

# Journal of the House

THIRTY-SECOND DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Wednesday, February 21, 2001, 11:00 a.m.

The House met pursuant to adjournment with Speaker Glasscock in the chair.  
The roll was called with 125 members present.

Prayer by Chaplain Svoboda-Barber:

Holy God,  
as we begin our longer days in this chamber  
make your presence known to us.  
Fill us with patience,  
encourage us to be charitable to one another,  
keep us from taking ourselves too seriously.  
Let us be quick to smile  
but slow to become frustrated.  
Let us be quick to thank someone  
but slow to speak under our breath.  
And most of all,  
guide us in our decisions  
so that our state may more closely reflect  
the Kingdom which is to come.  
I ask these things in your name. Amen.  
The Pledge of Allegiance was led by Rep. Wilson.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

**HB 2538**, An act; concerning retirement and benefits; relating to the Kansas public employees retirement system; employer certification of members contributions; amending K.S.A. 2000 Supp. 74-4915 and repealing the existing section, by Committee on Appropriations.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Appropriations: **HB 2529**, **HB 2530**, **HB 2532**, **HB 2533**, **HB 2534**, **HB 2535**, **HB 2536**, **HB 2537**.

Ethics and Elections: **HB 2531**.

Federal and State Affairs: **HB 2527**, **HB 2528**.

## CHANGE OF REFERENCE

Speaker Glasscock announced the withdrawal of **HB 2411** from Committee on Education and referral to Committee on Federal and State Affairs.

## MESSAGE FROM THE GOVERNOR

**HB 2022** approved on February 19, 2001.

**COMMUNICATIONS FROM STATE OFFICERS**

From Barbara S. Tombs, Executive Director, Kansas Criminal Justice Coordinating Council, Kansas Drug & Violent Crime Control Strategy for SFY 2002.

From Tracy D. Streeter, Executive Director, State Conservation Commission, Annual Report for FY 2000.

From the Kansas Technology Enterprise Corporation (KTEC), 2000 Annual Report.

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

**MESSAGE FROM THE SENATE**

Announcing passage of **SB 11, SB 160, SB 178, SB 209, SB 212, SB 239**.

Also, announcing passage of **HB 2016**.

Announcing passage of **HB 2029**, as amended.

**INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS**

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

**SB 11, SB 160, SB 178, SB 209, SB 212, SB 239.**

**CONSENT CALENDAR**

Objection was made to **HB 2304** appearing on the Consent Calendar; the bill was placed on the calendar under the heading of General Orders.

No objection was made to **HB 2124, HB 2210** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2263** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2300, HB 2301, HB 2303** appearing on the Consent Calendar for the third day. The bills were advanced to Final Action on Bills and Concurrent Resolutions.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**HB 2300**, An act concerning the advisory committee on Hispanic affairs; appointments of members; amending K.S.A. 74-6502 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

**HB 2301**, An act concerning the workers compensation act; amending K.S.A. 44-508, 44-510i, 44-511, 44-551 and 44-556 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

**HB 2303.** An act concerning the employment security law; relating to the classification of employers thereunder; amending K.S.A. 44-710a and repealing the existing section, was considered on final action.

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

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Howell.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

**HB 2055.** An act relating to income taxation; authorizing research and development credits, was considered on final action.

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

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm,

Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Toplikar.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

**HB 2103.** An act concerning the Kansas agricultural production loan deposit program; amending K.S.A. 2000 Supp. 75-4209, 75-4271 and 75-4272 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 111; Nays 14; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aday, Alldritt, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huff, Humerickhouse, Hutchins, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McClure, McCreary, McKinney, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, Pyle, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, J. Williams, Wilson, Winn.

Nays: Aurand, Huebert, Huy, Landwehr, Mayans, McLeland, Palmer, T. Powell, Powers, Ray, Reardon, Spangler, Wilk, D. Williams.

Present but not voting: None.

Absent or not voting: None.

The bill passed, as amended.

**HB 2161.** An act concerning counties; concerning the awarding of certain contracts; amending K.S.A. 19-214 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

The bill passed, as amended.

**HB 2200.** An act concerning oil and gas; relating to disposition of certain fees; amending K.S.A. 2000 Supp. 55-155, 55-161, 55-179 and 55-180 and repealing the existing sections, was considered on final action.

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

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita,

Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Howell, Huy, Landwehr, McCreary, Palmer.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

**HB 2252**, An act relating to credit unions; concerning the regulation thereof; amending K.S.A. 17-2217 and K.S.A. 2000 Supp. 17-2223a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 2; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aday, Alldritt, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Ballou, Schwartz.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

**HB 2317**, An act concerning oil and gas; relating to pollution from certain lease facilities and conditions; amending K.S.A. 55-178 and K.S.A. 2000 Supp. 55-179, 55-191 and 55-192 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 2; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: J. Peterson, Schwartz.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

**HB 2480**, An act concerning unfair trade practices; relating to privacy of consumer financial and health information; amending K.S.A. 40-2404 and repealing the existing section, was considered on final action.

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

Yeas: Aday, Alldritt, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Ballou.

Present but not voting: None.

Absent or not voting: None.

The bill passed.

#### EXPLANATION OF VOTE

MR. SPEAKER: In 1928 U.S. Supreme Court Justice Louis Brandeis said: "The right to be left alone is the most comprehensive of rights, and the right most valued by a free people." This is just as true today as it was then.

People expect and want their most personal medical information to be private. **HB 2480** is a significant step to providing this protection.

Many members of this chamber have worked for years to get privacy protections in law. We are finally glad to see this progressive legislation moving and becoming a strong House position. I vote Yes on **HB 2480**.—JIM GARNER

On motion of Rep. Weber, the House went into Committee of the Whole, with Rep. Mason in the chair.

#### COMMITTEE OF THE WHOLE

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

Recommended that **HB 2075**, **HB 2207** be passed.

**HCR 5011** be adopted.

Committee report to **HB 2127** be adopted; and the bill be passed as amended.

Committee report to **HB 2457** be adopted; and the bill be passed as amended.

Committee report to **HB 2471** be adopted; and the bill be passed as amended.

Committee report to **HB 2083** be adopted; and the bill be passed as amended.

Committee report to **HB 2328** be adopted; also, on motion of Rep. Landwehr be amended on page 2, after line 5, by inserting the following:

"Sec. 2. K.S.A. 38-1663 is hereby amended to read as follows: 38-1663. (a) When a respondent has been adjudicated to be a juvenile offender, the judge may select from the following alternatives:

(1) Place the juvenile offender on probation for a fixed period, subject to the terms and conditions the court deems appropriate based on the juvenile justice programs in the community, including a requirement of making restitution as required by subsection (d).

(2) Place the juvenile offender in the custody of a parent or other suitable person, subject to the terms and conditions the court orders based on the juvenile justice programs

in the community, including a requirement of making restitution as required by subsection (d).

(3) Place the juvenile offender in the custody of a youth residential facility or, in the case of a chronic runaway youth, place the youth in a secure facility, subject to the terms and conditions the court orders.

(4) Place the juvenile offender in the custody of the commissioner, as provided in K.S.A. 38-1664, and amendments thereto.

(5) Commit the juvenile offender to a sanctions house for a period no longer than seven days. Following such period, the court shall review the placement. The court may continue to recommit the juvenile offender to a sanctions house for a period no longer than seven days followed by a court review. Commitment to a sanctions house shall not exceed 28 total days for the same act or transaction. If in the adjudication order, the court orders a sanctions house placement for a verifiable probation violation and such probation violation occurs, the juvenile may immediately be taken to a sanctions house and detained for no more than 48 hours, excluding Saturdays, Sundays and holidays, prior to court review of the placement. The court and all other interested parties shall be notified of the sanctions house placement. An offender over 18 years of age or less than 23 years of age at sentencing may be committed to a county jail, in lieu of a sanctions house, under the same time restrictions imposed by this paragraph. No offender may be committed under this paragraph unless such offender has violated the terms of probation.

(6) Commit the juvenile offender to a community based program available in such judicial district subject to the terms and conditions the court orders.

(7) Impose any appropriate combination of paragraphs (1) through (6) of this subsection and make other orders directed to the juvenile offender as the court deems appropriate.

(8) Commit the juvenile offender to a juvenile correctional facility as provided by the placement matrix established in K.S.A. 38-16,129, and amendments thereto. The provisions of K.S.A. 38-1664, and amendments thereto, shall not apply to juvenile offenders committed directly to a juvenile correctional facility.

(9) Place the juvenile offender under a house arrest program administered by the court pursuant to K.S.A. 21-4603b, and amendments thereto.

(b) (1) In addition to any other order authorized by this section, the court may order the:

- (A) Juvenile offender and the parents of the juvenile offender to:
  - (i) Attend counseling sessions as the court directs; or
  - (ii) participate in mediation as the court directs. Participants in such mediation may include, but shall not be limited to, the victim, the juvenile offender and the juvenile offender's parents. Mediation shall not be mandatory for the victim;
- (B) parents of the juvenile offender to participate in parenting classes; or
- (C) juvenile offender to participate in a program of education offered by a local board of education including placement in an alternative educational program approved by a local board of education.

(2) Upon entering an order requiring a juvenile offender's parent to attend counseling sessions or mediation, the court shall give the parent notice of the order. The notice shall inform the parent of the parent's right to request a hearing within 10 days after entry of the order and the parent's right to employ an attorney to represent the parent at the hearing or, if the parent is financially unable to employ an attorney, the parent's right to request the court to appoint an attorney to represent the parent. If the parent does not request a hearing within 10 days after entry of the order, the order shall take effect at that time. If the parent requests a hearing, the court shall set the matter for hearing and, if requested, shall appoint an attorney to represent the parent. The expense and fees of the appointed attorney may be allowed and assessed as provided by K.S.A. 38-1606, and amendments thereto.

