

Journal of the Senate

FIFTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 20, 2001—2:30 p.m.

The Senate was called to order by President Dave Kerr.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

It's that time in the session
When conference committees confer,
And then we must decide
To concur or nonconcur.

When House and Senate disagree
The committee really tries
To amend the bill in such a way
To reach a compromise.

But when the bill is changed,
It can create quite a stir
As each house ponders whether
To concur or nonconcur.

But there are other times
When dilemmas do occur,
And legislators don't know when
To concur or nonconcur.

Several friends will call and ask us
To vote a certain way;
But other friends who disagree
Have the opposite thing to say.

We back a bill we think will pass
And will help our cause advance,
But constituents want it all at once
And we doubt it has a chance.

And there are many other times
When these dilemmas will occur.
Please give us wisdom, Lord,
To concur or nonconcur.

I pray in Jesus' Name,
Amen

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 358, An act concerning alcoholic beverages; relating to the sale thereof; amending K.S.A. 41-712 and 41-2704 and repealing the existing sections, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Financial Institutions & Insurance: **HB 2473**.

Judiciary: **HB 2067**.

Ways and Means: **Sub HB 2532**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2408**.

Passage of **SB 8**, **SB 63**, **SB 254**.

Also, passage of **SB 107**, as amended, **SB 125**, as amended, **SB 126**, as amended, **SB 127**, as amended.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2408 was thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

The Committee on Utilities introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1828—

By Committee on Utilities

A RESOLUTION urging the Governor to appoint nine representatives to work with the University of Kansas energy research center to develop an energy plan for Kansas.

WHEREAS, The future of Kansas' economy is tied to the availability of energy for industry, agriculture and commerce; and

WHEREAS, International energy demand is growing while access to energy supplies is inconsistent; and

WHEREAS, Kansas has been a net explorer of energy sources in the past and should continue planning for the future energy needs of its citizens by assessing its access to energy sources, the supply available, new technologies and conservation; and

WHEREAS, The University of Kansas energy research center is a well-established, broadly based, externally-funded research and development organization which can undertake a study of the future energy needs of Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Senate of the state of Kansas urges the Governor to appoint nine representatives to work in conjunction with the University of Kansas energy research center in developing a state energy plan; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to the Governor of the state of Kansas.

FINAL ACTION ON CONSENT CALENDAR

SB 350; **HB 2137**, **HB 2206**, **HB 2270** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

SB 350, An act concerning electronic transactions; establishing the electronic transactions registration fee fund.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelkamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh,

Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

HB 2137. An act concerning traffic; relating to citations; amending K.S.A. 2000 Supp. 8-2106 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huel-skamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

HB 2206. An act relating to consumer protection; concerning the definition of family partnership; amending K.S.A. 50-624 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huel-skamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

HB 2270. An act authorizing the state board of regents to exchange and convey certain tracts of real estate located in Ellis county, Kansas, for and on behalf of Fort Hays state university with the Fort Hays university endowment association.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huel-skamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SB 255** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 255," as follows:

"Substitute for SENATE BILL No. 255

By Committee on Agriculture

"AN ACT concerning agriculture; relating to fertilizers; amending K.S.A. 2-1201b and repealing the existing section."; and the substitute bill be passed.

Also **HB 2103**, as amended by House Committee, be amended on page 1, by striking all of lines 15 through 43;

By striking all of page 2;

On page 3, by striking all of lines 1 through 9 and renumbering the remaining sections accordingly; in line 24, by striking "\$100,000,000" and inserting "\$55,000,000";

On page 4, in line 43, by striking "75-4209,";

On page 1, in the title, in line 11, by striking "75-4209,;" and the bill be passed as amended.

Committee on **Assessment and Taxation** recommends **HB 2007**, as amended by House Committee, be amended on page 3, by striking all in lines 29 through 31 and inserting "treasurer to any financial officer designated to receive such information by the governing body of any such city or county.";

On page 5, in line 16, by striking all after "to"; by striking all in line 17; in line 18, by striking all before the period and inserting "any financial officer designated to receive such

information by the governing body of any such city or county"; in line 26, by striking all after "promotion"; by striking all in line 27; in line 28, by striking all before the period;

On page 7, in line 9, by striking all after "to"; by striking all in line 10; in line 11, by striking all before the period and inserting "any financial officer designated to receive such information by the governing body of any such city or county"; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **HB 2406** be amended on page 1, in line 14, before "Before", by inserting "(a)"; following line 30, by inserting the following:

"(b) This section shall not apply to any county having a population of 25,000 or less."; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2481**, as amended by House Committee, be amended on page 3, following line 36, by inserting the following:

"(b) any entity directly or indirectly regulated by an agency of the United States or of any state which is a subsidiary or affiliate of any entity listed in subsection (a) if 25% or more of such entity's common stock is owned by any entity listed in subsection (a);";

Also on page 3, in line 37, by striking "(b)" and inserting "(c)"; in line 42, by striking "(c)" and inserting "(d)";

On page 4, in line 2, by striking "(d)" and inserting "(e)"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 302; HB 2178, HB 2207** be passed.

Also **HB 2173, HB 2174, HB 2176**, all as amended by House Committee, be passed.

SB 208 be amended on page 4, in line 40, by striking "for the purpose"; also in line 40, by striking ", such as any"; by striking all in lines 41 through 43;

On page 5, by striking all in lines 1 through 7; in line 8, by striking all before the period; and the bill be passed as amended.

HB 2083, as amended by House Committee, be amended on page 1, in line 26, after the period, by inserting "Such statement shall be filed with the court within 24 hours following the party's arrest."; and the bill be passed as amended.

HB 2084 be amended on page 1, in line 29, by striking "commence involuntary"; by striking all in lines 30 through 38 and inserting: "conduct an investigation concerning the defendant and determine what services or placement involving the least restrictive setting appropriate to meet the needs of the defendant consistent with public safety are appropriate. The secretary shall commence an involuntary commitment proceeding pursuant to either article 29 or article 29b of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, or a guardianship proceeding pursuant to article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, whenever appropriate. The secretary shall provide or cause to be provided to the defendant such services as may be available and appropriate to the defendant in light of the secretary's findings as provided for in this subsection. The secretary shall report to the court, the defendant's attorney and to the county or district attorney of the county in which the criminal proceedings are pending concerning the secretary's findings and actions. Upon request of the defendant or the county or district attorney, the court may set a hearing on the issue of whether the secretary's actions are sufficient to meet the defendant's needs or to protect the public interests. If no such request is made within 10 days after receipt of the secretary's report, the court shall dismiss without prejudice the charges against the defendant, and the period of limitation for the prosecution for the crime charged shall not continue to run until the defendant has been determined to have attained competency in accordance with K.S.A. 22-3302 and amendments thereto."; in line 42, after "shall", by inserting "then"; in line 43, by striking all after "to";

On page 2, by striking all in lines 1 through 8 and inserting: "conduct an investigation concerning the defendant and determine what services or placement involving the least restrictive setting appropriate to meet the needs of the defendant consistent with public safety are appropriate. The secretary shall commence an involuntary commitment proceeding pursuant to either article 29 or article 29b of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, or a guardianship proceeding pursuant to article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, whenever appro-

priate. The secretary shall provide or cause to be provided to the defendant such services as may be available and appropriate to the defendant in light of the secretary's findings as provided for in this subsection. The secretary shall report to the court, the defendant's attorney and to the county or district attorney of the county in which the criminal proceedings are pending concerning the secretary's findings and actions. Upon request of the defendant or the county or district attorney, the court may set a hearing on the issue of whether the secretary's actions are sufficient to meet the defendant's needs or to protect the public interests. If no such request is made within 10 days after receipt of the secretary's report, the court shall dismiss without prejudice the charges against the defendant, and the period of limitation for the prosecution for the crime charged shall not continue to run until the defendant has been determined to have attained competency in accordance with K.S.A. 22-3302 and amendments thereto." after line 22, by inserting the following:

"Sec. 2. K.S.A. 2000 Supp. 22-3305 is hereby amended to read as follows: 22-3305. (1) Whenever involuntary commitment proceedings have been commenced by the secretary of social and rehabilitation services as required by K.S.A. 22-3303 and amendments thereto, and the defendant is not committed to a treatment facility as a patient, the defendant shall remain in the institution where committed pursuant to K.S.A. 22-3303 and amendments thereto, and the secretary shall promptly notify the court and the county or district attorney of the county in which the criminal proceedings are pending of the result of the involuntary commitment proceeding.

(2) Whenever involuntary commitment proceedings have been commenced by the secretary of social and rehabilitation services as required by K.S.A. 22-3303 and amendments thereto, and the defendant is committed to a treatment facility as a patient but thereafter is to be discharged pursuant to ~~the care and treatment act for mentally ill persons~~ *either article 29 or article 29b of chapter 59 of the Kansas Statutes Annotated, and amendments thereto*, the defendant shall remain in the institution where committed pursuant to K.S.A. 22-3303 and amendments thereto, and the head of the treatment facility shall promptly notify the court and the county or district attorney of the county in which the criminal proceedings are pending that the defendant is to be discharged.

When giving notification to the court and the county or district attorney pursuant to subsection (1) or (2), the treatment facility shall include in such notification an opinion from the head of the treatment facility as to whether or not the defendant is now competent to stand trial. Upon request of the county or district attorney, the court may set a hearing on the issue of whether or not the defendant has been restored to competency. If no such request is made within 10 days after receipt of notice pursuant to subsection (1) or (2), the court shall order the defendant to be discharged from commitment and shall dismiss without prejudice the charges against the defendant, and the period of limitation for the prosecution for the crime charged shall not continue to run until the defendant has been determined to have attained competency in accordance with K.S.A. 22-3302 and amendments thereto.

New Sec. 3. The secretary of social and rehabilitation services shall convene a task force to study current programs and laws for alleged offenders with disabilities that render such offenders potentially incompetent to stand trial, but who do not meet the criteria for involuntary commitment under Kansas law. The task force shall review and make recommendations on the adequacy of Kansas programs and services, and current Kansas law, in protecting public safety and in providing services and support to such alleged offenders. The secretary shall report to the SRS transition oversight committee during the 2001 interim and shall make a final report including programmatic and statutory recommendations to the 2002 legislature."

