transition plan providing for the transfer of the activities in question to the contractor; (d) specific and measurable performance standards that must be met by the contractor;

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

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

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

New Sec. 16. (a) When any contract for the purchase of goods or services by any state agency, as that term is defined in K.S.A. 75-3701, and amendments thereto, is not awarded to a vendor after such vendor has submitted the lowest bid for such contract, the director of purchasing of the department of administration shall prepare a written explanation detailing the reasons why such vendor was not awarded the contract and why the deficiencies in such vendor's bid could not be remedied to the satisfaction of the director. In the event the contract is awarded by a state agency other than the

department of administration, such state agency shall prepare a written explanation detailing the reasons why such vendor was not awarded the contract and why the deficiencies in such vendor's bid could not be remedied to the satisfaction of the head of such state agency, and submit such written explanation to the director of purchasing of the department of administration.

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

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

New Sec. 17. (a) When any contract for the purchase of goods or services by any state agency, as that term is defined in K.S.A. 75-3701, and amendments thereto, is not awarded to a vendor that is: (1) Domiciled in this state; (2) proposing to have the work which is the subject matter of the contract performed by employees subject to Kansas income withholding taxes; and (3) subject to Kansas income taxes, the director of purchasing of the department of administration shall prepare a written explanation detailing the reasons why such vendor was not awarded the contract and why the deficiencies in such vendor's bid could not be remedied to the satisfaction of the director. In the event the contract is awarded by a state agency other than the department of administration, such state agency shall prepare a written explanation detailing the reasons why such vendor was not awarded the contract and why the deficiencies in such vendor's bid could not be remedied to the satisfaction of the head of such state agency, and submit such written explanation to the director of purchasing of the department of administration.

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

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

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

New Sec. 18. (a) Any contract for the purchase of goods or services by any state agency, as that term is defined in K.S.A. 75-3701, and amendments thereto, which

includes a provision for the automatic renewal or extension of such contract, shall be reviewed by the head of such agency to determine if such contract shall be allowed to be automatically renewed or extended. Such review shall include an evaluation of the cost savings the agency might benefit from if the agency were to terminate the contract and issue a new request for proposal. If the head of the state agency determines that it is in the agency's best interest to allow the contract to be automatically renewed or extended, then the head of the state agency shall prepare a written explanation detailing the reasons why such contract was allowed to be automatically renewed or extended and submit such written explanation to the director of purchasing of the department of administration.

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

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

New Sec. 19. The provisions of sections 16 through 18, and amendments thereto, shall not apply to any activity conducted by or under the authority of the state board of regents, or to any contract entered into by the state board of regents or any postsecondary educational institution, as defined by K.S.A. 74-3201b, and amendments thereto.

New Sec. 20. The provisions of the Kansas advisory council on privatization and public-private partnerships act shall only apply to state agencies that receive state appropriations, state general funds or federal funds appropriated through the state.

New Sec. 21. If any provision of sections 8 through 22, and amendments thereto, or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or application of the act which can be given effect without the invalid provisions or application and to this end the provisions of sections 8 through 22, and amendments thereto, are declared to be severable.

New Sec. 22. The provisions of sections 8 through 22, and amendments thereto, shall expire on July 1, 2014.

Sec. 23. K.S.A. 75-3715, 75-3716, 75-5002 and 75-5003 and K.S.A. 2010 Supp. 74-72,123 are hereby repealed.

Sec. 24. This act shall take effect and be in force from and after its publication in the statute book.":

On page 1, in the title, in line 1 by striking all after "An ACT"; and inserting "concerning state agencies and other public bodies; amending K.S.A. 75-3715 and 75-3716 and K.S.A. 2010 Supp. 74-72,123 and repealing the existing sections; repealing K.S.A. 75-5002 and 75-5003."; and by striking all in line 2.

And the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2340** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2340," as

follows:

"Substitute for HOUSE BILL NO. 2340

By Committee on Health and Human Services

"AN ACT concerning crimes and punishments; relating to smoking; amending K.S.A. 2010 Supp. 21-4009 and 21-4010 and repealing the existing sections."; and the substitute bill be passed.

(**Sub. HB 2340** was thereupon introduced and read by title.)

Committee on **Health and Human Services** recommends **SB 134** be amended on page 12, in line 5, by commencing a new paragraph with "(1); in line 7, by commencing a new paragraph with "(2)";

On page 67, in line 2, before "its" by inserting "January 1, 2012, and"; and the bill be passed as amended.