(3) The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than what the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than what the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative.

(c) (1) If a respondent has been adjudged to be a juvenile offender, the court, in addition to any other order authorized by this section, may suspend the juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state. The duration of the suspension ordered by the court shall be for a definite time period to be determined by the court. Upon suspension of a license pursuant to this subsection, the court shall require the juvenile offender to surrender the license to the court. The court shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the juvenile offender may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the juvenile offender's privilege to operate a motor vehicle is in effect. As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto. Any respondent who is adjudicated to be a juvenile offender who does not have a driver's license may have such juvenile offender's driving privileges revoked. No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked pursuant to this section for a definite time period to be determined by the court.

(2) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any respondent adjudicated to be a juvenile offender, as provided in subsection (c)(1), the court in which such juvenile offender was adjudicated to be a juvenile offender may enter an order which places conditions on such juvenile offender's privilege of operating a motor vehicle on the streets and highways of this state, a certified copy of which such juvenile offender shall be required to carry any time such juvenile offender is operating a motor vehicle on the streets and highways of this state. Any such order shall prescribe the duration of the conditions imposed and shall specify that such duration shall be for a definite time period to be determined by the court. Upon entering an order restricting a juvenile offender's license hereunder, the court shall require such juvenile offender to surrender such juvenile offender's driver's license to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such juvenile offender's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the juvenile offender for whom the license was issued any time such juvenile offender is operating a motor vehicle on the streets and highways of this state. If the juvenile offender is a nonresident, the court shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of such juvenile offender's state of residence. Such court shall furnish to any juvenile offender whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this subsection. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such juvenile offender may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such juvenile offender's privilege to operate a motor vehicle on the streets and highways of this state has been suspended or revoked prior thereto. If any juvenile offender shall violate any of the conditions imposed under this subsection, such juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be revoked for a period as determined by the court in which such juvenile offender is convicted of violating such conditions.

(d) Whenever a juvenile offender is placed pursuant to subsection (a)(1) or (2), the court, unless it finds compelling circumstances which would render a plan of restitution unworkable, shall order the juvenile offender to make restitution to persons who sustained loss by reason of the offense. The restitution shall be made either by payment of an amount fixed by the court or by working for the persons in order to compensate for the loss. If the



court finds compelling circumstances which would render a plan of restitution unworkable, the court may order the juvenile offender to perform charitable or social service for organizations performing services for the community.

Nothing in this subsection shall be construed to limit a court's authority to order a juvenile offender to make restitution or perform charitable or social service under circumstances other than those specified by this subsection or when placement is made pursuant to subsection (a)(3) or (4).

(e) (1) *Except as provided in paragraph (2), in addition to or in lieu of any other order authorized by this section, the court may order a juvenile offender to pay a fine not exceeding \$250 for each offense. In determining whether to impose a fine and the amount to be imposed, the court shall consider the following:*

(+) (A) Imposition of a fine is most appropriate in cases where the juvenile offender has derived pecuniary gain from the offense.

(+) (B) The amount of the fine should be related directly to the seriousness of the juvenile offender's offense and the juvenile offender's ability to pay.

(+) (C) Payment of a fine may be required in a lump sum or installments.

(+) (D) Imposition of a restitution order is preferable to imposition of a fine.

(+) (E) The juvenile offender's duty of payment should be limited in duration and in no event should the time necessary for payment exceed the maximum term which would be authorized if the offense had been committed by an adult.

(2) *In addition to or in lieu of any other order authorized by this section, if a juvenile is adjudicated to be a juvenile offender by reason of a violation of K.S.A. 2000 Supp. 65-4162, and amendments thereto, if the substance involved was marijuana or tetrahydrocannabinol as designated in subsection (d) of K.S.A. 65-4105, and amendments thereto, the court shall order a juvenile offender to pay a fine of not less than \$200 nor more than \$500.*

(f) In addition to or in lieu of any other order authorized by this section, if a juvenile is adjudicated to be a juvenile offender by reason of a violation of K.S.A. 41-719, 41-727, 65-4101 through 65-4164 or K.S.A. 2000 Supp. 8-1599, and amendments thereto, the court shall order the juvenile offender to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. The court may waive such evaluation if the court finds that the juvenile offender has completed successfully an alcohol and drug evaluation, approved by the community-based alcohol and drug safety action program, within 12 months before sentencing. If such evaluation occurred more than 12 months before sentencing, the court shall order the juvenile offender to resubmit to and complete such evaluation and program as provided herein. If the court finds that the juvenile offender and those legally liable for the offender's support are indigent, the fee may be waived. In no event shall the fee be assessed against the commissioner or the juvenile justice authority. The court may require the parent or guardian of the juvenile offender to attend such program with the juvenile offender.

(g) The board of county commissioners of a county may provide by resolution that the parents or guardians of any juvenile offender placed under a house arrest program pursuant to subsection (a)(9) shall be required to pay to the county the cost of such house arrest program. The board of county commissioners shall prepare a sliding financial scale based on the ability of the parents to pay for such a program.

(h) In addition to any other order authorized by this section, if child support has been requested and the parent or parents have a duty to support the respondent the court may order, and when custody is placed with the commissioner shall order, one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent already is subject to an order to pay support for the respondent. If the parent currently is not ordered to pay support for the respondent and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 38-16,117, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 23-4,105 *et seq.*, and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent or

dered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 38-16,119, and amendments thereto. The parent also shall be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

(i) Any order issued by the judge pursuant to this section shall be in effect immediately upon entry into the court's journal.

(j) In addition to the requirements of K.S.A. 38-1671, and amendments thereto, if a person is under 18 years of age and convicted of a felony or adjudicated as a juvenile offender for an offense if committed by an adult would constitute the commission of a felony, the court shall forward a signed copy of the journal entry to the commissioner within 30 days of final disposition.

(k) The sentencing hearing shall be open to the public as provided in K.S.A. 38-1652, and amendments thereto.

Sec. 3. K.S.A. 2000 Supp. 65-4162 is hereby amended to read as follows: 65-4162. (a) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to possess or have under such person's control:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105 and amendments thereto or designated in subsection (g) of K.S.A. 65-4107 and amendments thereto or designated in subsection (g) of K.S.A. 65-4109 and amendments thereto;

(4) any substance designated in subsection (g) of K.S.A. 65-4105, and amendments thereto, and designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111 and amendments thereto; or

(5) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto.

Except as otherwise provided, any person who violates this subsection shall be guilty of a class A nonperson misdemeanor. If any person has a prior conviction under this section, a conviction for a substantially similar offense from another jurisdiction or a conviction of a violation of an ordinance of any city or resolution of any county for a substantially similar offense if the substance involved was marijuana or tetrahydrocannabinol as designated in subsection (d) of K.S.A. 65-4105 and amendments thereto, then such person shall be guilty of a drug severity level 4 felony. *In addition to any term of imprisonment the court may impose, any person less than 18 years of age who violates this section if the substance involved was marijuana or tetrahydrocannabinol as designated in subsection (d) of K.S.A. 65-4105, and amendments thereto, the court shall require the offender to pay a fine of not less than \$200 nor more than \$500.*

(b) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.

(c) For purposes of the uniform controlled substances act, the prohibitions contained in this section shall apply to controlled substance analogs as defined in subsection (bb) of K.S.A. 65-4101 and amendments thereto.

(d) The provisions of this section shall be part of and supplemental to the uniform controlled substances act.

Sec. 4. K.S.A. 38-1663 and K.S.A. 2000 Supp. 65-4162 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 10, by striking “crimes and punishment” and inserting “substance abuse”; in line 11, after “vapors” by inserting: “; concerning possession of a controlled substance; amending K.S.A. 38-1663 and K.S.A. 2000 Supp. 65-4162 and repealing the existing sections;

Also, roll call was demanded on motion of Rep. Crow to amend **HB 2328** on page 2, after line 5, by inserting the following:

“Sec. 2. K.S.A. 2000 Supp. 21-4704 is hereby amended to read as follows: 21-4704. (a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:



(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3411, aggravated assault against a law enforcement officer or K.S.A. 21-3415, aggravated battery against a law enforcement officer and amendments thereto which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567 and subsection (c)(3) of K.S.A. 21-3412 and amendments thereto shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. Notwithstanding the provisions of

any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567 and subsection (c)(3) of K.S.A. 21-3412 and amendments thereto shall not be served in a state facility in the custody of the secretary of corrections.

(j) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term. Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who: (1) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (2) at the time of the conviction under subsection (1) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government. The provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, or any substantially similar offense from another jurisdiction.

(l) The sentence for a violation of subsection (a) of K.S.A. 21-3715 and amendments thereto when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716 and amendments thereto shall be presumed imprisonment.

(m) *If the offender commits a felony and intentionally selects the person against whom the felony is committed or selects the property that is damaged or otherwise affected by the felony committed by the offender in whole or in part because of the offender's belief or perception regarding the race, color, religion, disability, sexual orientation, national origin, ethnicity or ancestry of that person or the owner or occupant of that property, whether or not the offender's belief or perception was correct, the offender's sentence shall be presumed imprisonment and such sentence shall be up to double the maximum duration of the presumptive imprisonment term for the underlying felony.*

Sec. 3. K.S.A. 2000 Supp. 21-4716 is hereby amended to read as follows: 21-4716. (a) The sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines for crimes committed on or after July 1, 1993, unless the judge finds substantial and compelling reasons to impose a departure. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) (1) Subject to the provisions of subsection (b)(3), the following nonexclusive list of mitigating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction.