And by renumbering sections accordingly;

Also on page 2, in line 23, by striking "is" and inserting "and K.S.A. 2000 Supp. 22-3305 are";

On page 1, in the title, in line 10, after the semicolon, by inserting "task force;"; also in line 10, after "22-3303" by inserting "and K.S.A. 2000 Supp. 22-3305"; also in line 10, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2131**, as amended by House Committee, be amended on page 5, in line 32, by striking "at the rate of \$.50 per vehicle tire

before July 1, 2003;"; in line 33, by striking all before the period and inserting: "of \$.25 per vehicle tire";

On page 6, by striking all in line 42; in line 43, by striking "follows: 65-3424f.";

On page 7, by striking all in lines 28 through 43;

On page 8, in line 1, by striking ". Grants may be"; by striking all in lines 2 through 7; by striking all in lines 11 through 29;

And by renumbering sections accordingly;

Also on page 8, in line 43, after the semicolon, by inserting "and";

On page 9, by striking all in lines 1 through 4; in line 5, by striking "(7)" and inserting "(6)"; by striking all in lines 8 and 9; in line 10, by striking "(2)" and inserting "(1)"; in line 16, by striking "18%"; by striking all in line 17; in line 18, by striking all before the semicolon and inserting: "\$300,000 or 43%, whichever is less, of the moneys credited to the fund during the preceding fiscal year"; in line 36, by striking "(3)" where it appears for the first time; also in line 36, by striking "(3)" where it appears for the last time and inserting "(2)"; in line 39, by striking "(4)" and inserting "(3)";

On page 10, in line 1, by striking "(5)" and inserting "(4)"; in line 13, by striking "(6)" and inserting "(5)"; in line 41, before "onto" by inserting "and upon written notice";

On page 12, in line 29, by striking all after "(h)"; by striking all in lines 30 through 39; in line 40, by striking "(i)";

On page 13, in line 1, by striking "to report suspected violations of" and inserting: "requesting information on"; by striking all in lines 3 through 10 and inserting in lieu thereof: "assist in planning and implementing conferences, workshops, and other requested training events for persons involved in the generation, transportation, processing, or disposal of waste tires; and (4) assemble and analyze data on waste tire management by tire retailers in Kansas."; in line 41, by striking "and K.S.A. 65-3424f"; in line 43, by striking "in each grant program";

In the title, in line 11, by striking "65-3424f."; in line 12, before the period, by inserting: "; also repealing K.S.A. 2000 Supp. 65-3424f"; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2200** be amended on page 2, by striking all in lines 25 through 43;

On page 3, by striking all in lines 1 through 43;

On page 4, by striking all in lines 1 through 24 and inserting:

"Sec. 4. K.S.A. 2000 Supp. 55-155, as amended by section 190 of 2001 Senate Bill No. 15, is hereby amended to read as follows: 55-155. (a) Operators and contractors shall be licensed by the commission pursuant to this section.

(b) Every operator and contractor shall file an application or a renewal application with the commission. Application and renewal application forms shall be prescribed, prepared and furnished by the commission.

(c) No application or renewal application shall be approved until the applicant has:

(1) Provided sufficient information, as required by the commission, for purposes of identification;

(2) submitted evidence that all current and prior years' taxes for property associated with the drilling or servicing of wells have been paid;

(3) demonstrated to the commission's satisfaction that the applicant complies with all requirements of chapter 55 of the Kansas Statutes Annotated, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is registered with the federal securities and exchange commission;

(4) demonstrated to the commission's satisfaction that the following comply with all requirements of chapter 55 of the Kansas Statutes Annotated, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is not registered with the federal securities and exchange commission: (A) The applicant; (B) any officer, director, partner or member of the applicant; (C) any stockholder owning in the aggregate more than 5% of the stock of the applicant; and (D) any spouse, parent, brother, sister, child, parent-in-law, brother-in-law or sister-in-law of the foregoing;

(5) paid an annual license fee of \$100, except that an applicant for a license who is operating one gas well used strictly for the purpose of heating a residential dwelling shall pay an annual license fee of \$25;

(6) complied with subsection (d); and
(7) paid an annual license fee of \$25 for each rig operated by the applicant. The commission shall issue an identification tag for each such rig which shall be displayed on such rig at all times.

(d) In order to assure financial responsibility, each operator shall demonstrate annually compliance with one of the following provisions:

(1) The operator has obtained an individual performance bond or letter of credit, in an amount equal to \$.75 times the total aggregate depth of all wells (including active, inactive, injection or disposal) of the operator.

(2) The operator has obtained a blanket performance bond or letter of credit in an amount equal to the following, according to the number of wells (including active, inactive, injection or disposal) of the operator:

(A) Wells less than 2,000 feet in depth: 1 through 5 wells, \$5,000; 6 through 25 wells, \$10,000; and over 25 wells, \$20,000.

(B) Wells 2,000 or more feet in depth: 1 through 5 wells, \$10,000; 6 through 25 wells, \$20,000; and over 25 wells, \$30,000.

(3) The operator: (A) Has an acceptable record of compliance, as demonstrated during the preceding 36 months, with commission rules and regulations regarding safety and pollution or with commission orders issued pursuant to such rules and regulations; (B) has no outstanding undisputed orders issued by the commission or unpaid fines, penalties or costs assessed by the commission and has no officer or director that has been or is associated substantially with another operator that has any such outstanding orders or unpaid fines, penalties or costs; and (C) pays a nonrefundable fee of \$50 per year.

(4) The operator pays a nonrefundable fee equal to 3% of the amount of the bond or letter of credit that would be required by subsection (d)(1) or by subsection (d)(2).

(5) The state has a first lien on tangible personal property associated with oil and gas production of the operator that has a salvage value equal to not less than the amount of the bond or letter of credit that would be required by subsection (d)(1) or by subsection (d)(2).

(6) The operator has provided other financial assurance approved by the commission.

(e) Upon the approval of the application or renewal application, the commission shall issue to such applicant a license which shall be in full force and effect until one year from the date of issuance or until surrendered, suspended or revoked as provided in K.S.A. 55-162, and amendments thereto. No new license shall be issued to any applicant who has had a license revoked until the expiration of one year from the date of such revocation.

(f) If an operator transfers responsibility for the operation of a well, gas gathering system or underground natural gas storage facility to another person, the transfer shall be reported to the commission in accordance with rules and regulations of the commission.

(g) The commission shall remit all moneys received from fees assessed pursuant to subsection (c)(7) of this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the conservation fee fund created by K.S.A. 55-143, and amendments thereto.

(h) The commission shall remit all moneys received pursuant to subsections (d)(3) and (d)(4) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~conservation fee~~ *well plugging assurance fund*.”;

On page 6, by striking all in lines 3 through 36 and inserting:

“Sec. 7. K.S.A. 2000 Supp. 55-180, as amended by section 193 of 2001 Senate Bill No. 15, is hereby amended to read as follows: 55-180. (a) The fact that any person has initiated or supported a proceeding before the commission, or has remedied or attempted to remedy the condition of any well under the authority of this act, shall not be construed as an admission of liability or received in evidence against such person in any action or proceeding wherein responsibility for or damages from surface or subsurface pollution, or injury to any usable water or oil-bearing or gas-bearing formation, is or may become an issue; nor shall such fact be construed as releasing or discharging any action, cause of action or claim against

such person existing in favor of any third person for damages to property resulting from surface or subsurface pollution, or injury to any usable water or oil-bearing or gas-bearing formation.

(b) The commission, on its own motion, may initiate an investigation into any pollution problem related to oil and gas activity. In taking such action the commission may require or perform the testing, sampling, monitoring or disposal of any source of groundwater pollution related to oil and gas activities.

(c) The commission or any other person authorized by the commission who has no obligation to plug, replug or repair any abandoned well, but who does so in accordance with the provisions of this act, shall have a cause of action for the reasonable cost and expense incurred in plugging, replugging or repairing the well against any person who is legally responsible for the proper care and control of such well pursuant to the provisions of K.S.A. 55-179, and amendments thereto, and the commission or other person shall have a lien upon the interest of such obligated person in and to the oil and gas rights in the land and equipment located thereon.

(d) Any moneys recovered by the commission in an action pursuant to subsection (c) shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the conservation fee *fund*, *well plugging assurance* fund or the abandoned oil and gas well fund, as appropriate based on the fund from which the costs incurred by the commission were paid.

Sec. 8. K.S.A. 2000 Supp. 55-182 is hereby amended to read as follows: 55-182. (a) Agents of the commission shall have the right of ingress and egress upon any lands where any well or *natural gas storage facility within the commission's jurisdiction* is located and the lands adjacent thereto and to occupy such lands as are necessary in ~~making any investigation or in the permitting, monitoring, inspecting, investigating, supervising,~~ plugging, replugging or repairing of any *such well or in the supervision thereof natural gas storage facility*. Any agent when entering upon any land to *permit, monitor, inspect, investigate, supervise, plug, replug or repair a well; or to supervise or inspect the same natural gas storage facility*, shall not be liable for any damages necessarily resulting therefrom, except damages to growing crops, livestock or improvements on the land.

(b) Agents of the commission shall have the right of ingress and egress upon any lands to clean up pollution resulting from oil and gas activities. Such agents shall have the power to occupy such land if necessary to investigate and clean up such pollution. Any agent entering upon any land to conduct cleanup activities shall not be liable for any damages necessarily resulting therefrom except damages to growing crops, livestock or improvements on the land.

New Sec. 9. (a) For the purposes of protecting the health, safety and property of the people of the state, and the soil and waters of the state from pollution, the secretary of health and environment shall adopt separate and specific rules and regulations establishing requirements, procedures and standards for the following:

- (1) Salt solution mining;
 - (2) the safe and secure underground storage of liquid petroleum gas and hydrocarbons other than those provided for in paragraph (3) in underground storage reservoirs;
 - (3) the safe and secure underground storage of natural gas in bedded salt; and
 - (4) the safe and secure underground storage of hydrocarbons in aquifers.
- (b) Such rules and regulations shall include, but not be limited to:
- (1) Site selection criteria;
 - (2) design and development criteria;
 - (3) operation criteria;
 - (4) casing requirements;
 - (5) monitoring and measurement requirements;
 - (6) safety requirements, including public notification;
 - (7) closure and abandonment requirements, including the financial requirements of subsection (d); and
 - (8) long term monitoring.

(c) (1) The secretary of health and environment may adopt rules and regulations establishing fees for the following services:

- (A) Permitting, monitoring and inspecting salt solution mining operators;
- (B) permitting, monitoring and inspecting underground storage of liquid petroleum gas and hydrocarbons;
- (C) permitting, monitoring and inspecting underground storage of natural gas in bedded salt.

(2) The fees collected under this section by the secretary of health and environment shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the subsurface hydrocarbon storage fund.

(d) Any company or operator receiving a permit under the provisions of this act shall demonstrate annually to the department of health and environment evidence, satisfactory to the department, that such permit holders have financial ability to cover the cost of closure of such permitted facility as required by the department.

(e) The secretary of health and environment may enter into contracts for services from consultants and other experts for the purposes of assisting in the drafting of such rules and regulations.

(f) (1) For a period of two years from July 1, 2001, or until the rules and regulations provided for in paragraph (3) of subsection (a) are adopted, the injection of working natural gas into underground storage in bedded salt is prohibited, except that cushion gas may be injected into existing underground storage in bedded salt. Natural gas currently stored in such underground storage may be extracted.

