

Journal of the House

FIFTY-FIFTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, March 27, 2001, 9:30 a.m.

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

The roll was called with 121 members present.

Rep. Kline was excused on verified illness.

Rep. Howell was excused on legislative business.

Reps. Gilbert and O'Neal were excused on excused absence by the Speaker.

Present later: Rep. O'Neal.

Prayer by guest chaplain, the Rev. J. Wesley Smith, Rector, St. David's Episcopal Church, Topeka:

Gracious and powerful Creator, some days we find ourselves sleepy-eyed, sleepy-willed, and sleepy-hearted. But this is a new day! Make us wide-eyed for beauty, and for the good of our neighbors and citizens in this state . . . wide-willed for hearing a call to both courage and compassion . . . wide-hearted for love, especially for the unloved who are the hardest to reach and who need it the most. Breathe into this body of men and women who gather here wisdom and foresight to provide for the needs of all people. As our Leader, O God, bless these who lead and serve. Bless this state, our Governor, our President, and the United States of America. Amen.

The Pledge of Allegiance was led by Rep. L. Powell.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Appropriations: **SB 304**.

Federal and State Affairs: **SB 152**.

Judiciary: **SB 208**.

Taxation: **HB 2577**.

Utilities: **SB 112**.

To be referred: **HB 2578**.

MESSAGES FROM THE SENATE

Announcing passage of **SB 344**.

Also, the Senate nonconcur in House amendments to **SB 45**, requests a conference and has appointed Senators Corbin, Jenkins and Lee as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 56**, requests a conference and has appointed Senators Donovan, Salmons and Gooch as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 138**, requests a conference and has appointed Senators Corbin, Jenkins and Lee as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 147**, requests a conference and has appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 160**, requests a conference and has appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 195**, requests a conference and has appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 237**, requests a conference and has appointed Senators Huelskamp, Taddiken and Lee as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 239**, requests a conference and has appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 294**, requests a conference and has appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bill was thereupon introduced and read by title:

SB 344.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SB 45**.

Speaker Glasscock thereupon appointed Reps. Edmonds, Huff and Larkin as conferees on the part of the House.

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SB 56**.

Speaker Glasscock thereupon appointed Reps. Hayzlett, Vickrey and M. Long as conferees on the part of the House.

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SB 138**.

Speaker Glasscock thereupon appointed Reps. Edmonds, Huff and Larkin as conferees on the part of the House.

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SB 147**.

Speaker Glasscock thereupon appointed Reps. Freeborn, Myers and Flora as conferees on the part of the House.

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SB 160**.

Speaker Glasscock thereupon appointed Reps. Boston, Jim Morrison and Showalter as conferees on the part of the House.

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SB 195**.

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

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SB 237**.

Speaker Glasscock thereupon appointed Reps. Freeborn, Hutchins and Flora as conferees on the part of the House.

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SB 239**.

Speaker Glasscock thereupon appointed Reps. Boston, Jim Morrison and Showalter as conferees on the part of the House.

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SB 294**.

Speaker Glasscock thereupon appointed Reps. Wilk, Neufeld and Nichols as conferees on the part of the House.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6016—

By Representatives Grant, Burroughs, Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, 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 and Winn

A RESOLUTION in memory of Herman Dillon.

WHEREAS, Former Kansas Representative Herman Dillon died October 3, 2000, at his home in Kansas City. He was 73 years old; and

WHEREAS, Herman Dillon served in the Kansas House of Representatives for 22 years, from 1977 to 1998. He was the ranking minority member of the House Transportation Committee and served as the committee chairperson in 1991-92. He was the House Democrats' spokesperson on transportation matters in the later years of his legislative career. During the 1999 legislative session, lawmakers enacted a law naming the Seventh Street bridge in Kansas City in his honor. He is remembered as a good, caring person who worked very hard over the years for the people of Wyandotte County. He is also remembered for his natty attire and bright sportcoats; and

WHEREAS, Herman Dillon was born in Junction City but lived in Kansas City most of his life. He worked as a truck driver and served in the United States Coast Guard and Merchant Marines. He was a member of Holy Name Catholic Church, Post 188 of the American Legion and was Precinct No. 6 ward captain; and