(B) The offender played a minor or passive role in the crime or participated under circumstances of duress or compulsion. This factor is not sufficient as a complete defense.

(C) The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants, drugs or alcohol does not fall within the purview of this factor.

(D) The defendant, or the defendant's children, suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(E) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(2) Subject to the provisions of subsection (b)(3), the following nonexclusive list of aggravating factors may be considered in determining whether substantial and compelling reasons for departure exist:

(A) The victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity which was known or should have been known to the offender.

(B) The defendant's conduct during the commission of the current offense manifested excessive brutality to the victim in a manner not normally present in that offense.

~~(C) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim.~~

~~(D) The offense involved a fiduciary relationship which existed between the defendant and the victim.~~

~~(E) (D)~~ The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to commit or assist in avoiding detection or apprehension for commission of any person felony or any attempt, conspiracy or solicitation as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto to commit any person felony regardless of whether the defendant knew the age of the individual under 16 years of age.

~~(E) (E)~~ The defendant's current crime of conviction is a crime of extreme sexual violence and the defendant is a predatory sex offender. As used in this subsection:

(i) "Crime of extreme sexual violence" is a felony limited to the following:

(a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;

(b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization;

or

(c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is less than 14 years of age.

(ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:

(a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or

(b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.

(iii) "Mental condition or personality disorder" means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the capacity of the person to control impulses to commit crimes of extreme sexual violence.

~~(F) (F)~~ The defendant was incarcerated during the commission of the offense.

In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

(3) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the crime severity scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

(c) In determining aggravating or mitigating circumstances, the court shall consider:

(1) Any evidence received during the proceeding;

(2) the presentence report;

(3) written briefs and oral arguments of either the state or counsel for the defendant;

and

(4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

Sec. 4. K.S.A. 2000 Supp. 21-4704 and 21-4716 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 11, after “vapors” by inserting: “; relating to injuries by an offender based on the belief of the offender regarding the race or religion of the victim; amending K.S.A. 2000 Supp. 21-4704 and 21-4716 and repealing the existing sections”;

On roll call, the vote was: Yeas 46; Nays 75; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alldritt, Ballard, Barnes, Burroughs, Crow, Dillmore, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Grant, Henderson, Henry, Horst, Kirk, Klein, Kuether, Landwehr, Larkin, Levinson, Loganbill, M. Long, McClure, McKinney, Nichols, O'Brien, Pauls, E. Peterson, Phelps, Pottorff, T. Powell, Reardon, Ruff, Showalter, Shriver, Storm, Thimesch, Toelkes, Wells, Welshimer, J. Williams, Wilson, Winn.

Nays: Aday, Aurand, Ballou, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Dahl, DeCastro, DiVita, Dreher, Edmonds, Faber, Freeborn, Glasscock, Gordon, Hayzlett, Hermes, Holmes, Howell, Huebert, Huff, Hutchins, Huy, Johnson, Kauffman, Kline, Krehbiel, Lane, Light, Lightner, Lloyd, P. Long, Loyd, Mason, Mays, McCreary, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Osborne, Ostmeier, Palmer, Patterson, J. Peterson, L. Powell, Powers, Pyle, Ray, Rehorn, Schwartz, Shultz, Sloan, Stone, Swenson, Tafanelli, Tanner, Tomlinson, Toplikar, Vickrey, Weber, Wilk, D. Williams.

Present but not voting: None.

Absent or not voting: Humerickhouse, Mayans, Sharp, Spangler.

The motion of Rep. Crow did not prevail, and **HB 2328** be passed as amended.

#### REPORTS OF STANDING COMMITTEES

The Committee on **Environment** recommends **HB 2047** be amended on page 2, in line 5, by striking “provides” and inserting “is authorized to provide”; in line 39, by striking “shall” and inserting “may”;

On page 4, in line 33, following “consumed” by inserting “for a representative past period”; in line 40, by striking “and”;

On page 5, in line 19, following “unit” by inserting “; and

(10) the charter ensures that the total amount of groundwater leased each year from each hydrologic unit does not exceed 90% of the historic average annual amount collectively diverted pursuant to all deposited water rights or portions of water rights from such unit for a representative past period”;

Also on page 5, in line 21, following the period, by inserting “Such water bank shall be a groundwater bank.”; also in line 21, by striking “and before”; by striking all in lines 22 through 26; in line 27, by striking all preceding the period and inserting “one additional water bank shall be chartered to operate in the state. Such water bank shall be a surface water bank or a surface water and groundwater bank”; and the bill be passed as amended.

The Committee on **Environment** recommends **HB 2316** be amended on page 1, in line 27, by striking all before “point” and inserting “Diversion of water from an unauthorized”;

On page 2, after line 18, by inserting:

“(g) The provisions of this section shall be part of and supplemental to the Kansas water appropriation act.”; and the bill be passed as amended.

The Committee on **Federal and State Affairs** recommends **HR 6008** be adopted.

The Committee on **Health and Human Services** recommends **HB 2227**, **HB 2275**, **HB 2314** be passed.

The Committee on **Health and Human Services** recommends **HB 2015** be amended on page 1, in line 20, by striking all after “to”; by striking all in lines 21, 22 and 23 and inserting the following: “:

(a) A residential facility or hospital that is operated and maintained by a state agency as defined in K.S.A. 75-3701 and amendments thereto; or

(b) a summer instructional camp that is:



- (1) Operated by a Kansas educational institution as defined in K.S.A. 2000 Supp. 74-32,120 or a postsecondary educational institution as defined in K.S.A. 2000 Supp. 74-3201b;
- (2) operated for not more than five weeks;
- (3) provides instruction to children, all of whom are 10 years of age and older; and
- (4) accredited by an agency or organization acceptable to the secretary of health and environment.”;

Also on page 1, in line 26, by striking “statute book” and inserting “Kansas register”; and the bill be passed as amended.

The Committee on **Health and Human Services** recommends **HB 2057** be amended on page 1, in line 21, by striking “critically”; also in line 21, by striking all after “areas”; in line 22, by striking “areas of this state which the”; in line 23, by striking all before the period; in line 25, by striking “All state med-”; by striking all in lines 26 through 30; in line 31, by striking all before “In”; in line 35, by striking “critically medically underserved or”; in line 39, by striking all after the period; in line 40, by striking all before “established” and inserting: “Medically underserved areas”;

On page 2, in line 2, by striking “The”; in line 3, by striking “secretary of health and environment, upon”; by striking all in lines 4 through 43;

On page 3, by striking all in lines 1 and 2; in line 3, by striking “such service commitment area.”; by striking all in lines 6 through 22;

On page 5, by striking all in lines 21 through 33;

On page 9, by striking all in lines 23 through 43;

On page 10, by striking all in lines 1 through 5;

And by renumbering sections accordingly;

On page 12, in line 21, after “medicine” by inserting “, family medicine”;

On page 18, after line 13, by inserting the following:

“Sec. 8. K.S.A. 65-2811a is hereby amended to read as follows: 65-2811a. (a) The state board of healing arts may issue a special permit to practice the appropriate branch of the healing arts, under the supervision of a person licensed to practice such branch of the healing arts, to any person who has completed undergraduate training in a branch of the healing arts and who has not engaged in a full-time approved postgraduate training program.

(b) Such special permit shall be issued only to a person who: (1) Has made proper application for such special permit upon forms approved by the state board of healing arts;

(2) meets all qualifications of licensure except examinations and postgraduate training, as required by the Kansas healing arts act;

(3) is not yet but will be engaged in a full-time, approved postgraduate training program in Kansas;

(4) has obtained the sponsorship of a person licensed to practice the branch of the healing arts in which the applicant is training, which sponsor practices in an area of Kansas which is determined under K.S.A. 76-375 and amendments thereto to be medically underserved or ~~critically medically underserved~~; and

(5) has paid the prescribed fees as established by the state board of healing arts for the application for and granting of such special permit.

(c) The special permit, when issued, shall authorize the person to whom the special permit is issued to practice the branch of the healing arts in which such person is training under the supervision of the person licensed to practice that branch of the healing arts who has agreed to sponsor such special permit holder. The special permit shall not authorize the person holding the special permit to engage in the private practice of the healing arts. The holder of a special permit under this section shall not charge patients a fee for services rendered but may be compensated directly by the person under whose supervision and sponsorship the permit holder is practicing. The special permit shall expire on the day the person holding the special permit becomes engaged in a full-time, approved postgraduate training program or one year from its date of issuance, whichever occurs first.

(d) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 9. K.S.A. 2000 Supp. 74-32,132 is hereby amended to read as follows: 74-32,132. As used in this act:

(a) “Committee” means the nursing scholarship review committee established under K.S.A. 74-3299 and amendments thereto.

(b) "Executive officer" means the executive officer of the state board of regents appointed under K.S.A. 74-3203 and amendments thereto.

(c) "Educational and training program for advanced registered nurse practitioners" means a post-basic nursing education program a graduate of which meets the education requirements of the board of nursing for a certificate of qualification as an advanced registered nurse practitioner.

(d) "Medically underserved area" means *prior to July 1, 2002*, an area of this state designated a medically underserved area by specialty or critically medically underserved area by specialty under K.S.A. 76-375 and amendments thereto *as such section existed immediately prior to the effective date of this act and on and after July 1, 2002*, an area of this state designated a medically underserved area under K.S.A. 76-375 and amendments thereto.