(2) Any existing underground storage of natural gas in bedded salt, shall comply with the rules and regulations adopted under this section prior to the commencement of injection of working natural gas into such underground storage.

(g) The provisions of this section shall not apply to the underground storage of natural gas regulated under rules and regulations adopted by the state corporation commission.

New Sec. 10. (a) (1) There is hereby established in the state treasury the subsurface hydrocarbon storage fund to administer the underground storage of hydrocarbons, natural gas and liquid petroleum gas. Such fund shall be administered by the secretary of health and environment in accordance with the provisions of this section. All moneys received by the secretary of health and environment as grants, gifts, bequests or state or federal appropriations shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of such fund. All expenditures from this fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

(2) The secretary is authorized to receive from the federal government or any of its agencies or from any private or governmental source any funds made available under laws, rules and regulations for the underground storage of hydrocarbons, natural gas and liquid petroleum gas, or facility cleanup or other remedial action where environmental pollution is or threatens to create a public health or environmental hazard.

(b) The secretary is authorized to use moneys from the subsurface hydrocarbon storage fund to pay the cost of:

- (1) All activities related to permitting activities including but not limited to development and issuance of permits, compliance monitoring, inspections, well and well system closures, long term monitoring and enforcement actions;
- (2) review and witnessing of test procedures;
- (3) review and witnessing of routine workover or repair procedures;
- (4) investigation of violations, complaints, pollution and events effecting public health;
- (5) design and review of remedial action plans;
- (6) contracting for services needed to supplement the department's staff expertise in facility investigations;
- (7) consultation needed concerning remedial action at a permitted facility;

- (8) mitigation of adverse environmental impacts;
- (9) emergency or long-term remedial activities;
- (10) legal costs, including expert witnesses, incurred in administration of the underground storage of hydrocarbons, natural gas and liquid petroleum gas; and
- (11) costs of program administration.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the subsurface hydrocarbon storage fund interest earnings based on:

- (1) The average daily balance of moneys in the subsurface hydrocarbon storage fund for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding months.

New Sec. 11. (a) The secretary of the department of health and environment or the director of the division of environment, if designated by the secretary, upon a finding that a person has violated any provision of section 9, and amendments thereto, or rules and regulations adopted thereunder, may impose a penalty not to exceed \$10,000 per violation which shall constitute an economic deterrent to the violation for which it is assessed and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) No penalty shall be imposed pursuant to this section except after an opportunity for hearing upon the written order of the secretary or the director of the division of environment, if designated by the secretary, to the person who committed the violation. The order shall state the violation, the penalty to be imposed and, in the case of an order of the director of the division of environment, the right to appeal to the secretary for a hearing thereon. Any person may appeal an order of the director of the division of environment by making a written request to the secretary for a hearing within 15 days of service of such order. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

New Sec. 12. (a) In performing investigations or administrative functions relating to surface and subsurface water pollution, soil pollution and public health or safety, the secretary of health and environment or the secretary's duly authorized representatives may enter any property or facility which is subject to the provisions of K.S.A. 65-171d, and amendments thereto, and section 9, and amendments thereto, for the purpose of observing, monitoring, collecting samples, examining records and facilities to determine compliance or noncompliance with state laws and rules and regulations relating to water pollution, soil pollution or public health or safety.

(b) The representatives of the secretary shall have the right of ingress and egress upon any lands to cleanup pollution resulting from the underground storage of hydrocarbons, natural gas and liquid petroleum gas. Such representatives shall have the power to occupy such land if necessary to investigate and cleanup such pollution. Any agent entering upon any land to conduct clean-up activities shall not be liable for any damages necessarily resulting therefrom, except damages to growing crops, livestock or improvements on the land.

(c) The secretary of health and environment or the secretary's duly authorized representative shall make such requirements as they deem necessary relating to the inspecting, monitoring, investigating, recording and reporting by any holder of a permit issued under K.S.A. 65-171d, and amendments thereto, or section 9, and amendments thereto, and the rules and regulations adopted thereunder.

Sec. 13. K.S.A. 2000 Supp. 65-171d is hereby amended to read as follows: 65-171d. (a) For the purpose of preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, and to protect beneficial uses of the waters of the state and to require the treatment of sewage predicated upon technologically based effluent limitations, the secretary of health and environment shall make such rules and regulations, including registration of potential sources of pollution, as may in the secretary's judgment be necessary to: (1) ~~Protect the soil and waters of the state from pollution resulting from underground storage reservoirs of hydro-~~

~~carbons and liquid petroleum gas;~~ (2) Control the disposal, discharge or escape of sewage as defined in K.S.A. 65-164 and amendments thereto, by or from municipalities, corporations, companies, institutions, state agencies, federal agencies or individuals and any plants, works or facilities owned or operated, or both, by them; and ~~(3)~~ (2) establish water quality standards for the waters of the state to protect their beneficial uses.

(b) The secretary of health and environment may adopt by reference any regulation relating to water quality and effluent standards promulgated by the federal government pursuant to the provisions of the federal clean water act and amendments thereto, as in effect on January 1, 1989, which the secretary is otherwise authorized by law to adopt.

(c) For the purposes of this act, including K.S.A. 65-161 through 65-171h and K.S.A. 2000 Supp. 65-1,178 through 65-1,198, and amendments thereto, and rules and regulations adopted pursuant thereto:

(1) "Pollution" means: (A) Such contamination or other alteration of the physical, chemical or biological properties of any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to the plant, animal or aquatic life of the state or to other designated beneficial uses; or (B) such discharge as will or is likely to exceed state effluent standards predicated upon technologically based effluent limitations.

(2) "Confined feeding facility" means any lot, pen, pool or pond: (A) Which is used for the confined feeding of animals or fowl for food, fur or pleasure purposes; (B) which is not normally used for raising crops; and (C) in which no vegetation intended for animal food is growing.

(3) "Animal unit" means a unit of measurement calculated by adding the following numbers: The number of beef cattle weighing more than 700 pounds multiplied by 1.0; plus the number of cattle weighing less than 700 pounds multiplied by 0.5; plus the number of mature dairy cattle multiplied by 1.4; plus the number of swine weighing more than 55 pounds multiplied by 0.4; plus the number of swine weighing 55 pounds or less multiplied by 0.1; plus the number of sheep or lambs multiplied by 0.1; plus the number of horses multiplied by 2.0; plus the number of turkeys multiplied by 0.018; plus the number of laying hens or broilers, if the facility has continuous overflow watering, multiplied by 0.01; plus the number of laying hens or broilers, if the facility has a liquid manure system, multiplied by 0.033; plus the number of ducks multiplied by 0.2. However, each head of cattle will be counted as one full animal unit for the purpose of determining the need for a federal permit. "Animal unit" also includes the number of swine weighing 55 pounds or less multiplied by 0.1 for the purpose of determining applicable requirements for new construction of a confined feeding facility for which a permit or registration has not been issued before January 1, 1998, and for which an application for a permit or registration and plans have not been filed with the secretary of health and environment before January 1, 1998, or for the purpose of determining applicable requirements for expansion of such facility. However, each head of swine weighing 55 pounds or less shall be counted as 0.0 animal unit for the purpose of determining the need for a federal permit.

(4) "Animal unit capacity" means the maximum number of animal units which a confined feeding facility is designed to accommodate at any one time.

(5) "Habitable structure" means any of the following structures which is occupied or maintained in a condition which may be occupied and which, in the case of a confined feeding facility for swine, is owned by a person other than the operator of such facility: A dwelling, church, school, adult care home, medical care facility, child care facility, library, community center, public building, office building or licensed food service or lodging establishment.

(6) "Wildlife refuge" means Cheyenne Bottoms wildlife management area, Cheyenne Bottoms preserve and Flint Hills, Quivera, Marais des Cygnes and Kirwin national wildlife refuges.

(d) In adopting rules and regulations, the secretary of health and environment, taking into account the varying conditions that are probable for each source of sewage and its possible place of disposal, discharge or escape, may provide for varying the control measures required in each case to those the secretary finds to be necessary to prevent pollution. If a freshwater reservoir or farm pond is privately owned and where complete ownership of land

bordering the reservoir or pond is under common private ownership, such freshwater reservoir or farm pond shall be exempt from water quality standards except as it relates to water discharge or seepage from the reservoir or pond to waters of the state, either surface or groundwater, or as it relates to the public health of persons using the reservoir or pond or waters therefrom.

(e) (1) Whenever the secretary of health and environment or the secretary's duly authorized agents find that the soil or waters of the state are not being protected from pollution resulting from underground storage reservoirs of hydrocarbons and liquid petroleum gas or that storage or disposal of salt water not regulated by the state corporation commission or refuse in any surface pond is causing or is likely to cause pollution of soil or waters of the state, the secretary or the secretary's duly authorized agents shall issue an order prohibiting such underground storage reservoir or surface pond. Any person aggrieved by such order may within 15 days of service of the order request in writing a hearing on the order.

(2) Upon receipt of a timely request, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(3) Any action of the secretary pursuant to this subsection is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(f) The secretary may adopt rules and regulations establishing fees for ~~the following services:~~

(1) plan approval, monitoring and inspecting underground or buried petroleum products storage tanks, for which the annual fee shall not exceed \$5 for each tank in place;

~~(2) permitting, monitoring and inspecting salt solution mining operators, for which the annual fee shall not exceed \$1,950 per company; and~~

~~(3) permitting, monitoring and inspecting hydrocarbon storage wells and well systems, for which the annual fee shall not exceed \$1,875 per company.~~

(g) Prior to any new construction of a confined feeding facility with an animal unit capacity of 300 to 999, such facility shall register with the secretary of health and environment. Facilities with a capacity of less than 300 animal units may register with the secretary. Any such registration shall be accompanied by a \$25 fee. Within 30 days of receipt of such registration, the department of health and environment shall identify any significant water pollution potential or separation distance violations pursuant to subsection (h). If there is identified a significant water pollution potential, such facility shall be required to obtain a permit from the secretary. If there is no water pollution potential posed by a facility with an animal unit capacity of less than 300, the secretary may certify that no permit is required. If there is no water pollution potential nor any violation of separation distances posed by a facility with an animal unit capacity of 300 to 999, the secretary shall certify that no permit is required and that there are no certification conditions pertaining to separation distances. If a separation distance violation is identified, the secretary may reduce the separation distance in accordance with subsection (i) and shall certify any such reduction of separation distances.

(h) (1) Any new construction or new expansion of a confined feeding facility, other than a confined feeding facility for swine, shall meet or exceed the following requirements in separation distances from any habitable structure in existence when the application for a permit is submitted:

(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999; and

(B) 4,000 feet for facilities with an animal unit capacity of 1,000 or more.