WHEREAS, Although Herman Dillon suffered a stroke on August 7 and was diagnosed with a recurrence of cancer, he is remembered as a man who never let his illnesses dampen his sense of humor. He is survived by his fiancé, Pauline Wyrick, his daughter, Diana Allen, a sister, two grandchildren and three great-grandchildren. Burial was in the Maple Hill cemetery: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we honor Herman Dillon for his many years of devoted service to Wyandotte County and the State of Kansas and extend our deepest sympathy to his family and friends; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to provide an enrolled copy of this resolution to Ms. Pauline Wyrick, 981 Argentine Blvd., Kansas City, KS 66105 and to Ms. Diana Allen, 611 S. Coy, Kansas City, KS 66105.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2160, An act concerning proceedings for the tax foreclosure sale on certain property; amending K.S.A. 79-2801 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 112; Nays 9; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Johnson, Kauffman, Kirk, 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, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell,

Pyle, Ray, Reardon, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson.

Nays: Dillmore, Henderson, Huy, Klein, Powers, Rehorn, Spangler, Vickrey, Winn.

Present but not voting: None.

Absent or not voting: Gilbert, Howell, Kline, O'Neal.

The bill passed.

HB 2292. An act relating to taxation; exempting certain isolated sales of motor vehicles; concerning the cancellation of tax imposed upon certain motor vehicles; amending K.S.A. 2000 Supp. 79-3603 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 3; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, 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, 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, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Benlon, Schwartz, Vickrey.

Present but not voting: None.

Absent or not voting: Gilbert, Howell, Kline, O'Neal.

The bill passed, as amended.

HB 2548. An act making and concerning appropriations for the fiscal years ending June 30, 2001, June 30, 2002, and June 30, 2003, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, was considered on final action.

On roll call, the vote was: Yeas 95; Nays 26; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cox, Crow, Dahl, DeCastro, DiVita, Dreher, Edmonds, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Johnson, Kauffman, Kirk, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, Loyd, Mason, Mays, McClure, McCreary, McKinney, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Neufeld, Newton, Nichols, O'Brien, Osborne, Ostmeyer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Ray, Reardon, Rehorn, Ruff, Schwartz, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Tafanelli, Tanner, Toelkes, Toplikar, Weber, Wells, Welshimer, Wilk, J. Williams, Wilson, Winn.

Nays: Alldritt, Ballou, Burroughs, Cook, Dillmore, Faber, Freeborn, Henderson, Huy, Klein, Landwehr, P. Long, Mayans, McLeland, Myers, Novascone, Palmer, Powers, Pyle, Sharp, Spangler, Swenson, Thimesch, Tomlinson, Vickrey, D. Williams.

Present but not voting: None.

Absent or not voting: Gilbert, Howell, Kline, O'Neal.

The bill passed, as amended.

HB 2549. An act concerning worthless checks; amending K.S.A. 2000 Supp. 60-2610 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 100; Nays 21; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Alldritt, Aurand, Ballard, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Findley, Freeborn, Garner, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Krehbiel, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, Osborne, Ostmeyer, Palmer, Patterson, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Weber, Wells, Wilk, D. Williams, J. Williams, Wilson.

Nays: Ballou, Barnes, Burroughs, Crow, DiVita, Flaharty, Flora, Henderson, Kirk, Klein, Kuether, M. Long, O'Brien, Pauls, Reardon, Rehorn, Spangler, Toelkes, Vickrey, Welshimer, Winn.

Present but not voting: None.

Absent or not voting: Gilbert, Howell, Kline, O'Neal.

The bill passed.

HB 2573, An act concerning the Kansas development finance authority; relating to the financing of certain projects of statewide as well as local importance; amending K.S.A. 2000 Supp. 74-8930 and 74-8922 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 70; Nays 51; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Alldritt, Aurand, Barnes, Beggs, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Dahl, DiVita, Dreher, Feuerborn, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Horst, Huff, Humerickhouse, Krehbiel, Larkin, Levinson, Light, Lightner, Lloyd, M. Long, Loyd, Mason, Mays, McCreary, Jim Morrison, Neufeld, Newton, Nichols, Novascone, O'Brien, Osborne, Ostmeyer, Patterson, Pauls, J. Peterson, L. Powell, T. Powell, Ray, Reardon, Rehorn, Sharp, Showalter, Shriver, Shultz, Spangler, Stone, Swenson, Tanner, Toplikar, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Ballard, Ballou, Benlon, Cook, Crow, DeCastro, Dillmore, Edmonds, Faber, Findley, Flaharty, Flora, Freeborn, Garner, Holmes, Huebert, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kuether, Landwehr, Lane, Loganbill, P. Long, Mayans, McClure, McKinney, McLeland, Merrick, Miller, Minor, Judy Morrison, Myers, Palmer, E. Peterson, Phelps, Pottorff, Powers, Pyle, Ruff, Schwartz, Sloan, Storm, Tafanelli, Thimesch, Toelkes, Tomlinson, Vickrey.