(e) "Rural area" means any county in this state which has a population of not more than 20,000 people at the time of application.

Sec. 10. K.S.A. 2000 Supp. 76-381 is hereby amended to read as follows: 76-381. As used in K.S.A. 76-380 through 76-386 and amendments thereto:

(a) "Act" means the medical student loan act;

(b) "approved postgraduate residency training program" means a residency training program in general pediatrics, general internal medicine, family medicine, family practice, *child psychiatry* or emergency medicine;

(c) "service commitment area" means (1) any community within any county in Kansas other than Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county, (2) any state medical care facility or institution, (3) any medical center operated by the veterans administration of the United States, or (4) the full-time faculty of the university of Kansas school of medicine in family medicine or family practice; and

(d) "state medical care facility or institution" includes, but is not limited to, the Kansas state school for the visually handicapped, the Kansas state school for the deaf, any institution under the secretary of social and rehabilitation services, as defined by subsection (b) of K.S.A. 76-12a01 and amendments thereto, any institution under the commissioner of juvenile justice as defined by K.S.A. 38-1602, and amendments thereto, the Kansas soldiers' home, the Kansas veterans' home and any correctional institution under the secretary of corrections, as defined by subsection (d) of K.S.A. 75-5202 and amendments thereto, but shall not include any state educational institution under the state board of regents, as defined by subsection (a) of K.S.A. 76-711 and amendments thereto, except as specifically provided by statute.

Sec. 11. K.S.A. 76-385 is hereby amended to read as follows: 76-385. (a) (1) Except as otherwise provided in paragraphs (2), (3), (4) and (5) of this subsection (a) or in K.S.A. 76-386, upon the failure of any person to satisfy the obligation to engage in the full-time practice of medicine and surgery within a service commitment area of this state for the required period of time under any medical student loan agreement entered into under this act, such person shall repay to the university of Kansas school of medicine in accordance with subsection (b) an amount equal to the total of (A) the amount of money received by such person pursuant to such agreement, or the amount of money determined under rules and regulations of the university of Kansas plus (B) annual interest at a rate of 15% from the date such money was received.

(2) Any person who fails to apply for and enter an approved postgraduate residency training program shall be required to repay all moneys received pursuant to an agreement entered into for any such medical student loan, plus accumulated interest at an annual rate of 15% and shall commence such repayment in accordance with subsection (b) within 90 days of graduation from the school of medicine or upon termination or completion of a residency training program which does not comply with the provisions of this act, whichever is later.

(3) If at any time a person is failing to satisfy an obligation to engage in the full-time practice of medicine and surgery in Kansas for the required period of time under an agreement entered into under this act because such person is engaged in the full-time practice of medicine and surgery in a state other than Kansas, or within Kansas in an area that is not a service commitment area or in the practice of medicine and surgery which does not

otherwise comply with the agreement entered into under this act, and if such person is subject to or currently making repayments under this section and if such person subsequently commences the practice of medicine and surgery in this state which is in a service commitment area or which otherwise complies with the agreement entered into under this act, the balance of the repayment amount, including interest thereon, from the time of such commencement of practice until the obligation of such person is satisfied, or until the time such person again becomes subject to repayments, shall be waived. All repayment amounts due prior to such commencement of practice, including interest thereon, shall continue to be payable as provided in this section. If subsequent to such commencement of practice, the person fails to satisfy such obligation, the person again shall be subject to repayments, including interest thereon, as otherwise provided in this section.

(4) If, during the time a person is satisfying the service requirement of an agreement entered into under this act, such person desires to engage in less than the full-time practice of medicine and surgery within a service commitment area of the state and remain in satisfaction of such service requirement, such person may make application to the chancellor of the university of Kansas or the designee of the chancellor for permission to engage in less than such full-time practice of medicine and surgery. Upon a finding of exceptional circumstances made by the chancellor of the university of Kansas, or the designee of the chancellor, such person may be authorized to engage in less than the full-time practice of medicine and surgery within a service commitment area of the state for the remaining required period of time under such agreement and for an additional period of time which shall be equal to the length of the originally required period of time multiplied by the decimal fraction which is equal to the reduction of the full-time practice of medicine and surgery to be authorized hereunder, multiplied by two. In any such determination of the period required to be engaged in the less than full-time practice of medicine and surgery, the decimal fraction utilized shall not exceed .5 and any person granted permission to engage in less than the full-time practice of medicine and surgery in accordance with the provisions of this paragraph (4) shall be required to engage in at least the half-time practice of medicine and surgery.

(5) Any person who enters but fails to complete an approved postgraduate residency training program, or who enters and completes an approved postgraduate residency training program but fails to satisfy the obligation to engage in the full-time practice of medicine and surgery within a service commitment area of this state for the required period of time shall be required to repay all money received pursuant to an agreement entered into under this act a medical student loan, plus accumulated interest at an annual rate of 15% and shall commence such repayment in accordance with subsection (b) within 90 days of failure to complete an approved postgraduate residency training program or 90 days of failure to commence qualifying practice, whichever occurs first.

(b) For any repayment requirement under this section, the person shall repay an amount totaling the entire amount to be repaid under all such agreements for which such obligations are not satisfied, including all amounts of interest at the rate prescribed. The repayment shall be made in not more than 10 equal annual installment payments.

(c) All installment payments under this section shall commence six months after the date of the action or circumstance that causes the failure of the person to satisfy the obligations of such agreements, as determined by the university of Kansas school of medicine based upon the circumstances of each individual case. In all cases, if an installment payment becomes 91 days overdue, the entire amount outstanding shall become immediately due and payable, including all amounts of interest at the rate prescribed.

(d) The total repayment obligation imposed under all agreements entered into under this act may be satisfied by the person who entered into the agreements at any time prior to graduation from the university of Kansas school of medicine by making a single lump-sum payment equal to the total of (1) the entire amount to be repaid under all such agreements upon failure to satisfy the obligations under such agreements to practice in Kansas, plus (2) all amounts of interest thereon at the rate prescribed to the date of payment.

(e) The university of Kansas school of medicine shall remit all moneys received under this section to the state treasurer at least monthly. Upon receipt of each such remittance

the state treasurer shall deposit the entire amount thereof in the state treasury, and such amount shall be credited to the medical scholarship and loan repayment fund.

*(f) There is hereby created in the state treasury the medical loan repayment fund. All expenditures from the medical loan repayment fund shall be for medical student loans under the medical student loan act and for the expenses of administration of the medical student loan act and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chancellor of the university of Kansas or by a person designated by the chancellor. On the effective date of this act, the director of accounts and reports shall transfer all moneys in the medical scholarship and loan repayment fund to the medical loan repayment fund. On the effective date of this act, all liabilities of the medical scholarship and loan repayment fund are hereby imposed on the medical loan repayment fund and the medical scholarship and loan repayment fund is hereby abolished. Whenever the medical scholarship and loan repayment fund, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to the medical loan repayment fund.*”;

And by renumbering sections accordingly;

Also on page 18, in line 14, after “K.S.A.” by inserting “65-2811a,”; in line 15, by striking “and” where it appears for the first time and inserting a comma; also in line 15, by inserting after “76-384” the following: “and 76-385”; also in line 15, by striking “and” where it appears for the last time and inserting: “, 74-32,132,”; in line 16, after “76-375” by inserting “and 76-381”;

On page 1, in the title, in line 10, after “K.S.A.” by inserting “65-2811a,”; also in line 10, by striking “76-376,”; in line 11, after “76-383” by inserting “, 76-385”; also in line 11, by striking “and” where it appears for the last time and inserting: “, 74-32,132,”; in line 12, after “375” by inserting “and 76-381”; in line 13, after the comma by inserting “76-376,”; and the bill be passed as amended.

The Committee on **Insurance** recommends **HB 2306** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2306,” as follows:

“Substitute for HOUSE BILL No. 2306

By Committee on Insurance

“AN ACT relating to insurance companies; relating to viatical settlements; repealing K.S.A. 40-2,171, 40-2,172, 40-2,173, 40-2,174, 40-2,175, 40-2,176, 40-2,177, 40-2,178, 40-2,179, 40-2,180, 40-2,181, 40-2,182 and 40-2,183.”;

and the substitute bill be passed.

**(Sub. HB 2306** was thereupon introduced and read by title.)

The Committee on **Local Government** recommends **HB 2249** be not passed.

The Committee on **Taxation** recommends **SB 216** be passed.

The Committee on **Taxation** recommends **HB 2323** be passed.

(Having been referred separately, **HB 2323** is now in Committee on **Utilities**.)

The Committee on **Taxation** recommends **HB 2505** be passed.

(Having been referred separately, **HB 2505** is now in Committee on **New Economy**.)

The Committee on **Taxation** recommends **HB 2221** be amended on page 4, in line 35, by striking “five” and inserting “not more than 10”; and the bill be passed as amended.

The Committee on **Transportation** recommends **HB 2225** be passed.

The Committee on **Transportation** recommends **HB 2290** be amended on page 2, in line 23, by striking “that” and inserting “such”; by striking all in line 24 and inserting “dwelling and such other similar property, as the commission may provide by rules and regulations, if the transportation of such effects or”; in line 41, by striking “company” where it appears for the first time;

On page 7, following line 13, by inserting the following:

“(3) Motor vehicles, with a gross vehicle weight rating, as defined in subsection (s) of K.S.A. 66-1,109, and amendments thereto, of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards.”;

Also on page 7, in line 14, by striking "(3)" and inserting "(4)"; in line 18, by striking "(4)" and inserting "(5)"; in line 20, by striking "(5)" and inserting "(6)"; in line 23, by striking "(6)" and inserting "(7)"; in line 32, by striking "(7)" and inserting "(8)"; in line 34, by striking "(8)" and inserting "(9)"; and the bill be passed as amended.