(2) A confined feeding facility for swine shall meet or exceed the following requirements in separation distances from any habitable structure or city, county, state or federal park in existence when the application for a permit is submitted:

(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999;

(B) 4,000 feet for facilities with an animal unit capacity of 1,000 to 3,724;

(C) 4,000 feet for expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion is within the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility; and

(D) 5,000 feet for: (i) Construction of new facilities with an animal unit capacity of 3,725 or more; or (ii) expansion of existing facilities to an animal unit capacity of 3,725 or more

if such expansion extends outside the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility.

(3) Any construction of new confined feeding facilities for swine shall meet or exceed the following requirements in separation distances from any wildlife refuge:

(A) 10,000 feet for facilities with an animal unit capacity of 1,000 to 3,724; and

(B) 16,000 feet for facilities with an animal unit capacity of 3,725 or more.

(i) (1) The separation distance requirements of subsections (h)(1) and (2) shall not apply if the applicant for a permit obtains a written agreement from all owners of habitable structures which are within the separation distance stating such owners are aware of the construction or expansion and have no objections to such construction or expansion. The written agreement shall be filed in the register of deeds office of the county in which the habitable structure is located.

(2) (A) The secretary may reduce the separation distance requirements of subsection (h)(1) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to public notice; or (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances.

(B) The secretary may reduce the separation distance requirements of subsection (h)(2)(A) or (B) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to notice given in accordance with subsection (l); (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances; or (iii) the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology.

(C) The secretary may reduce the separation distance requirements of subsection (h)(2)(C) or (D) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to notice given in accordance with subsection (l); or (ii) the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology.

(j) (1) The separation distances required pursuant to subsection (h)(1) shall not apply to:

(A) Confined feeding facilities which were permitted or certified by the secretary on July 1, 1994;

(B) confined feeding facilities which existed on July 1, 1994, and registered with the secretary before July 1, 1996; or

(C) expansion of a confined feeding facility, including any expansion for which an application was pending on July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of 1,000 or more prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion; or (ii) in the case of a facility with an animal unit capacity of less than 1,000 prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion and the animal unit capacity of the facility after expansion does not exceed 2,000.

(2) The separation distances required pursuant to subsections (h)(2)(A) and (B) shall not apply to:

(A) Confined feeding facilities for swine which were permitted or certified by the secretary on July 1, 1994;

(B) confined feeding facilities for swine which existed on July 1, 1994, and registered with the secretary before July 1, 1996; or

(C) expansion of a confined feeding facility which existed on July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of 1,000 or more prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion; or (ii) in the case of a facility with an animal unit capacity of less than 1,000 prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion and the animal unit capacity of the facility after expansion does not exceed 2,000.

(3) The separation distances required pursuant to subsections (h)(2)(C) and (D) and (h)(3) shall not apply to the following, as determined in accordance with subsections (a), (e) and (f) of K.S.A. 2000 Supp. 65-1,178 and amendments thereto:

(A) Expansion of an existing confined feeding facility for swine if an application for such expansion has been received by the department before March 1, 1998; and

(B) construction of a new confined feeding facility for swine if an application for such facility has been received by the department before March 1, 1998.

(k) The separation distances required by this section for confined feeding facilities for swine shall be determined from the exterior perimeter of any buildings utilized for housing swine, any lots containing swine, any swine waste retention lagoons or ponds or other manure or wastewater storage structures and any additional areas designated by the applicant for future expansion. Such separation distances shall not apply to offices, dwellings and feed production facilities of a confined feeding facility for swine.

(l) The applicant shall give the notice required by subsections (j)(2)(B) and (C) by certified mail, return receipt requested, to all owners of habitable structures within the separation distance. The applicant shall submit to the department evidence, satisfactory to the department, that such notice has been given.

(m) All plans and specifications submitted to the department for new construction or new expansion of confined feeding facilities may be, but are not required to be, prepared by a professional engineer or a consultant, as approved by the department. Before approval by the department, any consultant preparing such plans and specifications shall submit to the department evidence, satisfactory to the department, of adequate general commercial liability insurance coverage.

Sec. 14. K.S.A. 2000 Supp. 74-623 is hereby amended to read as follows: 74-623. (a) The state corporation commission shall have the exclusive jurisdiction and authority to regulate oil and gas activities. The state corporation commission's jurisdiction shall include: (1) All practices involved in the exploration for and gathering of oil and gas and the drilling, production, lease storage, treatment, abandonment and postabandonment of oil and gas wells; ~~except refining, treating or storing of oil or gas after transportation of the same;~~ (2) *underground storage of natural gas in depleted oil or gas formations;* and ~~(2) (3)~~ (3) prevention and cleanup of pollution of the soils and waters of the state from oil and gas activities described in (1) or (2).

The state corporation commission shall not have jurisdiction over the refining, treating or storing of oil or gas after transporting of such oil or gas, except for the storing of natural gas described in (2).

(b) All jurisdiction and authority of the Kansas department of health and environment relating to the cleanup of pollution of the soils and waters of the state from oil and gas activities described in subsection (a)(~~+~~) is hereby transferred to the state corporation commission.

(c) The state corporation commission shall be the successor in every way to the powers, duties and functions of the Kansas department of health and environment relating to the cleanup of pollution of the soils and waters of the state from oil and gas activities described in subsection (a)(~~+~~). Every act performed in the exercise of such powers, duties and functions by or under authority of the state corporation commission shall be deemed to have the same force and effect as if performed by the department of health and environment.

(d) Whenever the Kansas department of health and environment, or words of like effect, is referred to or designated by a statute, contract or other document relating to the cleanup of pollution of the soils and waters of the state from oil and gas activities described in subsection (a)(~~+~~), such reference shall be deemed to apply to the state corporation commission.

(e) All rules and regulations of the secretary of health and environment which are in existence on July 1, 1995, and relate to the cleanup of pollution of the soils and waters of the state from oil and gas activities described in subsection (a)(~~+~~) shall continue to be effective and shall be deemed to be the duly adopted rules and regulations of the state corporation commission until revised, amended, revoked or nullified pursuant to law.

(f) All orders and directives of the Kansas department of health and environment which are in existence on July 1, 1995, and relate to the cleanup of pollution of the soils and waters

of the state from oil and gas activities described in subsection (a)(~~1~~) shall continue to be effective and shall be deemed to be orders and directives of the state corporation commission until revised, amended, revoked or nullified pursuant to law.

New Sec. 15. On or before July 1, 2002, the state corporation commission shall adopt rules and regulations governing the underground storage of natural gas described in paragraph (2) of subsection (a) of K.S.A. 74-623, and amendments thereto. Such rules and regulations shall include the permitting, monitoring and inspecting of underground natural gas storage wells, well systems and operations and the closure and abandonment of such natural gas storage wells, well systems and operations. Such rules and regulations may establish fees for permitting, monitoring, inspecting and closing or abandoning hydrocarbon storage wells, well systems and operations.

New Sec. 16. The provisions of K.S.A. 55-162, and amendments thereto, shall apply to violations of the rules and regulations adopted pursuant to section 15, and amendments thereto.

New Sec. 17. (a) There is hereby created in the state treasury the natural gas underground storage fee fund. All deposits credited to the natural gas underground storage fee fund shall be for the use of the state corporation commission in administering the provisions of sections 15 and 16, and amendments thereto. All expenditures from the natural gas underground storage fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state corporation commission or by a person or persons designated by the chairperson. The corporation commission, with the approval of the director of accounts and reports, shall formulate a system of accounting procedures to account for the money credited to the natural gas underground storage fee fund pursuant to this section.

(b) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the natural gas underground storage fee fund interest earnings based on:

(1) The average daily balance of moneys in the natural gas underground storage fee fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding months.

(c) Whenever the state corporation commission determines that the unencumbered balance of moneys credited to the natural gas underground storage fee fund at the end of a fiscal year is more than necessary, when considered in relation to the amount of revenues and expenditures estimated for the ensuing fiscal year and an appropriate unencumbered balance in the fund at the end of the ensuing fiscal year, the commission shall proportionally reduce all fees and assessments which are charged, taxed or assessed by the commission as authorized or required by law, other than fees or assessments in amounts prescribed by statute or any penalties authorized by statute, and which are collected and deposited to the credit of the natural gas underground storage fee fund, in order to reduce such unencumbered ending balance in the fund to an appropriate amount.

Sec. 18. K.S.A. 2000 Supp. 55-155, as amended by section 190 of 2001 Senate Bill No. 15, 55-161, 55-179, 55-180, as amended by section 193 of 2001 Senate Bill No. 15, 55-182, 65-171d and 74-623 are hereby repealed.”;

By renumbering the remaining section accordingly;

In the title, by striking all in lines 9 through 11 and inserting:

“AN ACT concerning oil and gas; amending K.S.A. 2000 Supp. 55-155, as amended by section 190 of 2001 Senate Bill No. 15, 55-161, 55-179, 55-180, as amended by section 193 of 2001 Senate Bill No. 15, 55-182, 65-171d and 74-623 and repealing the existing sections.”; and the bill be passed as amended.

Also **HB 2245**, as amended by House Committee of the Whole, be amended on page 1, by striking all in lines 21 through 43;

On page 2, by striking all in lines 1 through 43;

On page 3, by striking all in lines 1 through 43;

On page 4, by striking all in lines 1 through 43;

On page 5, by striking all in lines 1 through 43;

On page 6, by striking all in lines 1 through 24 and inserting:

“Section 1. K.S.A. 66-1,184 is hereby amended to read as follows: 66-1,184. (a) *Except as provided in subsection (b)*, every public utility which provides retail electric services in this state shall enter into a contract for parallel generation service with any person who is a customer of such utility, upon request of such customer, whereby such customer may attach or connect to the utility’s delivery and metering system an apparatus or device for the purpose of feeding excess electrical power which is generated by such customer’s energy producing system into the utility’s system. No such apparatus or device shall either cause damage to the public utility’s system or equipment or present an undue hazard to utility personnel. Every such contract shall include, but need not be limited to, provisions relating to fair and equitable compensation on such customer’s monthly bill for energy supplied to the utility by such customer; ~~and~~.