Present but not voting: None.

Absent or not voting: Gilbert, Howell, Kline, O'Neal.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: My vote in favor of **HB 2573** is not a vote on whether or not I support Oz or whether Oz is a worthy proposal. I vote aye because the issue is about local control and should be decided by the local commissioners and community. I do not want the federal government to tell me how to do my job. Similarly, I do not feel comfortable telling the commissioners how to do their job. The commissioners would like an extension so they can fully consider the Oz proposal and I defer to their decision.—DEAN NEWTON

SB 14, An act concerning mediation; relating to disputes which may be ordered to mediation; relating to certain costs of mediation; amending K.S.A. 44-817 and K.S.A. 2000 Supp. 5-501 and 5-509 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 117; Nays 4; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Hu-

merickhouse, Hutchins, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, 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, 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: Cook, Faber, Huy, McCreary.

Present but not voting: None.

Absent or not voting: Gilbert, Howell, Kline, O'Neal.

The bill passed, as amended.

SB 57, An act concerning certain claims against the state, making appropriations, authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain disbursements, procedures and acts incidental to the foregoing, was considered on final action.

On roll call, the vote was: Yeas 104; Nays 17; Present but not voting: 0; Absent or not voting: 4.

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

Nays: Burroughs, Cook, Dillmore, DiVita, Faber, Feuerborn, Grant, Landwehr, Loyd, Minor, Pauls, Pottorff, L. Powell, Shriver, Tomlinson, Vickrey, Winn.

Present but not voting: None.

Absent or not voting: Gilbert, Howell, Kline, O'Neal.

The bill passed, as amended.

SB 263, An act concerning crimes, criminal procedure and punishment; relating to collection of DNA specimens; limitation of actions; testing; relating to the deduction of time spent in confinement; relating to fingerprinting of alleged juvenile offenders; amending K.S.A. 21-4614 and 38-1611 and K.S.A. 2000 Supp. 21-2511 and 21-3106 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 114; Nays 7; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Dahl, DeCastro, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Freeborn, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Klein, Krehbiel, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, 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, 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: Crow, Dillmore, Flora, Garner, Kirk, Kuether, Loganbill.

Present but not voting: None.

Absent or not voting: Gilbert, Howell, Kline, O'Neal.

The bill passed, as amended.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Mays, the House concurred in Senate amendments to **HB 2105**, An act concerning the flag of the United States of America; relating to the use and display thereof; amending K.S.A. 72-5308 and 73-707 and repealing the existing sections

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 117; Nays 4; Present but not voting: 0; Absent or not voting: 4.

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, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, 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, 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, Stone, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Henderson, Spangler, Storm, Tomlinson.

Present but not voting: None.

Absent or not voting: Gilbert, Howell, Kline, O'Neal.

On motion of Rep. Ruff, the House concurred in Senate amendments to **HB 2300**, An act concerning certain state agencies; relating to the advisory committee on Hispanic affairs; appointments of members; concerning the Kansas governmental operations accountability law; amending K.S.A. 32-801, 74-2613, 74-5002f, 74-6502, 75-3702a, 75-4503, 75-5001, 75-5101, 75-5203, 75-5301, 75-5601, 75-5701 and 75-5903 and K.S.A. 2000 Supp. 2-1904, 74-560 and 74- 5202 and repealing the existing sections.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

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, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, 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, 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: Gilbert, Howell, Kline, O'Neal.

On motion of Rep. Ray, the House nonconcurred in Senate amendments to **HB 2124** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Ray, Campbell and Gilbert as conferees on the part of the House.