The Committee on **Transportation** recommends **HB 2291** be amended on page 1, in line 15, by striking all following "1."; by striking all in lines 16 through 18; in line 19, by striking all preceding "The"; in line 23, by striking all following "to"; by striking all in lines 24 through 27 and inserting "conduct investigations necessary for the relevant federal authority to issue a safety fitness rating."; in line 28, by striking all following "violating"; by striking all in lines 29 and 30; in line 31, by striking all preceding "any"; also in line 31, following "statute" by inserting ", commission orders"; by striking all in lines 33 and 34 and inserting "shall be subject to a civil penalty of not less than \$100 and not more than \$1,000 for negligent violations, and not more than \$5,000 for intentional violations."; following line 42, by inserting the following:

"(d) Civil penalties shall be enforced and collected by an attorney for the corporation commission in the appropriate district court.;"

Also on page 1, in line 43, by striking "(d)" and inserting "(e)";

On page 2, in line 5, by striking "(e)" and inserting "(f)"; in line 7, by striking "K.S.A. 66-"; by striking all in lines 8, 9 and 10 and inserting "any statute, commission orders or rules and regulations adopted by the commission."; in line 41, by striking "6" and inserting "7";

On page 3, following line 6, by inserting the following:

"Sec. 5. K.S.A. 2000 Supp. 66-138 is hereby amended to read as follows: 66-138. (a) If any common carrier, ~~motor carrier holding a certificate, permit or license~~ or public utility governed by the provisions of this act violates any of the provisions of this act, or shall do any act herein prohibited, or fails or refuses to perform any duty enjoined upon it in this act, or fails, neglects or refuses to obey any lawful requirement or order made by the commission, or any final judgment or decree made by any court upon appeal from any order of the commission, it shall, for every such violation, failure or refusal, forfeit and pay to the state treasurer a sum not less than \$100 and not more than \$1,000 for such offense. Upon receipt of any such sum, the state treasurer shall credit the entire amount thereof to the public service regulation fund or the motor carrier license fee fund, as the case requires.

Such forfeiture shall be enforced and collected by the attorney general in any court of competent jurisdiction. The attorney general may appoint a corporation commission attorney as a special assistant attorney general for the purposes of enforcing and collecting any forfeiture contemplated herein. In construing and enforcing the provisions of this act, any act, omission or failure of any officer, agent or other person acting for or employed by any such public utility; ~~or common carrier or motor carrier holding a certificate, permit or license~~, while acting within the scope of such person's employment, shall in every case be deemed to be the act, omission or failure of such public utility; ~~or common carrier or motor carrier holding a certificate, permit or license~~; and every day during which any such public utility; ~~or common carrier or motor carrier holding a certificate, permit or license~~; or officer, agent or employee thereof, fails to comply with any order or direction of the commission, or to perform any duty required or enjoined by this act, shall constitute a separate and distinct violation of the provisions of this act.

(b) *The provisions of subsection (a), shall not apply to any motor carrier.*;"

By renumbering sections accordingly;

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

"Sec. 7. K.S.A. 66-177 is hereby amended to read as follows: 66-177. (a) Any public utility; ~~or common carrier or motor carrier holding a certificate, permit or license~~ willfully violating or evading any of the provisions of law for the regulation of such public utility; ~~or common carrier or motor carrier holding a certificate, permit or license~~ not otherwise specifically provided for shall, for each offense, forfeit and pay a penalty of not less than \$100 nor more than \$5,000. All penalties provided for herein shall be recovered by a civil action, to be instituted and prosecuted in the name of the state, by the county attorney of the county in which the offense has been committed, upon the direction of the corporation commission. If upon the trial of the action the jury finds for the plaintiff, the jury shall assess and return

with their verdict the amount of the fine to be imposed upon the defendant and the court shall render judgment accordingly. All such penalties recovered shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto, and the corporation commission may require the attorney general to assist such county attorney in the prosecution of such action. No bond for costs shall be required of the state in any such action.

(b) *The provisions of subsection (a), shall not apply to any motor carrier.*;

By renumbering sections accordingly;

On page 5, in line 40, by striking "This" and inserting "Such amounts shall not be less than \$100,000 for personal injury or death to any one person in any one accident, \$300,000 for injury or death to two or more persons in any one accident and \$50,000 for loss to property of others in any one accident, which";

On page 10, by striking all in lines 11 through 43;

On page 11, by striking all in lines 1 through 19;

By renumbering sections accordingly;

Also on page 11, in line 20, preceding "66-1,110" by inserting "66-177 and"; also in line 20, by striking "and 66-1314"; in line 21, preceding "66-143" by inserting "66-138,";

In the title, in line 10, preceding "66-1,110" by inserting "66-177 and"; also in line 10, by striking "and 66-1314"; in line 11, preceding "66-143" by inserting "66-138,"; and the bill be passed as amended.

The Committee on **Transportation** recommends **HB 2369** be amended on page 1, in line 21, by striking "or paving services"; in line 22, following "entity" by inserting ", unless such governing body has made a determination that such paving materials are not readily available from a nongovernmental entity. The provisions of this subsection shall not apply if a governing body declares by resolution that a disaster has occurred or that the occurrence or threat of disaster or emergency may exist"; and the bill be passed as amended.

The Committee on **Utilities** recommends **HB 2245** be amended on page 1, in line 31, by striking ", other"; in line 32, by striking all preceding the period;

On page 2, in line 3, by striking all following "(1)"; in line 4, by striking "lic" and inserting "For 10 years from the date the generation facility is attached or connected to the cooperative's or utility's delivery and metering system, the cooperative or"; by striking all in lines 13 through 29 and inserting:

"(2) A public utility shall not be required to pay compensation pursuant to subsection (b)(1)(A) in excess of \$500,000 in any one taxable year of such public utility.

(3) The cooperative or utility shall supply, own and maintain all necessary meters and associated equipment utilized for billing.";

Also on page 2, in line 37, by striking "customer any"; in line 38, by striking all preceding the period and inserting "generating customer any additional charge or fee beyond that charged similar nongenerating customers";

On page 3, in line 28, following "state" by inserting ", which is not operated by an electric public utility"; in line 32, by striking "and"; by striking all in line 33; in line 34, by striking "first allowed,";

On page 4, in line 2, by striking "fuel"; in line 4, by striking "20" and inserting "10"; in line 10, by striking "50%" and inserting "30%";

On page 5, following line 24, by inserting the following:

"New Sec. 4. Renewable energy resources such as biomass, biodiesel, bioethanol, solar and wind resources are agricultural products for the purposes of the provisions of the cooperative marketing act, cited at K.S.A. 17-1602 *et seq.*, and amendments thereto.

New Sec. 5. (a) For the purpose of financing the construction, renovation or repair of one or more renewable generation facilities, as defined in section 1, and amendments thereto, each having a capacity of more than two but less than 25 megawatts, the Kansas development finance authority is hereby authorized to issue revenue bonds in amounts sufficient to pay the costs of such construction, renovation or repair, including any required interest on the bonds during construction, renovation or repair, plus all amounts required for costs of the bond issuance and for any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues derived from sales of electricity generated by the renewable generation facility or facilities.

(b) Revenue bonds, including refunding revenue bonds, issued hereunder shall not constitute an indebtedness of the state of Kansas, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

(c) Revenue bonds, including refunding revenue bonds, issued hereunder and the income derived therefrom are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas estate taxes.”;

By renumbering the remaining sections accordingly;

In the title, in line 9, by striking all following “concerning”; in line 10, by striking all preceding the semicolon and inserting “renewable energy resources; relating to cooperative marketing of such resources; concerning generation of electricity using such resources; providing for issuance of bonds for certain purposes”; and the bill be passed as amended.

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

#### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolutions were thereupon introduced and read by title:

**HB 2539**, An act concerning land surveyors; relating to trespassing; amending K.S.A. 2000 Supp. 21-3721 and repealing the existing section, by Committee on Federal and State Affairs.

**HB 2540**, An act concerning retirement; relating to employees of the state board of regents; tax sheltered annuities; amending K.S.A. 2000 Supp. 74-4925 and 74-4925e and repealing the existing sections, by Committee on Appropriations.

**HB 2541**, An act concerning retirement and pensions; relating to the Kansas police and firemen’s retirement system; affiliation; membership; employee and employer contributions; capitol area security patrol and motor carrier inspection officers, by Committee on Appropriations.

#### HOUSE CONCURRENT RESOLUTION No. 5021—

By Representatives Gordon, Mays, Aday, Alldritt, Ballard, Ballou, Barnes, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, DiVita, Dreher, Edmonds, Faber, Findley, Flaharty, Flora, Gatewood, Gilbert, Glasscock, Grant, Hayzlett, Henderson, Hermes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Kuether, Landwehr, Lane, Light, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O’Brien, O’Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, L. Powell, T. Powell, Powers, Pyle, Reardon, Ruff, Schwartz, Sharp, Showalter, Shultz, Stone, Storm, Tafanelli, Tanner, Thimesch, Toelkes, Toplikar, Vickrey, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson and Winn

A CONCURRENT RESOLUTION proposing to name the new state office building the Charles Curtis State Office Building.