(b) (1) *For purposes of this subsection, “utility” means an electric public utility, as defined by K.S.A. 66-101a, and amendments thereto, any cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or a nonstock member-owned electric cooperative corporation incorporated in this state, or a municipally owned or operated electric utility.*

(2) *Every utility which provides retail electric services in this state shall enter into a contract for parallel generation service with any person who is a customer of such utility, if such customer is a residential customer of the utility and owns a renewable generator with a capacity of 10 kilowatts or less, or is a commercial customer of the utility and owns a renewable generator with a capacity of 100 kilowatts or less. Such customer may attach or connect to the utility’s delivery and metering system an apparatus or device for the purpose of feeding excess electrical power which is generated by such customer’s energy producing system into the utility’s system. No such apparatus or device shall either cause damage to the utility’s system or equipment or present an undue hazard to utility personnel. Every such contract shall include, but need not be limited to, provisions relating to fair and equitable compensation for energy supplied to the utility by such customer. Such compensation shall be not less than 150% of the utility’s monthly system average cost of energy per kilowatt hour. A utility may credit such compensation to the customer’s account or pay such compensation to the customer at least annually or when the total compensation due equals \$25 or more.*

(c) *The following terms and conditions shall apply to contracts entered into under subsection (a) or (b):* ~~(a)~~

(1) *The utility will supply, own, and maintain all necessary meters and associated equipment utilized for billing. In addition, and for the purposes of monitoring customer generation and load, the utility may install at its expense, load research metering. The customer shall supply, at no expense to the utility, a suitable location for meters and associated equipment used for billing and for load research;* ~~(b)~~

(2) *for the purposes of insuring the safety and quality of utility system power, the utility shall have the right to require the customer, at certain times and as electrical operating conditions warrant, to limit the production of electrical energy from the generating facility to an amount no greater than the load at the customer’s facility of which the generating facility is a part;* ~~(c)~~

(3) *the customer shall furnish, install, operate, and maintain in good order and repair and without cost to the utility, such relays, locks and seals, breakers, automatic synchronizer, and other control and protective apparatus as shall be designated by the utility as being required as suitable for the operation of the generator in parallel with the utility’s system. In any case where the customer and the utility cannot agree to terms and conditions of any such contract, the state corporation commission shall establish the terms and conditions for such contract. In addition, the utility may install, own, and maintain a disconnecting device located near the electric meter or meters. Interconnection facilities between the customer’s and the utility’s equipment shall be accessible at all reasonable times to utility personnel. The customer may be required to reimburse the utility for any equipment or facilities required as a result of the installation by the customer of generation in parallel with the utility’s service. The customer shall notify the utility prior to the initial energizing and start-up testing of the customer-owned generator, and the utility shall have the right to have a representative present at such test; and* ~~(d)~~

(4) the utility may require a special agreement for conditions related to technical and safety aspects of parallel generation.

(d) Service under any ~~such~~ contract *entered into under subsection (a) or (b)* shall be subject to the utility's rules and regulations on file with the state corporation commission.”;

By renumbering sections accordingly;

In the title, by striking all in lines 13 through 16; in line 17, by striking all preceding the semicolon and inserting “certain parallel electric generation services”; and the bill be passed as amended.

HB 2266, as amended by House Committee of the Whole, be amended on page 1, by striking all in lines 20 through 43;

On page 2, by striking all in lines 1 through 43;

On page 3, by striking all in lines 1 through 43;

On page 4, by striking all in lines 1 through 43;

On page 5, by striking all in lines 1 through 43;

On page 6, by striking all in lines 1 through 43;

On page 7, by striking all in lines 1 and 2 and inserting:

“Section 1. K.S.A. 2000 Supp. 66-104 is hereby amended to read as follows: 66-104.

(a) The term “public utility,” as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages in or through any part of the state, or the conveyance of oil and gas through pipelines in or through any part of the state, except pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil, and all companies for the production, transmission, delivery or furnishing of heat, light, water or power. No cooperative, cooperative society, nonprofit or mutual corporation or association which is engaged solely in furnishing telephone service to subscribers from one telephone line without owning or operating its own separate central office facilities, shall be subject to the jurisdiction and control of the commission as provided herein, except that it shall not construct or extend its facilities across or beyond the territorial boundaries of any telephone company or cooperative without first obtaining approval of the commission. As used herein, the term “transmission of telephone messages” shall include the transmission by wire or other means of any voice, data, signals or facsimile communications, including all such communications now in existence or as may be developed in the future.

(b) The term “public utility” shall also include that portion of every municipally owned or operated electric or gas utility located outside of and more than three miles from the corporate limits of such municipality, but nothing in this act shall apply to a municipally owned or operated utility, or portion thereof, located within the corporate limits of such municipality or located outside of such corporate limits but within three miles thereof except as provided in K.S.A. 66-131a, and amendments thereto.

(c) Except as herein provided, the power and authority to control and regulate all public utilities and common carriers situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, shall be vested exclusively in such city, subject only to the right to apply for relief to the corporation commission as provided in K.S.A. 66-133, and amendments thereto, and to the provisions of ~~K.S.A. 66-131a and~~ K.S.A. 2000 Supp. 66-104e, and amendments thereto. A transit system principally engaged in rendering local transportation service in and between contiguous cities in this and another state by means of street railway, trolley bus and motor bus lines, or any combination thereof, shall be deemed to be a public utility as that term is used in this act and, as such, shall be subject to the jurisdiction of the commission.

(d) The term “public utility” shall not include any activity of an otherwise jurisdictional corporation, company, individual, association of persons, their trustees, lessees or receivers as to the marketing or sale of compressed natural gas for end use as motor vehicle fuel.

(e) *At the option of an otherwise jurisdictional entity, the term “public utility” shall not include any activity or facility of such entity as to the generation, marketing and sale of*

electricity generated by an electric generation facility or addition to an electric generation facility which:

- (1) Is newly constructed and placed in service on or after January 1, 2001; and
 - (2) is not in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) any cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or (C) a municipally owned or operated electric utility.
- (f) Additional generating capacity achieved through efficiency gains by refurbishing or replacing existing equipment at generating facilities placed in service before January 1, 2001, shall not qualify under subsection (e).

New Sec. 2. (a) As used in this section, "independent power producer property" means all or any portion of property used solely in the generation, marketing and sale of electricity generated by an electric generation facility described in subsection (e) of K.S.A. 66-104, and amendments thereto.

(b) For all taxable years commencing on or after January 1, 2001, independent power producer property is commercial and industrial property assessed at the rate of 25% for the purposes of taxation of real property and tangible personal property.

(c) For purposes of property and ad valorem taxes, independent power producer property of the nature itemized in federal energy regulatory commission plant accounts (1) 312, 313, 314, 315 and 316; (2) 322, 323, 324 and 325; (3) 332, 333, 334, 335 and 336; or (4) 342, 343, 344, 345 and 346 of the code of federal regulations (18 C.F.R. 101), shall be tangible personal property.

Sec. 3. K.S.A. 2000 Supp. 79-5a01 is hereby amended to read as follows: 79-5a01. (a) As used in this act, the terms "public utility" or "public utilities" shall mean every individual, company, corporation, association of persons, lessees or receivers that now or hereafter are in control, manage or operate a business of:

- (1) A railroad or railroad corporation if such railroad or railroad corporation owns or holds, by deed or other instrument, an interest in right-of-way, track, franchise, roadbed or trackage in this state;
- (2) transmitting to, from, through or in this state telegraphic messages;
- (3) transmitting to, from, through or in this state telephonic messages;
- (4) transporting or distributing to, from, through or in this state natural gas, oil or other commodities in pipes or pipelines, or engaging primarily in the business of storing natural gas in an underground formation;
- (5) generating, conducting or distributing to, from, through or in this state electric power;
- (6) transmitting to, from, through or in this state water if for profit or subject to regulation of the state corporation commission;
- (7) transporting to, from, through or in this state cargo or passengers by means of any vessel or boat used in navigating any of the navigable watercourses within or bordering upon this state.

(b) The terms "public utility" or "public utilities" shall not include: (1) Rural water districts established under the laws of the state of Kansas; or (2) any individual, company, corporation, association of persons, lessee or receiver owning or operating an oil or natural gas production gathering line which is situated within one county in this state and does not cross any state boundary line; (3) any individual, company, corporation, association of persons, lessee or receiver owning any vessel or boat operated upon the surface of any manmade waterway located entirely within one county in the state; ~~or~~ (4) for all taxable years commencing after December 31, 1998, any natural gas distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural use; or (5) for all taxable years commencing on or after January 1, 2001, at the option of the taxpayer, the taxpayer's business of generating, marketing and selling electricity generated by an electric generation facility described in subsection (e) of K.S.A. 66-104, and amendments thereto.";

By renumbering the remaining sections accordingly;

In the title, by striking all in lines 12 through 17 and inserting:

“AN ACT concerning certain electric generation facilities; relating to regulation and taxation thereof; amending K.S.A. 2000 Supp. 66-104 and 79-5a01 and repealing the existing sections.”; and the bill be passed as amended.

HB 2397 be amended on page 1, in line 13, before “On” by inserting “(a)”; also in line 13, by striking “a city” and inserting “any municipality”; in line 14, by striking “its residents” and inserting “persons located within the boundary line of such municipality”; in line 16, by striking “residents of such city” and inserting “persons located within the boundary line of such municipality”; preceding line 17, by inserting the following:

“(b) For the purposes of this section, “municipality” means any county, township, city, school district or other political or taxing subdivision of the state.”;

In line 18, by striking “statute book” and inserting “Kansas register”; in the title, by striking “cities” and inserting “municipalities”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **HB 2297**, as amended by House Committee of the Whole, be amended on page 1, in line 16, by striking “2002” and inserting “2003”; also in line 16, by striking “2003” and inserting “2004”; in line 18, by striking “2003” and inserting “2004”; in line 19, by striking “2004” and inserting “2005”; in line 20, by striking “2004” and inserting “2005”; in line 21, by striking “2005” and inserting “2006”; in line 23, by striking “2004” and inserting “2006”

On page 2, in line 33, by striking “10, 2005” and inserting “8, 2007”; in line 37, by striking “8, 2007” and inserting “12, 2009”; and the bill be passed as amended.

REPORT ON ENROLLED BILLS

SCR 1607 reported correctly enrolled, properly signed and presented to the Secretary of State on March 20, 2001.

COMMITTEE OF THE WHOLE

On motion of Senator Oleen, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Jordan in the chair.

On motion of Senator Jordan the following report was adopted:

Recommended **SB 314**; **HB 2147**, **HB 2148**, **HB 2185**, **HB 2193** be passed.

The committee recommended **HB 2082** be passed.

A motion by Senator Haley to amend **HB 2082** failed and the following amendment was rejected: on page 1, after line 26, by inserting the following:

“New Sec. 2. (a) When the appraised value of real property owned by a decedent is not greater than \$15,000 according to the most recent tax appraisal, and the decedent’s estate is not subject to homestead or allowances pursuant to K.S.A. 59-401 *et seq.*, and amendments thereto, or such homestead or allowances are waived, any heir, devisee or legatee of the decedent may file a notification of interest in title in the office of the register of deeds in the county where such real property is located. Such notification of interest in title shall be in substantially the form set out in subsection (f) and shall state:

- (1) The decedent’s name and the date of death;
- (2) the address and legal description of such real property owned by the decedent;
- (3) the name and current address of the heir, devisee or legatee filing the notification;
- (4) the relationship between the decedent and the heir, devisee or legatee filing the notification;
- (5) that the taxes on such real property are current and not delinquent;
- (6) that such real property is free of liens and encumbrances; and
- (7) that the heir, devisee or legatee filing the notification of interest in title is filing a claim to be the vested owner of such real property.