Committee on **Local Government** recommends **SB 112, SB 119** be passed.

Committee on **Local Government** recommends **SB 40** be amended on page 1, in line 24, by striking the comma and inserting "or"; in line 25, by striking "and welfare"; in line 31, after the period, by inserting "Construction of a replacement building remains subject to the provisions of subsection (a)."; and the bill be passed as amended.

## REPORT OF STANDING COMMITTEE

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

**Request No. 74**, by Representative Peck, congratulating Reverend Gerald Morris on his retirement after 45 years of ministry;

**Request No. 75**, by Representative O'Neal and Billinger, recognition is given in honor and in memory of Jim Morrison for his lifetime of service to Kansas;

**Request No. 76**, by Representative Peck, congratulating Myrtle Scott on her 90<sup>th</sup> birthday;

**Request No. 77**, by Representative Pottorff, congratulating Kiana Knolland on being named Kansas Youth of the Year by the Boys and Girls Clubs;

**Request No. 78**, by Representative Gregory, congratulating Baldwin City High School, Real World Design Challenge Team on being named 2011 State Champions;

**Request No. 79**, by Representative Bowers, congratulating Linda Sutton, owner of North Central Kansas Small Development Center, on being named one of America's 10 most helpful Small Business Development Centers by Inc Magazine;

**Request No. 80**, by Representative Vickrey, congratulating the bands and choirs at Prairie View Middle School on earning I+ and I results at the Prairie View Invitational Music Festival;

**Request No. 81**, by Representative Sloan, congratulating Dr. Medford H. Shively on receiving the French Medal of Honor and being named Knight of the Legion of Honor;

**Request No. 82**, by Representative Sean Gatewood, congratulating Donnie Lockhard for winning the 5A 189# State Wrestling Championship, capping a perfect 38-0 season and also, being offered a football scholarship in Oklahoma but opting to play at Washburn University;

**Request No. 83**, by Representative Pottorff, congratulating Nestor Weigand in recognition for receiving the 2011 Uncommon Citizen Award from the Wichita Metro

Chamber;

**Request No. 84**, by Representative Pottorff, congratulating Michael Weigand in recognition for receiving the 2011 Uncommon Citizen Award from the Wichita Metro Chamber;

**Request No. 85**, by Representative Carlin, congratulating J. R. Wolf on achieving the rank of Eagle Scout;

**Request No. 86**, by Representative Grange, congratulating Ralph and Margaret Carlisle on their 66<sup>th</sup> Wedding Anniversary;

**Request No. 87**, by Representative Bowers, congratulating Doug Rees for being named the 2010 Volunteer of the Year for the Lincoln County Emergency Services;

**Request No. 88**, by Representative Gordon, congratulating Matthew Murray on achieving the rank of Eagle Scout;

**Request No. 89**, by Representative DeGraaf, commending Scout Master Howard Walker for 27 years of dedicated service to Scouting;

**Request No. 90**, by Representative Mast, congratulating Olpe High School Lady Eagles Basketball Team for winning the 2011 1A State Championship;

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. Siegfroid, the committee report was adopted.

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 introduced and read by title:

**HB 2394**, AN ACT concerning courts; relating to the court of appeals; amending K.S.A. 2010 Supp. 20-3002 and repealing the existing section, by Committee on Appropriations.

#### **CHANGE OF REFERENCE**

Speaker O'Neal announced the withdrawal of **SB 21** from Committee on Education and referral to Committee on Appropriations.

Also, the withdrawal of **SB 41** from the calendar under the heading General Orders and referral to Committee on Appropriations.

#### **INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS**

On emergency motion of Rep. Siegfroid pursuant to House Rule 2311, **SB 198**, **SB 61**; **H. Sub. for SB 1**; **SB 193** were advanced to Final Action on Bills and Concurrent Resolutions.

#### **FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**SB 198**, AN ACT concerning economic development; creating rural opportunity zones; relating to income taxation, credit for certain taxpayers, amount and requirements; student loan repayment program, was considered on final action.

On roll call, the vote was: Yeas 102; Nays 18; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Boman, Bowers, Brookens, Brown, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Hayzlett, Hedke, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Johnson, Kelly, Kerschen, Kiegerl, Kleeb, Knox, Landwehr, Lane, Mah, Mast, McLeland, Meier, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Tyson, Vickrey, Weber, Williams, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Bollier, Finney, Flaharty, Frownfelter, Henderson, Kelley, Kinzer, Kuether, Loganbill, McCray-Miller, Meigs, O'Hara, Ruiz, Shultz, Victors, Ward, Wetta, Winn.