WHEREAS, The state has nearly completed construction of a new office building on the southwest corner of the junction of Kansas Avenue and 10th Street in Topeka, and it is appropriate that this building be named after former Vice-President Charles Curtis; and

WHEREAS, Charles Curtis was born January 25, 1860, in North Topeka; and

WHEREAS, Charles Curtis was the great-great-grandson of Chief White Plume, a chief of the Kansa/Kaw tribe. After his mother died he was sent to live with his maternal grandmother, Julie Conville Pappan, on the Kansa/Kaw Indian reservation in Morris County. He lived in a tipi on the reservation for eight years, and although he attended a mission school, didn’t learn to read or write until he was nine years old; and

WHEREAS, Charles Curtis read law in Topeka and was admitted to the Kansas bar at age 21. He was elected County Attorney for Shawnee County at age 24, earning a reputation

as a tough and impartial prosecutor often quoted as saying "If you don't want the laws enforced, don't vote for me"; and

WHEREAS, Subsequently Charles Curtis served in the United States House of Representatives from 1893-1907, and in the United States Senate from 1907-1913 and again from 1915-1929; and

WHEREAS, Charles Curtis served as Majority Leader of the United States Senate from 1925-1929; and

WHEREAS, Throughout his Congressional career, Charles Curtis sought to advance the causes of Native Americans, farmers and women's rights, playing an influential role in the passage of the 19th amendment to the United State Constitution granting women the right to vote; and

WHEREAS, Charles Curtis is credited with preventing the closing of Ft. Riley and Ft. Leavenworth following the end of World War I; and

WHEREAS, Charles Curtis ran for President of the United States in 1928, losing his party's nomination to Herbert Hoover at the Republican National Convention held in Kansas City; and

WHEREAS, Charles Curtis was subsequently nominated and served as the 31st Vice-President of the United States from 1929-1933; and

WHEREAS, Charles Curtis, having held public office for 38 years, is the highest elected native Kansan, and the only person of Native American descent, to hold the office of Vice-President of the United States; and

WHEREAS, Charles Curtis died in Washington, D.C. on February 8, 1936, and was honored by his state with the only funeral service ever held in the Kansas statehouse. A plaque dedicated to his memory is located on the south steps of the capitol; and

WHEREAS, It is entirely fitting to name our new office building after Charles Curtis. He was our first statesman with Native American ancestry. He represented the state with great distinction for many years in Washington, and locally his home and law office are within sight of the new office building: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That the new state office building should be named and designated as the Charles Curtis State Office Building; and

*Be it further resolved:* That the Secretary of State be directed to send enrolled copies of this resolution to the Governor and the Secretary of Administration.

HOUSE CONCURRENT RESOLUTION No. 5022—

By Committee on Utilities

A CONCURRENT RESOLUTION urging the Governor and Members of the Finance Council to proclaim an energy resources emergency.

WHEREAS, The price of natural gas has risen drastically in recent months due to low supplies and high market demand; and

WHEREAS, The high price of natural gas, coupled with a cold winter, has left many consumers struggling or unable to pay the high costs of heating their homes and businesses; and

WHEREAS, The Governor, with the approval of the State Finance Council, has authority pursuant to K.S.A. 74-619 to proclaim an energy resources emergency when the supply of energy resources is insufficient to meet demand and the public health, safety and welfare are threatened thereby: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That the Governor is urged to proclaim an energy resources emergency and the Members of the State Finance Council are urged to approve such proclamation; and

*Be it further resolved:* That the Secretary of State is directed to send an enrolled copy of this concurrent resolution to the Governor and each Member of the State Finance Council.



On motion of Rep. Weber, the House recessed until 1:45 p.m.

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### AFTERNOON SESSION

The House met pursuant to recess with Speaker Glasscock in the chair.

#### MESSAGE FROM THE SENATE

Announcing passage of **Sub. SB 62, SB 155, SB 192, SB 195.**

#### INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

**Sub. SB 62, SB 155, SB 192, SB 195.**

On motion of Rep. Weber, the House went into Committee of the Whole, with Rep. Mason in the chair.

#### COMMITTEE OF THE WHOLE

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

Recommended that committee report to **HB 2176** be adopted; and the bill be passed as amended.

Committee report to **HB 2289** be adopted; also, on motion of Rep. T. Powell be amended on page 4, in line 8, by striking "there are reasonable grounds to believe" and reinserting "committed an act";

Also, in line 9, by striking "was in" and reinserting the words "which involved the";

Also, on motion of Rep. Pauls to rerefer **HB 2289** to Committee on Education, the motion did not prevail and the bill be passed as amended.

On motion of Rep. Findley **HB 2224** be amended on page 1, in line 37, following "(d)" by inserting "(1)"; and **HB 2224** be passed as amended.

Committee report to **HCR 5009** be adopted; and the resolution be adopted as amended.

Committee report to **HB 2133** be adopted; and the bill be passed as amended.

Committee report to **HB 2120** be adopted; also, on motion of Rep. Sloan be amended on page 3, in line 32, following "ride" by inserting "safety";

In the title, in line 12, following "repealing" by inserting "K.S.A."; and **HB 2120** be passed as amended.

Committee report to **HB 2134** be adopted; and the bill be passed as amended.

Committee report to **HB 2154** be adopted; also, roll call was demanded on motion of Rep. E. Peterson to amend on page 9, after line 1, by inserting the following:

"Sec. 3. K.S.A. 39-932 is hereby amended to read as follows: 39-932. The licensing agency shall adopt, amend, promulgate and enforce such rules, regulations and standards as may be deemed practicable, reasonable and necessary with respect to all adult care homes, to be licensed hereunder and as may be designed to further the accomplishment of the purpose of this law in promoting safe, proper and adequate treatment and care of individuals in adult care homes in the interest of public health, safety and welfare. Such rules and regulations may prescribe minimum standards and requirements relating to the location, building, construction, size, equipment and facilities of adult care homes, the number and kind of residents allowed, the types of care offered, the records to be kept, the kind and frequency of reports and inventories to be made, and may generally establish such requirements as may be deemed necessary to protect the health, safety, hygiene, welfare and comfort of the residents. *The licensing agency shall require that by January 1, 2005, a properly installed smoke detector be placed in each room in which a resident sleeps.*

Adult care homes which are in operation at the time of promulgation of any applicable rules and regulations or minimum standards under this act shall be given a reasonable time, under the particular circumstances not to exceed ~~twelve (12)~~ 12 months from the date of such promulgation, within which to comply with such rules and regulations and minimum standards. The licensing agency may further establish by regulation a system whereby it

may, on the basis of the investigations and evaluations herein provided for, uniformly rate adult care homes in terms of the quality and quantity of services and facilities provided.”;

And by renumbering sections accordingly;

Also on page 9, in line 2, before “39-970” by inserting “39-932 and”;

On page 1, in the title, in line 11, before “amending” by inserting: “smoke detectors in adult care homes;”; also in line 11, before “39-970” by inserting “39-932 and”;

On roll call, the vote was: Yeas 58; Nays 66; Present but not voting: 0; Absent or not voting: 1.

Yeas: Alldritt, Ballard, Barnes, Benlon, Burroughs, Campbell, Crow, Dillmore, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Grant, Henderson, Henry, Hermes, Kirk, Klein, Kline, Kuether, Landwehr, Larkin, Levinson, Loganbill, M. Long, Mayans, McClure, McKinney, Minor, Myers, Nichols, O'Brien, Pauls, E. Peterson, Phelps, Pottorff, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Shultz, Spangler, Stone, Storm, Swenson, Thimesch, Toelkes, Toplikar, Wells, Welshimer, J. Williams, Wilson, Winn.

Nays: Aday, Aurand, Ballou, Beggs, Bethell, Boston, Compton, Cook, Cox, Dahl, De-Castro, DiVita, Dreher, Edmonds, Faber, Freeborn, Glasscock, Gordon, Hayzlett, Holmes, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Krehbiel, Lane, Light, Lightner, Lloyd, P. Long, Loyd, Mason, Mays, McCreary, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Neufeld, Newton, Novascone, O'Neal, Osborne, Ost-meyer, Palmer, Patterson, J. Peterson, L. Powell, T. Powell, Powers, Pyle, Ray, Schwartz, Sloan, Tafanelli, Tanner, Tomlinson, Vickrey, Weber, Wilk, D. Williams.

Present but not voting: None.

Absent or not voting: Horst.

The motion of Rep. E. Peterson did not prevail, and **HB 2154** be passed as amended.

Committee report to **HB 2059** be adopted; and the bill be passed as amended.