(b) A certified copy of the decedent’s death certificate shall be attached to such form.

(c) If after three years from the date of the filing of the notification of interest in title, no other heir, devisee or legatee has petitioned the court in a probate proceeding pursuant to the Kansas probate code, the heir, devisee or legatee who filed the notification of interest in title shall be the legal owner of such real property.

(d) If at any time during the three-year period, another heir, devisee or legatee petitions the court to establish a probate proceeding, and if during the probate proceeding the court

establishes a determination of descent that allows another party to receive a share of such real property, such other party shall be liable to the heir, devisee or legatee filing the notification of interest in title for any taxes paid on such real property and reasonable maintenance and upkeep costs documented and paid by such heir, devisee or legatee.

(e) The provisions of this section shall apply only to real property located in Wyandotte county.

(f) The notification of interest in title shall be in substantially the following form:

STATE OF KANSAS)
) ss:
COUNTY OF WYANDOTTE)

NOTIFICATION OF INTEREST IN TITLE

I, _____, of lawful age, being
(heir, devisee or legatee)

first duly sworn state:

(1) I have attached hereto a certified copy of the decedent's death certificate which states the decedent's name and date of death as:

(Name of Decedent)

(Date of Death)

(2) The address and legal description of real property owned by decedent for which this notification is filed:

(3) The name and current address of the heir, devisee or legatee filing the notification:

(4) The relationship between the decedent and the heir, devisee or legatee filing notification:

(5) The taxes on such real property are not delinquent and are currently being paid by the heir, devisee or legatee.

(6) I am filing notification of interest in title and am filing a claim to be the vested owner of such real property.

(heir, devisee or legatee)

STATE OF KANSAS)
) ss:
COUNTY OF WYANDOTTE)

The foregoing instrument was acknowledged before me this _____ day of _____, year by _____.

SUBSCRIBED AND SWORN to before me on _____.

(Notary Public)

My Appointment Expires:

_____,
And by renumbering sections accordingly;

Also on page 1, in the title, in line 9, by striking "nonprobate"; also in line 9, after "transfer" by inserting "of property"; in line 10, after "nature" by inserting "; real property, notification of interest in title by heir"

HCR 5011 be adopted.

SB 236, SB 329; HB 2063, HB 2101, HB 2114, HB 2169 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 235 be amended by adoption of the committee amendments.

Senator Haley moved to amend **SB 235** as amended by Senate Committee, on page 16, after line 15, by inserting the following:

"Sec. 9. K.S.A. 2000 Supp. 21-4310 is hereby amended to read as follows: 21-4310. (a) Cruelty to animals is:

(1) Intentionally killing, ~~injuring~~, maiming, torturing, *burning* or mutilating or causing serious physical injury to any animal;

(2) abandoning or leaving any animal in any place without making provisions for its proper care;

(3) having physical custody of any animal and failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal; ~~or~~

(4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment; or

(5) *intentionally causing any physical injury other than serious physical injury to any animal.*

(b) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) bona fide experiments carried on by commonly recognized research facilities;

(3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated;

(4) rodeo practices accepted by the rodeo cowboys' association;

(5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) ~~with respect to farm animals~~, normal or accepted practices of animal husbandry;

(7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, ~~farm~~ animal or property;

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

or

(9) laying an equine down for medical or identification purposes.

(c) As used in this section, "equine" means a horse, pony, mule, jenny, donkey or hinny.

(d) (1) *Cruelty to animals as described in subsection (a)(1) is a nonperson felony. Upon conviction of cruelty to animals as described in subsection (a)(1), a person shall be sentenced to not less than 30 days nor more than one year's imprisonment and fined not less than \$100.*

(2) *Cruelty to animals as described in subsections (a)(2), (a)(3), (a)(4) and (a)(5) is a class A nonperson misdemeanor.*";

And by renumbering sections accordingly;

Also on page 16, in line 16, after the comma, by inserting "21-4310,";

On page 1, in the title, in line 11, after the semicolon, by inserting "cruelty to animals;"; also in line 11, after the comma, by inserting "21-4310," the motion failed and the amendment was rejected.

The Committee recommended **SB 235** be passed as amended.

SCR 1609 be amended by adoption of the committee amendments, and the concurrent resolution be adopted as amended.

Sub HB 2005 be amended by motion of Senator Jordan on page 27, in line 29, by striking "(d)" and inserting "(c)"; in line 36, by striking "(e)" and inserting "(d)";

On page 32, by striking all after line 11;

On page 33, by striking all before line 8, and inserting new material as follows:

"Sec. 16. K.S.A. 2000 Supp. 79-3620, as amended by section 460 of 2001 Senate Bill No. 15, is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount

in the state treasury, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

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

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce and housing to be of statewide as well as local importance or will create a major tourism area for the state as specified in subsection (a)(1)(D) of K.S.A. 12-1774 defined in K.S.A. 2000 Supp. 12-1770a, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project";

By renumbering the remaining sections accordingly;

Also on page 33, by striking all after line 23;

On page 34, by striking all before line 13 and inserting new material to read as follows:

"Sec. 18. K.S.A. 2000 Supp. 79-3710, as amended by section 461 of 2001 Senate Bill No. 15, is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

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

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce and housing to be of statewide as well as local importance or will create a major tourism area for the state as specified in subsection (a)(1)(D) of K.S.A. 12-1774, defined in K.S.A. 2000 Supp. 12-1770a, and amendments thereto, to the city bond finance fund created by subsection (d) of K.S.A. 79-3620, and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3620, and

amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.”;

On page 34, in line 21, following “79-3620”, by inserting “, as amended by section 460 of 2001 Senate Bill No. 15”; also in line 21, following “79-3710”, by inserting “, as amended by section 461 of 2001 Senate Bill No. 15.”;

In the title, in line 12, following “79-3620”, by inserting “, as amended by section 460 of 2001 Senate Bill No. 15”; in line 13, following “79-3710”, by inserting “, as amended by section 461 of 2001 Senate Bill No. 15,”, and **Sub HB 2005** be passed as amended.

HB 2300 be amended by adoption of the committee amendments, be further amended by motion of Senator Harrington as amended by Senate Committee, on page 2, in line 33, by striking “six” and inserting “seven”

Senator Harrington further amended the bill as amended by Senate Committee, on page 2, by striking all in lines 34 and 35 and inserting in lieu thereof the following:

“Sec. 3. K.S.A. 2000 Supp. 2-1904 is hereby amended to read as follows: 2-1904. (a) There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this act, the state conservation commission. The state conservation commission shall succeed to all the powers, duties and property of the state soil conservation committee. The commission shall consist of nine members. ~~The following shall serve, ex officio, as members of the commission and shall hold office so long as they shall retain the office by virtue of which they shall be serving on the commission; as follows:~~

(1) The director of the cooperative extension service and the director of the state agricultural experiment station ~~or their designees~~ located at Manhattan, Kansas, ~~or such persons' designees shall serve, ex officio, as members of the commission.~~

(2) The commission shall ~~invite request~~ the secretary of agriculture of United States of America to appoint one person and the ~~Kansas state board~~ *secretary of the Kansas department of agriculture* to appoint one person, each of whom shall be residents of the state of Kansas to serve ~~with the above-mentioned members as a member~~ *as members* of the commission. These members shall hold office for four years and until a successor is appointed and qualifies, with terms commencing on the second Monday in January beginning in 1973.

(3) Five members of the state commission shall be elected by the conservation district supervisors at a time and place to be designated by the state conservation commission. The method of electing *such* members to be conducted as follows: The state is to be divided into five ~~(5)~~ separate areas. Area No. I to include the following counties: Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Osborne, Rooks, Graham, Sheridan, Thomas, Sherman, Wallace, Logan, Gove, Trego, Ellis and Russell. Area No. II to include: Greeley, Wichita, Scott, Lane, Ness, Rush, Pawnee, Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray, Haskell, Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Comanche and Kiowa. Area No. III to include: Jewell, Republic, Mitchell, Cloud, Lincoln, Ottawa, Ellsworth, Saline, Rice, McPherson, Reno, Harvey, Kingman, Sedgwick, Sumner, Harper, Barber, Pratt, Barton and Stafford. Area No. IV to include: Washington, Marshall, Nemaha, Brown, Doniphan, Clay, Riley, Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth, Wyandotte, Johnson, Douglas, Shawnee, Wabaunsee, Geary, Dickinson, Morris, Osage, Franklin and Miami. Area No. V to include: Marion, Chase, Lyon, Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Greenwood, Butler, Elk, Wilson, Neosho, Crawford, Cowley, Chautauqua, Montgomery, Labette and Cherokee. Areas II and IV will elect in even number years and Areas I, III and V shall elect in odd number years for two year terms. The elected commission members from Areas I, III and V shall take office on January 1, of the even number years. The remaining two elected members of the state commission from Areas II and IV shall take office on January 1, of the odd number years. The method of election is to be by area caucus of the district supervisors of each of the five separate areas of Kansas. The commission shall give each district notice of the time and place of such annual election meeting by letter if a member is to be elected to the commission from that area that year. The selection of a successor to fill an unexpired term shall be by appointment by the commission. The successor who is appointed to fill the unexpired term shall be a resident of the same area as that of the predecessor.

(b) The commission shall keep a record of its official actions, shall adopt a seal which seal shall be judicially noticed, and may perform such acts, hold such public hearings and adopt rules and regulations necessary for the execution of its functions under this act.

~~(b)~~ (c) The state conservation commission may employ an administrative officer and such technical experts as it may require and shall determine their qualifications and duties. Such officer and experts shall be in the unclassified service of the Kansas civil service act and shall receive annual salaries fixed by the commission and approved by the state finance council. All other agents and employees, permanent or temporary, required by the state conservation commission, shall be within the classified service of the Kansas civil service act. The commission may call upon the attorney general of the state for such legal services as it may require. It shall have authority to delegate to its chairperson, to one or more of its members or to one or more agents or employees, such powers and duties as it deems proper. It shall be supplied with suitable office accommodations at the state capital, and shall be furnished with the necessary supplies and equipment. Upon request of the commission, for the purpose of carrying out any of its functions, the supervising officer of any state agency or of any state institution of learning, insofar as may be possible under available appropriations and having due regard to the needs of the agency to which the request is directed, shall assign or detail to the commission members of the staff or personnel of such agency or institution of learning and make such special reports, surveys or studies as the commission may request.

~~(c)~~ (d) The commission shall designate its chairperson and, from time to time, may change such designation. A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Members of the state conservation commission attending meetings of such commission or attending a subcommittee meeting thereof authorized by such commission shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. The commission shall provide for keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted.