On motion of Rep. Boston, the House nonconcurred in Senate amendments to **S. Sub. for HB 2154** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Boston, Jim Morrison and Showalter as conferees on the part of the House.

On motion of Rep. Loyd, the House nonconcurred in Senate amendments to **HB 2176** and asked for a conference.

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

On motion of Rep. Loyd, the House nonconcurred in Senate amendments to **HB 2208** and asked for a conference.

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

On motion of Rep. Boston, the House nonconcurred in Senate amendments to **HB 2275** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Boston, Jim Morrison and Showalter as conferees on the part of the House.

On motion of Rep. T. Powell, the House nonconcurred in Senate amendments to **S. Sub. for HB 2299** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. T. Powell, Powers and Alldritt as conferees on the part of the House.

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

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2566** be passed.

On motion of Rep. Weber, in accordance with House Rule 2311, House Rule 3905 be suspended for the purpose of considering **HB 2545**. The motion prevailed.

Committee report to **HB 2545** be adopted; also, on motion of Rep. T. Powell be amended on page 14, following line 26, by inserting the following:

“(d) During the fiscal year ending June 30, 2001, no moneys appropriated for the department of corrections from the state general fund or any special revenue fund for fiscal year 2001 shall be expended for the purpose of providing offender substance abuse treatment services by Mirror Inc., for any offender incarcerated for a conviction of a sexual offense or for any individual who has been committed as a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., at the treatment facility located at 3820 North Toben, Wichita, Kansas: *Provided*, That the secretary of corrections may make expenditures from any moneys appropriated for the department of corrections from the state general fund or any special revenue fund for fiscal year 2001 to renegotiate the contract for services with Mirror Inc., which renegotiation is hereby authorized and directed to be undertaken, to amend the current contract to the effect that no individuals who have been committed for a sexual offense or who are participants in the sexually violent predator program receive treatment at 3820 North Toben, Wichita, Kansas, but are provided such offender substance abuse treatment services at another, suitable location in Wichita, Kansas, or in the proximity of Wichita within Sedgwick county.”; and **HB 2545** be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 322** be adopted; and the substitute bill be passed.

On motion of Rep. Edmonds **HB 2507** be amended on page 2, in line 18, by striking “and”; in line 21, after “services” by inserting “; (27) attorney general; (28) commissioner of insurance; (29) secretary of state; and (30) state treasurer”

On page 1, in the title, in line 9, by striking all after “concerning”; in line 10, by striking all before the semicolon and inserting “retirement; relating to participation in deferred compensation”; and **HB 2507** be passed as amended.

H. Sub. for Sub. SB 330 be passed over and retain a place on the calendar.

Committee report to **HB 2458** be adopted; also, on motion of Rep. Kirk be amended on page 6, after line 11, by inserting a new section to read as follows:

“Sec. 2. K.S.A. 2000 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, and dry-cleaning and laundry services taxed pursuant to K.S.A. 2000 Supp. 65-34,150, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital ~~or~~, public hospital authority, *hospice as described by K.S.A. 2000 Supp. 65-6207, and amendments thereto*, or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital ~~or~~, public hospital authority ~~or~~, *hospice* nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, *hospice*, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, water, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state, the total cost of which is paid from funds of such political subdivision and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, “funds of a political subdivision” shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in

such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, hospital or public hospital authority, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, hospital or public hospital authority, school or educational institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft, sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft sold to persons using directly or through an

authorized agent such aircraft and aircraft repair, modification and replacement parts as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, aircraft parts, replacement parts and services employed in the remanufacture, modification and repair of aircraft for use outside of the United States;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603 and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs, as defined by K.S.A. 65-1626 and amendments thereto, dispensed pursuant to a prescription order, as defined by K.S.A. 65-1626 and amendments thereto, by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used to alleviate the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person's mobility; such term shall include accessories attached or to be attached to motor vehicles, but such term shall not include motor vehicles or personal property which when installed becomes a fixture to real property;

(s) all sales of tangible personal property or services purchased directly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 *et seq.* and amendments thereto, which property or services are used in the operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of food products for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such

person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction

operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) "production line" means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, non-industrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from offsite, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the

means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501 (c)(3) of the

federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and to education, research and support for them and their families;

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease; and

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be

guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this

subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation; and

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas Academy of Science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials.”;

By renumbering existing sections accordingly;

Also, on page 6, in line 12, by striking “is” and inserting “and 79-3606 are”;

In the title, in line 11, before the semicolon by inserting “and hospice purchases”; also, in line 11, before “and” by inserting “and 79-3606”; in line 12, by striking “section” and inserting “sections”; and **HB 2458** be passed as amended.