## REPORTS OF STANDING COMMITTEES

The Committee on **Agriculture** recommends **HB 2011** be amended on page 1, after line 13, by inserting the following:

“Section 1. K.S.A. 2000 Supp. 79-3425 is hereby amended to read as follows: 79-3425. All of the amounts collected under the motor-fuel tax law and amendments thereto, except amounts collected pursuant to K.S.A. 79-3408c, and amendments thereto, shall be remitted by the director to the state treasurer daily, and the state treasurer shall deposit all such amounts in the state treasury. The state treasurer shall credit such amount thereof as the director shall order in the motor-vehicle fuel tax refund fund to be used for the purpose of paying motor-vehicle fuel tax refunds as provided by law. The state treasurer shall credit the remainder of such amounts as follows: To the state highway fund amounts specified in K.S.A. 79-34,142, and amendments thereto, to a special city and county highway fund which is hereby created, amounts specified in K.S.A. 79-34,142, and amendments thereto, to be apportioned and distributed in the manner provided in K.S.A. 79-3425c, and amendments thereto, and to the *current production account and the new production account of the Kansas* qualified agricultural ethyl alcohol producer incentive fund, which is hereby created in the state treasury, in the amount and in the manner specified in K.S.A. 79-34,161, and amendments thereto, to be expended in the manner provided in K.S.A. 79-34,162, and amendments thereto.”;

And by renumbering sections accordingly;

Also on page 1, in line 16, by striking “secretary of revenue”; by striking all in lines 17 through 21; in line 22, by striking all before “from” and inserting “state treasurer shall credit amounts as provided in this subsection”; in line 25, by striking the period and inserting “to the Kansas qualified agricultural ethyl alcohol producer incentive fund. The current production account and the new production account are hereby created in the Kansas qualified agricultural ethyl alcohol producer incentive fund. During fiscal years 2002, 2003 and 2004, the state treasurer (a) shall credit \$500,000 each calendar quarter to the current production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund, and (b) shall credit \$375,000 each calendar quarter to the new production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund. During fiscal years 2005 through 2011, the state treasurer shall credit \$875,000 each calendar quarter to the new production

account of the Kansas qualified agricultural ethyl alcohol producer incentive fund. On July 1 of each fiscal year through fiscal year 2011, or as soon after each such date as information is available, the secretary of revenue shall certify to the director of accounts and reports the amount of any unencumbered balance as of June 30 of the preceding fiscal year in the current production account of such fund and the director of accounts and reports shall transfer the amount certified from the current producer account to the new production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund. Any unencumbered balance as of June 30 of any fiscal year in the new production account of such fund shall remain credited in the new production account for the payment of claims of new production incentives in ensuing fiscal years. If the aggregate of outstanding claims made on the current production account of such fund is greater than the amount credited to such account, then such claims shall be paid on a pro rata basis. Each claim may be paid regardless of the fiscal year during which the claim was submitted.”; in line 34, by striking “Except as otherwise provided by subsection (a)(2),” and inserting “During fiscal years 2002, 2003 and 2004,”; in line 35, after “producer” by inserting “who is in production prior to July 1, 2001,”; in line 36, after the period, by inserting “Any such amounts pursuant to this subsection shall be paid from the current production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund;”; in line 37, after “producer” by inserting “who is in production prior to July 1, 2001,”; in line 38, by striking all after “after”; by striking all in lines 39 and 40; in line 41, by striking “\$.025” and inserting “July 1, 2001, by an amount of 5,000,000 gallons over the producer’s base sales, such producer shall receive an amount equal to \$.075”; in line 42, by striking the period and inserting “. No producer shall receive the production incentive pursuant to this subsection for more than 15,000,000 gallons sold . Any such amount shall be paid from the new production account of the fund; and

(3) any producer who commences production on or after July 1, 2001, the amount shall be \$.075 for each gallon of agricultural ethyl alcohol sold by such producer to an alcohol blender, if such producer has sold at least 5,000,000 gallons. No producer shall receive the production incentive pursuant to this subsection for more than 15,000,000 gallons sold. Any such amounts shall be paid from the new production account of the fund.”;

Also on page 1, in line 43, by striking “(a)(2)” and inserting “(a)”;

On page 2, in line 2, by striking all after “2000”; by striking all in lines 3 through 7; in line 8, by striking all before the period and inserting “. All new production incentives pursuant to this section for a producer who is in production prior to July 1, 2001, shall be based on such producer’s base sales”; after line 8, by inserting a paragraph to read as follows:

“(c) The amounts payable to a producer as provided in subsections (a)(2) and (a)(3) shall be payable for no more than seven years to any one producer.”;

Also on page 2, in line 9, by striking “(c)” and inserting “(d)”;

in line 18, by striking “(d)” and inserting “(e)”;

in line 24, after “Supp.” by inserting “79-3425 and”;

On page 1, in the title, in line 11, after “Supp.” by inserting “79-3425 and”; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2078** be amended on page 1, in line 16, by striking “receive” and inserting “recover”; also in line 16, by striking “adult or emancipated minor” and inserting “person”; in line 25, after “If” by inserting: “the person who shoplifts is”; also in line 25, by striking “shoplifts”; also in line 25, by striking “or guardian”; in line 26, after “liable” by inserting: “pursuant to a civil action filed as authorized in subsection (a)”;

in line 27, by striking all after “(a)”;

in line 28, by striking all before the period; in line 37, by striking all after “to”;

in line 38, by striking “merchandise” and inserting: “shoplifting or an adjudication as a juvenile offender or an adjudication as a child in need of care for committing an offense while a juvenile which if committed by an adult would constitute the commission of shoplifting”; in line 41, by striking “may” and inserting “shall”;

in line 43, by striking “, if made,”;

On page 2, in line 1, by striking “may be”; in line 7, by striking “is not” and inserting “shall be”; after line 27, by inserting the following:

“(h) A civil penalty, claim or judgment under the provisions of this section shall not constitute an obligation or liability against any insurer or third-party payor.”;

In the title, in line 9, by striking "or"; in line 10, by striking "guardians"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2079** be amended on page 1, in line 25, by striking "or theft" and inserting: "is a severity level 9, nonperson felony.

(3) Theft";

Also on page 1, in line 26, after "establishments" by inserting "within a period of 72 hours"; in line 30, by striking "(3)" and inserting "(4)"; in line 32, by striking "(4)" and inserting "(5)"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2080** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2080," as follows:

"Substitute for HOUSE BILL No. 2080

By Committee on Judiciary

"AN ACT concerning crimes and punishment; relating to theft detection; amending K.S.A. 2000 Supp. 21-3764 and repealing the existing section.";

and the substitute bill be passed.

(Sub. **HB 2080** was thereupon introduced and read by title.)

The Committee on **Judiciary** recommends **HB 2135** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2135," as follows:

"Substitute for HOUSE BILL No. 2135

By Committee on Judiciary

"AN ACT concerning drivers' licenses; relating to obtaining such license; amending K.S.A. 2000 Supp. 8-237, 8-240 and 8-1324 and repealing the existing sections.";

and the substitute bill be passed.

(Sub. **HB 2135** was thereupon introduced and read by title.)

The Committee on **Judiciary** recommends **HB 2212** be amended on page 1, in line 38, by striking all after the comma where it appears for the first time; in line 39, by striking "thereto," and inserting: "branch credit union or branch savings and loan institution"; in line 40, after the period, by inserting: "For the purposes of this section, "branch" means any office, agency or other place of business, at which deposits are received, checks paid or money lent."; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2230** be amended on page 13, in line 40, after the comma, by inserting: "the person shall be guilty of a class B misdemeanor and";

On page 15, in line 17, after the period, by inserting: "An officer shall have probable cause to believe that the person operated a vehicle while under the influence of alcohol or drugs, or both, if the vehicle was operated by such person in such a manner as to have caused the death of or serious injury to another person. In such event, such test or tests may be made pursuant to a search warrant issued under the authority of K.S.A. 22-2502, and amendments thereto, or without a search warrant under the authority of K.S.A. 22-2501, and amendments thereto.";

On page 20, after line 18, by inserting the following:

"Sec. 9. On and after July 1, 2001, K.S.A. 2000 Supp. 8-1008 is hereby amended to read as follows: 8-1008. (a) Community-based alcohol and drug safety action programs certified in accordance with subsection (b) shall provide:

(1) Presentence alcohol and drug evaluations of any person who is convicted of a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute;

(2) supervision and monitoring of all persons who are convicted of a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, and whose sentences or terms of probation require completion of an alcohol and drug safety action program, as provided in this section, or an alcohol and drug abuse treatment program, as provided in this section;

(3) alcohol and drug evaluations of persons whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute;

(4) supervision and monitoring of persons required, under a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, to complete an alcohol and drug safety action program, as provided in this section, or an alcohol and drug abuse treatment program, as provided in this section; or

(5) any combination of (1), (2), (3) and (4).

(b) The presentence alcohol and drug evaluation shall be conducted by a community-based alcohol and drug safety action program certified in accordance with the provisions of this subsection to provide evaluation and supervision services as described in subsections (c) and (d). A community-based alcohol and drug safety action program shall be certified either by the chief judge of the judicial district to be served by the program or by the secretary of social and rehabilitation services for judicial districts in which the chief judge declines to certify a program. In addition to any qualifications established by the secretary, the chief judge may establish qualifications for the certification of programs, which qualifications may include requirements for training, education and certification of personnel; supervision and monitoring of clients; fee reimbursement procedures; handling of conflicts of interest; delivery of services to clients unable to pay; and other matters relating to quality and delivery of services by the program. In establishing the qualifications for programs, the chief judge or the secretary shall give preference to those programs which have had practical experience prior to July 1, 1982, in diagnosis and referral in alcohol and drug abuse. Certification of a program by the chief judge shall be done with consultation and approval of a majority of the judges of the district court of the district and municipal judges of cities lying in whole or in part within the district. If within 60 days after the effective date of this act the chief judge declines to certify any program for the judicial district, the judge shall notify the secretary of social and rehabilitation services, and the secretary of social and rehabilitation services shall certify a community-based alcohol and drug safety action program for that judicial district. The certification shall be for a four-year period. Recertification of a program or certification of a different program shall be by the chief judge, with consultation and approval of a majority of the judges of the district court of the district and municipal judges of cities lying in whole or in part within the district. If upon expiration of certification of a program there will be no certified program for the district and the chief judge declines to recertify or certify any program in the district, the judge shall notify the secretary of social and rehabilitation services, at least six months prior to the expiration of certification, that the judge declines to recertify or certify a program under this subsection. Upon receipt of the notice and prior to the expiration of certification, the secretary shall recertify or certify a community-based alcohol and drug safety action program for the judicial district for the next four-year period. To be eligible for certification under this subsection, the chief judge or the secretary of social and rehabilitation services shall determine that a community-based alcohol and drug safety action program meets the qualifications established by the judge or secretary and is capable of providing, within the judicial district: (1) The evaluations, supervision and monitoring required under subsection (a); (2) the alcohol and drug evaluation report required under subsection (c) or (d); (3) the follow-up duties specified under subsection (c) or (d) for persons who prepare the alcohol and drug evaluation report; and (4) any other functions and duties specified by law. Community-based alcohol and drug safety action programs performing services in any judicial district under this section prior to the effective date of this act may continue to perform those services until a community-based alcohol and drug safety action program is certified for that judicial district.