~~(d)~~ (e) In addition to the duties and powers hereinafter conferred upon the state conservation commission, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs;

(2) to keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder and to facilitate an interchange of advice and experience between such districts and cooperation between them;

(3) to coordinate the programs of the several conservation districts organized hereunder;

(4) to secure the cooperation and assistance of the United States and any of its agencies and of agencies of this state, in the work of such districts and to contract with or to accept donations, grants, gifts and contributions in money, services or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of this act;

(5) to disseminate information throughout the state concerning the activities and programs of the conservation districts organized hereunder and to encourage the formation of such districts in areas where their organization is desirable;

(6) to cooperate with and give assistance to watershed districts and other special purpose districts in the state of Kansas for the purpose of cooperating with the United States through the secretary of agriculture in the furtherance of conservation pursuant to the provisions of the watershed protection and flood prevention act, as amended;

(7) to cooperate in and carry out, in accordance with state policies, activities and programs to conserve and develop the water resources of the state and maintain and improve the quality of such water resources;

(8) to enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the conservation districts; and

(9) to facilitate arrangements under which conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of natural resources.

~~(c) The provisions of the Kansas governmental operations accountability law apply to the state conservation commission and the commission is subject to audit, review and evaluation under such law.~~

Sec. 4. K.S.A. 32-801 is hereby amended to read as follows: 32-801. (a) In order to reorganize the administration, planning and regulation of the state's parks, wildlife and other natural resources, there is hereby established within the executive branch of government the Kansas department of wildlife and parks, which shall be administered under the direction and supervision of a secretary of wildlife and parks who shall be appointed by the governor, with the consent of the senate as provided in K.S.A. 75-4315b and amendments thereto.

(b) The secretary shall be fully qualified by education, training and experience in wildlife, parks or natural resources, or a related field, and shall have a demonstrated executive and administrative ability to discharge the duties of the office of secretary. The secretary shall serve at the pleasure of the governor. The secretary shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary to be fixed by the governor.

~~(c) The provisions of the Kansas governmental operations accountability law apply to the office of secretary of wildlife and parks and the Kansas department of wildlife and parks, and the office and department are is subject to audit, review and evaluation under such law.~~

Sec. 5. K.S.A. 2000 Supp. 74-560 is hereby amended to read as follows: 74-560. (a) On and after the effective date of this act, in order to reorganize the administration, planning and regulation of the state's agriculture industry there is hereby established within the executive branch of government the Kansas department of agriculture, which shall be administered under the direction and supervision of a secretary of agriculture.

(b) The state board of agriculture, established pursuant to K.S.A. 2000 Supp. 74-562, shall nominate three individuals to the governor for the appointment as secretary of agriculture. The governor either shall select and appoint a person nominated to be secretary or shall reject the nominations and request the board to nominate three new individuals for the appointment as secretary. Upon receipt of any such request for the nomination of three new individuals, the board shall nominate three new individuals for the appointment as secretary in the same manner. The nominees shall have a demonstrated executive and administrative ability to discharge the duties of the office of secretary. Every appointed secretary of agriculture shall be appointed subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. The secretary shall be a member of the governor's cabinet. The secretary shall serve at the pleasure of the governor. The secretary shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary to be fixed by the governor. The acting secretary of agriculture who is serving as the secretary on the effective date of this act shall be the secretary of agriculture as established by this act, shall serve at the pleasure of the governor and shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Any action of the Senate taken prior to the effective date of this act which confirms an individual as the secretary of agriculture is hereby validated and shall constitute confirmation by the Senate of such individual as secretary of agriculture under this section.

(c) The secretary shall organize an annual public informational meeting. The meeting shall take place in each congressional district on a rotating basis.

~~(d) The provisions of the Kansas governmental operations accountability law apply to the office of secretary of agriculture and the Kansas department of agriculture, and the office and department are is subject to audit, review and evaluation under such law.~~

Sec. 6. K.S.A. 74-2613 is hereby amended to read as follows: 74-2613. (a) There is hereby established within the executive branch of government the Kansas water office, which shall be administered under the direction and supervision of the director of the Kansas water office. The director of the Kansas water office shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as otherwise provided by this section, the director of the Kansas water office shall be in the unclassified service under the Kansas civil service act, shall serve at the

pleasure of the governor and shall receive an annual salary fixed by the governor. The provision of this act shall not affect the term of office of the director of the Kansas water office serving in such office on the day preceding the effective date of this act and such term of office shall expire on June 30, 1988, in accordance with the provisions of this section prior to amendment by this act.

(b) All budgeting, purchasing and related management functions of the Kansas water office shall be administered under the direction and supervision of the director of the Kansas water office.

(c) All vouchers for expenditures from appropriations to or for the Kansas water office shall be approved by the director of the Kansas water office or a person or persons designated by the director for such purpose.

(d) ~~The provisions of the Kansas governmental operations accountability law apply to the office of director of the Kansas water office and the Kansas water office, and the offices are office is~~ subject to audit, review and evaluation under such law.

Sec. 7. K.S.A. 74-5002f is hereby amended to read as follows: 74-5002f. (a) In order to reorganize the administration and planning of housing related issues within the state, there is hereby established the department of commerce and housing, the head of which shall be the secretary of commerce and housing. The secretary of commerce and housing shall be appointed by the governor. When the governor appoints a secretary of commerce and housing that is an individual other than the individual that was confirmed by the senate in 1990 as secretary of commerce, the secretary of commerce and housing shall be subject to confirmation by the senate pursuant to K.S.A. 75-4315b, and amendments thereto. The secretary shall be in the unclassified service under the Kansas civil service act.

(b) *The provisions of the Kansas governmental operations law apply to the department and the department is subject to audit, review and evaluation under such law.*

Sec. 8. K.S.A. 75-3702a is hereby amended to read as follows: 75-3702a. (a) There is hereby created a department of administration, the head of which shall be the secretary of administration. The governor shall appoint the secretary of administration, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. The secretary of administration shall serve at the pleasure of the governor. The department of administration shall be administered under the direction and supervision of the secretary of administration. The secretary of administration shall receive an annual salary fixed by the governor.

(b) ~~The provisions of the Kansas governmental operations accountability law apply to the office of secretary of administration and the department of administration, and the office and department are~~ is subject to audit, review and evaluation under such law.

Sec. 9. K.S.A. 75-4503 is hereby amended to read as follows: 75-4503. (a) There is hereby created the capitol area security patrol which shall be under the supervision and management of the superintendent of the highway patrol.

(b) Members of the capitol area security patrol shall have the powers and authority of peace, police and law enforcement officers while wearing the prescribed badge of office and while on duty in Shawnee county, Kansas.

(c) All persons arrested by a member of the capitol area security patrol shall be turned over to the Shawnee county department of corrections to be dealt with in the same manner as other persons turned over to such department, except in cases of violation of the ordinances of the city of Topeka, any such person may be turned over to the police department of the city of Topeka to be dealt with by it in the same manner as other persons arrested by police officers of the Topeka police department.

~~(d) The provisions of the Kansas governmental operations accountability law apply to the capitol area security patrol and the patrol is subject to audit, review and evaluation under such law.~~

Sec. 10. K.S.A. 75-5001 is hereby amended to read as follows: 75-5001. (a) In order to coordinate the planning, development and operation of the various modes and systems of transportation within this state, there is hereby established a department of transportation, which shall be administered under the direction and supervision of the secretary of transportation. The secretary of transportation shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and

shall serve at the pleasure of the governor. The secretary shall receive an annual salary fixed by the governor.

(b) ~~The provisions of the Kansas governmental operations accountability law apply to the office of secretary of transportation and the department of transportation, and the office and department are~~ is subject to audit, review and evaluation under such law.

Sec. 11 K.S.A. 75-5101 is hereby amended to read as follows: 75-5101. (a) There is hereby created a department of revenue, the head of which shall be the secretary of revenue. The governor shall appoint the secretary of revenue, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and the secretary shall serve at the pleasure of the governor. The department of revenue created by this act shall be administered under the direction and supervision of the secretary of revenue. The secretary of revenue shall receive an annual salary fixed by the governor.

(b) ~~The provisions of the Kansas governmental operations accountability law apply to the office of secretary of revenue and the department of revenue, and the office and department are~~ is subject to audit, review and evaluation under such law.

Sec. 12. K.S.A. 75-5203 is hereby amended to read as follows: 75-5203. (a) There is hereby established the department of corrections, the chief executive officer of which shall be the secretary of corrections. The secretary shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and shall serve at the pleasure of the governor. In case of a vacancy in the office of secretary, the governor shall appoint a successor in the manner that the original appointment was made. The secretary shall receive an annual salary fixed by the governor, which shall be payable in equal monthly installments. In addition, the secretary shall be entitled to receive actual and necessary traveling and subsistence expenses incurred in the performance of the secretary's official duties.

(b) Except as provided by subsection (c), no person shall be eligible for appointment to, or hold the position of, secretary of corrections unless such person:

(1) Has had at least five years' experience in the field of corrections or as an executive officer in the administration of federal or state penal or correctional institutions; or

(2) (A) has had at least three years' experience in the field of corrections or as an executive officer in the administration of federal or state penal or correctional institutions; and (B) has a degree from an accredited college or university, which degree is based on penology or a related field as a major of study; or

(3) (A) has had at least five years' experience as a federal, appellate or district judge or federal, district or county prosecutor, five years' experience in military administration or administration of a criminal justice agency or five years' administrative experience treating criminal offenders through programs involving penal custody, parole, probation and sentencing; (B) has a degree from an accredited college or university, which degree is in a social or behavioral science, penology, corrections, criminal justice, police science, criminology, public administration, local corrections programs or a related field; and (C) has demonstrated administrative ability and leadership.

(c) If the governor is unable to appoint a person as secretary who possesses the qualifications required by subsection (b), the governor may appoint a person without such qualifications as acting secretary, who shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and shall serve at the pleasure of the governor.

(d) Before entering upon the duties of the office, the secretary shall take and subscribe an oath to faithfully and honestly discharge the duties of the office to the best of the secretary's knowledge and ability.

(e) ~~The provisions of the Kansas governmental operations accountability law apply to the office of secretary of corrections and the department of corrections, and the office and department are~~ is subject to audit, review and evaluation under such law.

Sec. 13. K.S.A. 75-5301 is hereby amended to read as follows: 75-5301. (a) There is hereby created a department of social and rehabilitation services, the head of which shall be the secretary of social and rehabilitation services. The governor shall appoint the secretary of social and rehabilitation services, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and the secretary shall serve at the pleasure of the governor. The department of social and rehabilitation services created by this order shall

be administered under the direction and supervision of the secretary of social and rehabilitation services. The secretary of social and rehabilitation services shall receive an annual salary fixed by the governor.