Committee report to **HB 2219** be adopted; and the bill be passed as amended.

Committee report to **HB 2020** be adopted; also, on motion of Rep. Freeborn to amend, Rep. DiVita moved that the bill be rereferred to Committee on Federal and State Affairs. The motion of Rep. DiVita did not prevail. The question then reverted back to the motion of Rep. Freeborn to amend on page 1, in line 19, by striking all before “with”;

On page 2, in line 22, by striking “(a)”;

On page 3, by striking all in lines 1 through 20;

By renumbering sections accordingly;

Also on page 3, in line 29, by striking “6” and inserting “5”;

Roll call was demanded.

On roll call, the vote was: Yeas 58; Nays 57; Present but not voting: 0; Absent or not voting: 10.

Yeas: Aday, Aurand, Ballou, Beggs, Bethell, Boston, Campbell, Compton, Cook, Dahl, DeCastro, DiVita, Dreher, Edmonds, Freeborn, Gordon, Hayzlett, Hermes, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Krehbiel, Lane, Light, Lightner, Lloyd, P. Long, Loyd, Mason, Mays, McCreary, McLeland, Merrick, Miller, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Brien, Osborne, Palmer, Patterson, L. Powell, T. Powell, Pyle, Ray, Schwartz, Stone, Tafanelli, Tanner, Vickrey, Weber, Wilk, D. Williams.

Nays: Alldritt, Ballard, Barnes, Benlon, Burroughs, Cox, Crow, Dillmore, Faber, Freeborn, Findley, Flaharty, Flora, Garner, Gatewood, Grant, Henderson, Henry, Holmes, Horst, Kirk, Klein, Larkin, Levinson, Loganbill, M. Long, Mayans, McClure, McKinney, Minor, Jim Morrison, Nichols, Ostmeyer, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, Powers, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Sloan, Storm, Swenson, Thimesch, Toelkes, Tomlinson, Toplikar, Wells, Welshimer, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Gilbert, Glasscock, Howell, Huebert, Kline, Kuether, Landwehr, O'Neal, Shultz, Spangler.

The motion of Rep. Freeborn prevailed.

Also, rose and reported progress (see further action, Committee of the Whole, (Afternoon Session).

On motion of Rep. Weber, the House recessed until 3:00 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker pro tem Aurand in the chair.

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

COMMITTEE OF THE WHOLE

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

Recommended that discussion resume on **HB 2020** (see Committee of the Whole, Morning Session); also, roll call was demanded on motion to recommend the bill favorably for passage.

On roll call, the vote was: Yeas 71; Nays 48; Present but not voting: 0; Absent or not voting: 6.

Yeas: Alldritt, Ballard, Barnes, Benlon, Bethell, Burroughs, Cook, Cox, Crow, DeCastro, Dillmore, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gordon, Grant, Henderson, Henry, Hermes, Horst, Huebert, Huff, Huy, Johnson, Kauffman, Kirk, Klein, Kuether, Larkin, Levinson, Loganbill, M. Long, Mason, Mayans, McClure, McKinney, McLeland, Minor, Jim Morrison, Nichols, Ostmeyer, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Sloan, Spangler, Stone, Storm, Swenson, Thimesch, Toelkes, Tomlinson, Toplikar, Wells, Welshimer, Wilk, J. Williams, Wilson, Winn.

Nays: Aday, Aurand, Ballou, Beggs, Boston, Campbell, Compton, Dahl, DiVita, Dreher, Edmonds, Freeborn, Holmes, Humerickhouse, Hutchins, Krehbiel, Landwehr, Lane, Light, Lightner, Lloyd, P. Long, Loyd, Mays, McCreary, Merrick, Miller, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Brien, O'Neal, Osborne, Palmer, Patterson, L. Powell, T. Powell, Powers, Pyle, Ray, Schwartz, Tafanelli, Tanner, Vickrey, Weber, D. Williams.