(c) A presentence alcohol and drug evaluation shall be conducted on any person who is convicted of a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute. The presentence alcohol and drug evaluation report shall be made available to and shall be considered by the court prior to sentencing. The presentence alcohol and drug evaluation report shall contain a history of the defendant's prior traffic record, characteristics and alcohol or drug problems, or both, and a recommendation concerning the amenability of the defendant to education and rehabilitation. The presentence alcohol and drug evaluation report shall include a recommendation concerning the alcohol and drug driving safety education and treatment for

the defendant. The presentence alcohol and drug evaluation report shall be prepared by a program which has demonstrated practical experience in the diagnosis of alcohol and drug abuse. The duties of persons who prepare the presentence alcohol and drug evaluation report may also include appearing at sentencing and probation hearings in accordance with the orders of the court, monitoring defendants in the treatment programs, notifying the probation department and the court of any defendant failing to meet the conditions of probation or referrals to treatment, appearing at revocation hearings as may be required and providing assistance and data reporting and program evaluation. The cost of any alcohol and drug education, rehabilitation and treatment programs for any person shall be paid by such person, and such costs shall include, but not be limited to, the assessments required by subsection (e). If financial obligations are not met or cannot be met, the sentencing court shall be notified for the purpose of collection or review and further action on the defendant's sentence.

(d) An alcohol and drug evaluation shall be conducted on any person whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute. The alcohol and drug evaluation report shall be made available to the prosecuting attorney and shall be considered by the prosecuting attorney. The alcohol and drug evaluation report shall contain a history of the person's prior traffic record, characteristics and alcohol or drug problems, or both, and a recommendation concerning the amenability of the person to education and rehabilitation. The alcohol and drug evaluation report shall include a recommendation concerning the alcohol and drug driving safety education and treatment for the person. The alcohol and drug evaluation report shall be prepared by a program which has demonstrated practical experience in the diagnosis of alcohol and drug abuse. The duties of persons who prepare the alcohol and drug evaluation report may also include monitoring persons in the treatment programs, notifying the prosecutor and the court of any person failing to meet the conditions of diversion or referrals to treatment, and providing assistance and data reporting and program evaluation. The cost of any alcohol and drug education, rehabilitation and treatment programs for any person shall be paid by such person, and such costs shall include, but not be limited to, the assessments required by subsection (e).

(e) In addition to any fines, fees, penalties or costs levied against a person who is convicted of a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, or who enters a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of that statute or such an ordinance, ~~\$125~~ \$150 shall be assessed against the person by the sentencing court or under the diversion agreement. The ~~\$125~~ \$150 assessment may be waived by the court or, in the case of diversion of criminal proceedings, by the prosecuting attorney, if the court or prosecuting attorney finds that the defendant is an indigent person. Except as otherwise provided in this subsection, the clerk of the court shall deposit all assessments received under this section in the alcohol and drug safety action fund of the court, which fund shall be subject to the administration of the judge having administrative authority over that court. If the secretary of social and rehabilitation services certifies the community-based alcohol and drug safety action program for the judicial district in which the court is located, the clerk of the court shall remit, during the four-year period for which the program is certified, 15% of all assessments received under this section to the secretary of social and rehabilitation services. Moneys credited to the alcohol and drug safety action fund shall be expended by the court, pursuant to vouchers signed by the judge having administrative authority over that court, only for costs of the services specified by subsection (a) or otherwise required or authorized by law and provided by community-based alcohol and drug safety action programs, except that not more than 10% of the money credited to the fund may be expended to cover the expenses of the court involved in administering the provisions of this section. In the provision of these services the court shall contract as may be necessary to carry out the provisions of this section. The district or municipal judge having administrative authority over that court shall compile a report and send such report to the office of

the state judicial administrator on or before January 20 of each year, beginning January 20, 1991. Such report shall include, but not be limited to:

- (1) The balance of the alcohol and drug safety action fund of the court on December 31 of each year;
- (2) the assessments deposited into the fund during the 12-month period ending the preceding December 31; and
- (3) the dollar amounts expended from the fund during the 12-month period ending the preceding December 31.

The office of the state judicial administrator shall compile such reports into a statewide report and submit such statewide report to the legislature on or before March 1 of each year.

(f) The secretary of social and rehabilitation services shall remit all moneys received by the secretary under this section to the state treasurer at least monthly. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the certification of community-based alcohol and drug safety action programs fee fund, which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants issued pursuant to vouchers approved by the secretary of social and rehabilitation services or a person designated by the secretary.”;

And by renumbering sections accordingly;

On page 26, after line 19, by inserting the following:

“New Sec. 15. Refusal to submit to a request by a law enforcement officer to submit to a breath, blood or urine test pursuant to K.S.A. 8-1001 or 8-1002, and amendments thereto, shall be a class B misdemeanor.”;

And by renumbering sections accordingly;

Also on page 26, in line 22, after “8-1002,” by inserting “8-1008.”;

In the title, in line 12, after “8-1002,” by inserting “8-1008.”; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2329** be amended on page 1, in line 25, by striking “for official use” and inserting: “, as defined in K.S.A. 22-4701, and amendments thereto, for use in criminal investigations or criminal proceedings”; and the bill be passed as amended.

The Committee on **New Economy** recommends **HB 2497** be passed.

The Committee on **New Economy** recommends **HB 2205** be amended on page 10, in line 28, by striking “2000” and inserting “2001”;

On page 11, in line 19, by striking “2000” and inserting “2001”; and the bill be passed as amended.

The Committee on **Utilities** recommends **HB 2397** be passed.

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

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

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

HOUSE CONCURRENT RESOLUTION No. 5023—

By Representatives Phelps and Johnson

A CONCURRENT RESOLUTION celebrating the 100th anniversary of the authorization of Fort Hays State University by the State of Kansas.

WHEREAS, The Senate and House of Representatives of the United States of America, in Congress assembled in March, 1900, passed Senate Bill 68 which specifically identified a western branch of the Kansas State Normal School in the grant of the Fort Hays Military Reservation to the State of Kansas; and President William McKinley signed Senate Bill 68 on March 28, 1900; and

WHEREAS, The Fort Hays Military Reservation was accepted by the Kansas Legislature through House Joint Resolution No. 1 on February 7, 1901; and Senate Bill 511, which was approved by Governor W.E. Stanley on February 26, 1901, established a branch of the State Normal School on the Fort Hays Military Reservation; and

WHEREAS, The Western Branch of the Kansas State Normal School held its first classes on June 23, 1902; and

WHEREAS, The Western Branch of the Kansas State Normal School was given a new name as Fort Hays Kansas Normal School on March 6, 1914, in recognition of its independent status as a normal school; and

WHEREAS, On February 20, 1923, the Kansas Legislature approved a name change to Kansas State Teachers College of Hays and thus changed the mission of the college from being a normal school to a teachers college; and

WHEREAS, The Kansas Legislature approved a name change to Fort Hays Kansas State College on March 11, 1931, in recognition of the constantly expanding functions and expanded mission in western Kansas and in recognition of its changing role to a liberal arts college; and

WHEREAS, In 1977 the Kansas Legislature approved a name change to Fort Hays State University in recognition of the university's high quality academic stature, multiple functions, changing mission, and ever expanding role in the state, region, and nation as a university level institution; and

WHEREAS, Fort Hays State University has continued to have its mission expanded in order to serve its constituents, has become known for its high quality academic programs and athletics, and is known throughout the state, nation, and internationally for its future vision of higher education programs and planning; Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That we congratulate and commend Fort Hays State University upon the 100th anniversary of its authorization by the State of Kansas and for the excellence in higher education which it has provided for the citizens of Kansas.

#### CHANGE OF REFERENCE

Speaker pro tem Aurand announced the withdrawal of **HB 2468** from Committee on Agriculture and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2413**, **HB 2478** from Committee on e-Government and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2336** from Committee on Education and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2373** from Committee on Environment and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2228**, **HB 2229**, **HB 2315**, **HB 2359** from Committee on Health and Human Services and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2349** from Committee on Higher Education and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2209** from Committee on Insurance and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2126**, **HB 2138**, **HB 2240**, **HB 2356**, **HB 2405**, **HB 2469** from Committee on Judiciary and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2505** from Committee on New Economy and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2145** from Committee on Transportation and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2100** from Committee on Utilities and referral to Committee on Appropriations.

#### REPORT ON ENGROSSED BILLS

**HB 2103**, **HB 2161** reported correctly engrossed February 20, 2001.

Also, **HB 2083**, **HB 2127**, **HB 2328**, **HB 2457**, **HB 2471** reported correctly engrossed February 21, 2001.

On motion of Rep. Weber, the House adjourned until 9:00 a.m., Thursday, February 22, 2001.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