Present but not voting: None.

Absent or not voting: Bruchman, Fund, Grosserode, Huebert, Peterson.

The bill passed.

**SB 61**, AN ACT concerning income taxation; relating to credits; individual development accounts; contribution amounts, allocation of credits, unitary group; high performance incentive program; amending K.S.A. 79-32,141 and K.S.A. 2010 Supp. 74-50,208 and 79-32,160a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 98; Nays 22; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Colloton, Crum, DeGraaf, Denning, Donohoe, Fawcett, Feuerborn, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Hayzlett, Hedke, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Landwehr, Lane, Mah, Mast, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, O'Brien, O'Neal, Osterman, Otto, Patton, Peck, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tyson, Vickrey, Weber, Williams, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Burroughs, Carlin, Davis, Dillmore, Finney, Flaharty, Frownfelter, Henderson, Kuether, Loganbill, McCray-Miller, Moxley, O'Hara, Pauls, Phelps, Ruiz, Tietze, Trimmer, Victors, Ward, Wetta, Winn.

Present but not voting: None.

Absent or not voting: Bruchman, Fund, Grosserode, Huebert, Peterson.

The bill passed, as amended.

**H. Sub. for SB 1**, AN ACT concerning taxation; relating to income tax rates, adjustment, procedure and requirements; sales and compensating use tax rates and

distribution; amending K.S.A. 2010 Supp. 79-32,110, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 73; Nays 47; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Arpke, Aurand, Billinger, Boman, Bowers, Brown, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Crum, DeGraaf, Denning, Donohoe, Fawcett, Garber, Goico, Gonzalez, Goodman, Gordon, Grange, Gregory, Hayzlett, Hedke, Hermanson, Hildabrand, Hoffman, C. Holmes, M. Holmes, Howell, Kelley, Kerschen, Kiegerl, Kinzer, Kleebl, Knox, Landwehr, Mast, McLeland, Meigs, Mesa, Montgomery, Mosier, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Peck, Powell, Prescott, Proehl, Rhoades, Rubin, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Smith, Suellentrop, Swanson, Tyson, Vickrey, Weber, B. Wolf.

Nays: Ballard, Bethell, Bollier, Brookens, Burroughs, Carlin, Colloton, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Grant, Henderson, Henry, Hill, Hineman, Johnson, Kelly, Kueher, Lane, Loganbill, Mah, McCray-Miller, Meier, Moxley, Pauls, Phelps, Pottorff, Roth, Ruiz, Slattery, Sloan, Spalding, Tietze, Trimmer, Victors, Ward, Wetta, Williams, Winn, K. Wolf, Wolfe Moore, Worley.

Present but not voting: None.

Absent or not voting: Bruchman, Fund, Grosserode, Huebert, Peterson.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. SPEAKER: I have voted for hundreds of millions of dollars in tax cuts. I support returning the peoples' money. Eliminating income tax is bad public policy. Our three-legged stool is cut to two – the worst two we could choose. Sales tax is a regressive tax. Property tax is the most hated – you never really own your property. Why would we want to increase property taxes by billions of dollars? This bill also removes our responsibility to manage tax policy by giving it over to an arbitrary formula. I vote for a balanced tax policy. I vote to do my job. I vote no on **H. Sub. for SB 1**. – ANN MAH, VINCENT WETTA, SYDNEY CARLIN

**SB 193**, AN ACT concerning sales taxation; relating to food sales tax refunds; information required in support of claim; amending K.S.A. 79-3637 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 111; Nays 9; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Hayzlett, Hedke, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, Kleebl, Knox, Landwehr, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ryckman, Scapa, Schroeder, Schwab,

Schwartz, Seiwert, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Trimmer, Tyson, Vickrey, Ward, Weber, Wetta, Williams, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Flaharty, Henderson, Kuether, Lane, Ruiz, Shultz, Tietze, Victors, Winn.

Present but not voting: None.

Absent or not voting: Bruchman, Fund, Grosserode, Huebert, Peterson.

The bill passed, as amended.

#### **REPORT ON ENROLLED BILLS**

**HB 2003, HB 2057** reported correctly enrolled, properly signed and presented to the Governor on March 18, 2011.

On motion of Rep. Siegfried, the House adjourned until 10:00 a.m., Monday, March 21, 2011.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