Present but not voting: None.

Absent or not voting: Gilbert, Glasscock, Hayzlett, Howell, Kline, Shultz.

The motion prevailed and **HB 2020** be passed as amended.

HB 2563 be passed.

Committee report to **SB 309** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for Sub. SB 330** be adopted; also, on motion of Rep. Nichols be amended on page 42, in line 30, after "74-49.114a" by inserting "and section 45, and amendments thereto";

Also, on motion of Rep. Edmonds **H. Sub. for Sub. SB 330** be amended on page 93, after line 22, by inserting the following:

"New Sec. 47. Except as otherwise provided, any active contributing member of the retirement system who at one time had the state board of regents assist such member in the purchase of retirement annuities as provided in K.S.A. 74-4925, and amendments thereto and who withdrew such member's accumulated contributions upon the termination of such employment as provided in K.S.A. 74-4925, and amendments thereto, or any active contributing member of the retirement system who was eligible to have the state board of regents assist such member in the purchase of retirement annuities and who was serving in any waiting period required pursuant to K.S.A. 74-4925, and amendments thereto, may purchase participating service credit for any waiting period required pursuant to K.S.A. 74-4925, and amendments thereto. Such member may purchase, subject to the provisions of K.S.A. 2000 Supp. 74-49,123, and amendments thereto, such service credit by making a single lump-sum payment in an amount determined by the actuary using (1) the member's then current annual rate of compensation, (2) the actuarial assumptions and tables currently in use by the system and (3) the member's attained age.";

And by renumbering sections accordingly;

On page 1, in the title, in line 15, before "amending" by inserting "purchase of service credit:";

Also, on motion of Rep. Vickrey to amend **H. Sub. for Sub. SB 330**, the motion did not prevail. Also, on motion of Rep. Wilson to amend, the motion did not prevail.

Also, roll call was demanded on motion of Rep. Burroughs to amend **H. Sub. for Sub. SB 330** on page 57, in line 7, after "service" by inserting "or the completion of 32 years of credited service regardless of age of the member";

On roll call, the vote was: Yeas 57; Nays 62; Present but not voting: 0; Absent or not voting: 6.

Yeas: Alldritt, Ballard, Barnes, Burroughs, Cook, Cox, Crow, DeCastro, Dillmore, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Grant, Henderson, Henry, Horst, Hue-

bert, Huy, Kirk, Klein, Kuether, Larkin, Levinson, Loganbill, M. Long, P. Long, Mayans, McClure, McKinney, Minor, Jim Morrison, Nichols, O'Brien, Patterson, Pauls, E. Peterson, Phelps, T. Powell, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Storm, Swenson, Thimesch, Toelkes, Toplikar, Welshimer, D. Williams, J. Williams, Wilson, Winn.

Nays: Aday, Aurand, Ballou, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Dahl, DiVita, Dreher, Edmonds, Faber, Freeborn, Glasscock, Gordon, Hayzlett, Hermes, Holmes, Huff, Humerickhouse, Hutchins, Johnson, Kauffman, Krehbiel, Lane, Light, Lightner, Lloyd, Loyd, Mason, Mays, McCreary, McLeland, Merrick, Miller, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Osborne, Ostmeyer, Palmer, J. Peterson, Pottorff, L. Powell, Pyle, Ray, Schwartz, Shultz, Sloan, Spangler, Stone, Tafanelli, Tanner, Tomlinson, Vickrey, Weber, Wilk.

Present but not voting: None.

Absent or not voting: Gilbert, Howell, Kline, Landwehr, Powers, Wells.

The motion of Rep. Burroughs did not prevail.

Also, on motion of Rep. Campbell **H. Sub. for Sub. SB 330** be amended on page 27, in line 12, after "certified" as it appears the first time by inserting "from the time of commencement of the overpayment of retirement benefits until the time that such overpayment is discovered by the system"; also in line 12, after the period by inserting "At the time that such overpayment of retirement benefits is discovered by the system, the system shall adjust the amount of retirement benefits paid to the employee to the correct amount based on the participating employer's certification of member contributions which had not been previously reported. The participating employer of the employee who has had such member's retirement benefits adjusted as provided in this subsection shall notify such employee of such overpayment and such adjustment of retirement benefits.";

Also, having voted on the prevailing side, Rep. Spangler moved that the House reconsider its action in not adopting the amendment by Rep. Burroughs on **H. Sub. for Sub. SB 330**. The motion did not prevail.

Also, roll call was demanded on further motion of Rep. Spangler to amend **H. Sub. for Sub. SB 330** on page 57, in line 7, after service by inserting or the completion of 31 years of credited service regardless of age of the member;

On roll call, the vote was: Yeas 59; Nays 61; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alldritt, Ballard, Barnes, Burroughs, Campbell, Cox, Crow, Dahl, Dillmore, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Grant, Henderson, Henry, Horst, Huebert, Humerickhouse, Kirk, Klein, Kuether, Larkin, Levinson, Lightner, Loganbill, M. Long, McClure, McKinney, Merrick, Minor, Jim Morrison, O'Brien, Patterson, Pauls, E. Peterson, Phelps, T. Powell, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Spangler, Storm, Swenson, Thimesch, Toelkes, Toplikar, Wells, Welshimer, D. Williams, J. Williams, Wilson, Winn.

Nays: Aday, Aurand, Ballou, Beggs, Benlon, Bethell, Boston, Compton, Cook, DeCastro, DiVita, Dreher, Edmonds, Freeborn, Glasscock, Gordon, Hayzlett, Hermes, Holmes, Huff, Hutchins, Huy, Johnson, Kauffman, Krehbiel, Lane, Light, Lloyd, P. Long, Loyd, Mason, Mays, McCreary, McLeland, Miller, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Palmer, J. Peterson, Pottorff, L. Powell, Powers, Pyle, Ray, Schwartz, Shultz, Sloan, Stone, Tafanelli, Tanner, Tomlinson, Vickrey, Weber, Wilk.

Present but not voting: None.

Absent or not voting: Gilbert, Howell, Kline, Landwehr, Mayans.

The motion of Rep. Spangler did not prevail, and **H. Sub. for Sub. SB 330** be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Appropriations** recommends **HB 2106; SB 110** be passed and, because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

The Committee on **Taxation** recommends **SB 68** be amended in line 19, by striking "\$20,000" and inserting "\$30,000"; and the bill be passed as amended.

The Committee on **Taxation** recommends **SB 69** be amended on page 1, in line 29, after "and" by inserting "at a rate of 18 mills"; after line 43, by inserting two new sections to read as follows:

"Sec. 2. K.S.A. 2000 Supp. 79-201x is hereby amended to read as follows: 79-201x. For taxable years ~~1999 and 2000~~ 2001 and 2002, the following described property, to the extent herein specified, shall be and is hereby exempt from the property tax levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto: Property used for residential purposes to the extent of ~~\$20,000~~ \$30,000 of its appraised valuation.

Sec. 3. K.S.A. 2000 Supp. 79-2925b is hereby amended to read as follows: 79-2925b.
(a) Without adoption of a resolution or ordinance so providing *following the publishing thereof once each week for two consecutive weeks in the official newspaper of the county within which the taxing subdivision is located*, the governing body of any taxing subdivision shall not approve any appropriation or budget, as the case requires, which may be funded by revenue produced from property taxes, and which provides for funding with such revenue in an amount exceeding that of the next preceding year, except with regard to revenue produced and attributable to the taxation of: (1) New improvements to real property;

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

(3) property located within added jurisdictional territory; and

(4) property which has changed in use.

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

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

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

On page 2, in line 1, by striking "is" and inserting ", 79-201x and 79-2925b are";

By renumbering existing sections accordingly;

In the title, in line 9, after "ACT" by inserting "relating to property taxation,;" also, in line 9, before the semicolon by inserting "and the exemption therefrom; requiring notification of budget containing increased revenue produced therefrom"; in line 10, before "and" by inserting ", 79-201x and 79-2925b"; also, in line 10, by striking "section" and inserting "sections"; and the bill be passed as amended.

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

HOUSE CONCURRENT RESOLUTION No. 5029—

By Representatives Alldritt, Ballard, Barnes, Burroughs, Crow, Feuerborn, Findley, Flaherty, Flora, Garner, Grant, Henderson, Henry, Kirk, Kuether, Larkin, Loganbill, McKinney, Nichols, O'Brien, E. Peterson, Phelps, Reardon, Rehorn, Ruff, Sharp, Showalter, Storm, Thimesch, Toelkes and Wilson

A CONCURRENT RESOLUTION urging that the Governor recommend an appropriation for fiscal year 2002 and the next two subsequent fiscal years to provide sufficient state matching funds to increase the HCBS waiver budget to allow reimbursement rate increases to address inadequate pay for direct care workers employed by community service providers who serve persons with developmental disabilities and their families in home and community based settings.

WHEREAS, K.S.A. 30-1803 *et seq.*, commonly known as the Developmental Disability Reform Act, requires the state to reduce its reliance on separate, segregated settings in the community (K.S.A. 39-1804) for persons with developmental disabilities; and

WHEREAS, K.S.A. 39-1806 requires that the state conduct an independent biennial rate review, and make budget recommendations to the legislature arising therefrom in order that the legislature will appropriate adequate resources to sustain the intent of the act; and

WHEREAS, The legislative post audit committee has found and reported that the state has never complied with all the requirements of K.S.A. 39-1806, and that the absence of rate review-based guidance from the state has denied the legislature necessary and required information; and

WHEREAS, The state has publicly acknowledged a concern regarding wage-related staffing issues in both institutions and the community, noting that serious problems in recruiting and retaining direct care and professional staff negatively affect the quality of services to persons, and noting that the lack of competitive salaries is a primary factor contributing to staffing concerns; and

WHEREAS, Because of the serious problems in recruiting and retention, state institutions have been given authority to hire entry-level direct care staff at steps 4 through 6 of the classified employee pay scale; and

WHEREAS, The state has testified that the unavailability of sufficient numbers of qualified staff for community service providers is a significant state concern; and

WHEREAS, In some parts of the state community service providers are unable to access appropriated service dollars, and families and persons remain on waiting lists despite available appropriations, because direct care staff cannot be hired under the current community DD rate structure; and

WHEREAS, The cumulative effect of appropriation acts of the legislature during the past 10 fiscal years has increased state institutional staff wages by approximately 46%, and community wages by only 7%, which represents an aggregate community funding disparity of approximately \$70 million in wages alone; and

WHEREAS, Inasmuch as state appropriation acts that provide higher wages in institutional settings than in community settings weaken the ability of community service providers to hire and retain sufficient numbers of qualified workers, and that such state policies weaken the ability of the state to reduce its reliance on separate and segregated service settings: Now, therefore,

Be it resolved by the House of Representatives of the state of Kansas, the Senate concurring therein: That the Governor be urged to make timely recommendations to the 2001 legislative session to address the above described pay equity issue with state general fund appropriations for FY2002 sufficient to enable a \$30 million increase to the SRS budget for the HCBS/DD waiver, and that such appropriation be specified for increases in reimbursement rates for community services; and

Be it further resolved: That the Governor's recommendations include budget targets for the HCBS/DD waiver budget in sufficient amounts for the same purpose in each of the two immediately succeeding fiscal years following FY2002 to result in community wages in the community that are at not less than parity with state institutional wages for comparable positions; and

Be it further resolved: That the Secretary of State be directed to provide an enrolled copy of this resolution to the Governor.

REPORT ON ENGROSSED BILLS

HB 2292, HB 2548 reported correctly engrossed March 26, 2001.

Also, **HB 2105, HB 2169, HB 2219, HB 2573** reported correctly engrossed March 27, 2001.

REPORT ON ENROLLED BILLS

HB 2031, HB 2048, HB 2074, HB 2133, HB 2173, HB 2194, HB 2234, HB 2290, HB 2329, HB 2465 reported correctly enrolled, properly signed and presented to the governor on March 27, 2001.

REPORT ON ENROLLED RESOLUTIONS

HCR 5021, HCR 5028 reported correctly enrolled and properly signed on March 27, 2001.

READING AND CORRECTION OF THE JOURNAL

In the Journal, on page 569, under Reports of Standing Committees, (**H. Sub. for SB 332** was thereupon introduced and read by title.) should be deleted and (**H. Sub. for SB 322** was thereupon introduced and read by title.) should be inserted.

On motion of Rep. Weber, the House adjourned until 10:00 a.m., Wednesday, March 28, 2001.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