(b) ~~The provisions of the Kansas governmental operations accountability law apply to the office of the secretary of social and rehabilitation services and the department of social and rehabilitation services, and the office and department are~~ is subject to audit, review and evaluation under such law.

Sec. 14. K.S.A. 75-5601 is hereby amended to read as follows: 75-5601. (a) There is hereby created a department of health and environment, the head of which shall be the secretary of health and environment, which office is hereby created. The governor shall appoint the secretary of health and environment, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and the secretary shall serve at the pleasure of the governor. The department of health and environment shall consist of the division of health and the division of environment. The secretary of health and environment shall receive an annual salary fixed by the governor.

(b) ~~The provisions of the Kansas governmental operations accountability law apply to the office of secretary of health and environment and the department of health and environment, and the office and department are~~ is subject to audit, review and evaluation under such law.

Sec. 15. K.S.A. 75-5701 is hereby amended to read as follows: 75-5701. (a) There is hereby established a department of human resources. The department shall be administered under the direction and supervision of the secretary of human resources who shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and who shall serve at the pleasure of the governor. The secretary shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the governor.

(b) ~~The provisions of the Kansas governmental operations accountability law apply to the office of secretary of human resources and the department of human resources, and the office and department are~~ is subject to audit, review and evaluation under such law.

Sec. 16. K.S.A. 75-5903 is hereby amended to read as follows: 75-5903. (a) There is hereby created a department on aging. The department on aging shall be administered under the direction and supervision of the secretary of aging. The secretary shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and shall serve at the pleasure of the governor. In appointing the secretary, the governor shall consider, but is not limited to, persons suggested by the council and persons with responsible administrative experience in the field of gerontology. The secretary shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the governor.

The department on aging shall be the single state agency for receiving and disbursing federal funds made available under the federal older Americans act (public law 89-73) and any amendments thereto or other federal programs for the aging.

(b) ~~The provisions of the Kansas governmental operations accountability law apply to the office of secretary of aging and the department on aging, and the office and department are~~ is subject to audit, review and evaluation under such law.

Sec. 17. 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 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 10, after “concerning” by inserting: “certain state agencies; relating to”; in line 11, before “amending” by inserting: “concerning the Kansas governmental operations accountability law;”; also in line 11, by striking all after “K.S.A.” where it appears for the first time; in line 12, by striking all before “and” and inserting: “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 **HB 2300** be passed as further amended.

S Sub for HB 2033 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Praeger on page 1, in line 20 by striking

all after "illnesses"; in line 21 by striking all before the period; also in line 21, after the period, by inserting "Except as provided in paragraph (2), such coverage shall be subject to the same deductibles, coinsurance and other limitations as apply to other covered services."; in line 23, by striking "days"; in line 24, by striking "of" and inserting "visits for";

On page 2, in line 23, by striking all after "(i)"; by striking all of lines 24 and 25; in line 26, by striking "(j)"; in line 27, after "with" by inserting "criminal actions,";

On page 4, in line 4, after "with" by inserting "criminal actions,,"; by striking all in lines 21 and 22;

Senator Donovan amended **S Sub for HB 2033** on page 1, line 28, by striking 2005 and inserting 2003, and **S Sub for HB 2033** be passed as amended.

The following amendments to **S Sub for HB 2033** were rejected:

Senator Brownlee moved to amend the bill on page 1, in line 14, by striking "(1)"; also in line 14, after "Any" by inserting "insurer who issues a"; in line 19, by striking "shall include" and inserting "must offer"; in line 20, by striking all after "illnesses"; by striking all in line 21, and inserting " , but is not required to provide the coverage described by this section if the employer rejects such coverage. Such coverage shall be subject to the same deductibles, coinsurance and other limitations as apply to other covered services. Any rejection of such proposed coverage must be in writing."; by striking all of lines 22 through 24; in line 33, by striking all after the last comma; by striking all of line 34; in line 35, by striking "chosis,"; in line 36, by striking "cyclothymic and dysthymic disorders,"; also in line 36, by striking the last comma and inserting "and"; in line 37, by striking all after "disorder" where it appears the first time; in line 38, by striking all before "as";

On page 2, in line 21, after "to" by inserting "any group accepting the health insurance coverage described in section 1, and amendments thereto, for"; by striking all of lines 23 through 25; in line 26, by striking "(j)"; in line 27, after "with" by inserting "criminal actions,";

On page 3, in line 36, by striking the colon; in line 37, by striking "(1) Not" and inserting "not"; in line 38, by striking " ; and"; in line 39, by striking all before the period; also in line 39, after the period by inserting "For those groups which accept health insurance coverage described in section 1, and amendments thereto, the term mental disorder and nervous condition shall not include any mental illness as defined in section 1 and amendments thereto."

On page 4, in line 4, after "with" by inserting "criminal actions,,"; by striking all of lines 21 and 22

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 15, Nays 24, Present and Passing 0, Absent or Not Voting 1.

Yeas: Adkins, Brownlee, Clark, Donovan, Harrington, Huelskamp, Jackson, Jordan, Lyon, O'Connor, Pugh, Schodorf, Tyson, Vratil, Wagle.

Nays: Allen, Barnett, Barone, Brungardt, Corbin, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Kerr, Lee, Morris, Oleen, Praeger, Salmans, Schmidt, Steineger, Taddiken, Teichman, Umbarger.

Absent or Not Voting: Jenkins.

The motion failed and the amendment was rejected.

Senator Barone moved to amend the bill on page 1, in line 14, by striking "(1)"; also on page 1, by striking lines 22 through 24, the motion failed and the amendment was rejected.

Senator Jackson moved to amend **S Sub for HB 2033** on page 1, line 18, by inserting the words "with more than 50 participants" after the word benefits

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 18, Nays 22, Present and Passing 0, Absent or Not Voting 0.

Yeas: Brownlee, Clark, Donovan, Emler, Harrington, Huelskamp, Jackson, Jordan, Lyon, O'Connor, Pugh, Schmidt, Schodorf, Taddiken, Tyson, Umbarger, Vratil, Wagle.

Nays: Adkins, Allen, Barnett, Barone, Brungardt, Corbin, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Jenkins, Kerr, Lee, Morris, Oleen, Praeger, Salmans, Steineger, Teichman.

The motion failed and the amendment was rejected.

The Committee recommended **S Sub for HB 2033** be passed as amended.

Senator Oleen moved to suspend the rules and **HB 2105, HB 2011, HB 2246** be advanced on the calendar under the heading of General Orders for consideration.

Recommended **HB 2011** be passed.

HB 2105 be amended by adoption of the committee amendments, and the bill be passed as amended.

HB 2246 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 235, SB 236, SB 314, SB 329; SCR 1609; Sub HB 2005; HB 2011; S Sub HB 2033; HB 2063, HB 2082, HB 2101, HB 2105, HB 2114, HB 2147, HB 2148, HB 2169, HB 2185, HB 2193, HB 2300; HCR 5011** were advanced to Final Action and roll call.

SB 235, An act concerning crimes and punishment; relating to domestic battery; amending K.S.A. 21-3440 and K.S.A. 2000 Supp. 21-3412, 21-4704, 60-3107, 72-1397, 72-5445 and 74-5602 and repealing the existing sections.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Morris, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Brownlee, Clark, Lyon, O'Connor, Pugh.

The bill passed, as amended.

SB 236, An act concerning the code of civil procedure; relating to garnishment; amending K.S.A. 2000 Supp. 60-205 and repealing the existing section; also repealing K.S.A. 60-714, 60-715, 60-716 and 60-720 and K.S.A. 2000 Supp. 60-717, 60-718, 60-726 and 60-728 and Forms No. 27 and 28 in the appendix of forms following K.S.A. 60-269.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

SB 314, An act concerning the Kansas highway patrol; relating to restrictions on certain political activity; amending K.S.A. 74-2113 and repealing the existing section.

On roll call, the vote was: Yeas 38, Nays 2, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Brownlee, Pugh.

The bill passed.

SB 329, An act concerning child support enforcement; establishing the Kansas payment center; income withholding; amending K.S.A. 23-4,136, 38-1121, 38-1123 and 60-2803 and K.S.A. 2000 Supp. 23-4, 106, 23-4,108, 23-4,111, 23-4,118, 60-1610 and 60-2308 and repealing the existing sections.

On roll call, the vote was: Yeas 29, Nays 11, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Corbin, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Jackson, Jenkins, Jordan, Kerr, Lee, Morris, Oleen, Praeger, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

Nays: Brownlee, Clark, Donovan, Harrington, Huelskamp, Lyon, O'Connor, Pugh, Salmans, Tyson, Wagle.

The bill passed, as amended.

SCR 1609, A concurrent resolution memorializing the Congress of the United States regarding the high cost of prescription drugs.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The resolution was adopted, as amended.

Sub HB 2005, An act concerning tax increment financing; reorganization thereof; amending K.S.A. 12-1772 and 12-17,104 and K.S.A. 2000 Supp. 12-1770, 12-1770a, 12-1771, 12-1771a, 12-1771b, 12-1771d, 12-1773, 12-1774, 12-1774a, 12-1775, 12-1776, 19-101a, 74-5093, 79-3620, as amended by section 460 of 2001 Senate Bill No. 15, 79-3620b and 79-3710, as amended by section 461 of 2001 Senate Bill No. 15, and repealing the existing sections; also repealing K.S.A. 2000 Supp. 12-1771c and 12-1774b.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The substitute bill passed, as amended.

HB 2011, An act concerning certain ethyl alcohol production; relating to incentives therefor; amending K.S.A. 79-34,163 and 79-34,164 and K.S.A. 2000 Supp. 79-3425 and 79-34,161 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

S Sub HB 2033, An act concerning insurance; providing coverage for certain mental health conditions; amending K.S.A. 40-2,103, 40-2,105 and 40-19c09 and repealing the existing sections.

On roll call, the vote was: Yeas 27, Nays 13, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Corbin, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Jenkins, Kerr, Lee, Morris, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger.

Nays: Brownlee, Clark, Donovan, Harrington, Huelskamp, Jackson, Jordan, Lyon, O'Connor, Pugh, Tyson, Vratil, Wagle.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote YES on **S Sub for HB 2033**. This bill is a small step toward treating mental illness on a level playing field with other illnesses. And, it is certainly far better than the bill passed by the Kansas House that called for yet another study on the issue of mental health parity.

But, the day will come when we recognize that the health care policy of Kansas will cover mental illness. The day will also come when the facts show that the benefits of extending health insurance to the mentally ill far outweigh the costs.

Mental illness is like any other illness. When it's treated early, there's less hospitalization, and the treatment is more effective.

And, beyond that, mental health parity is fair, makes common sense, and is the right thing to do.—ANTHONY HENSLEY

Senators Barone and Goodwin request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **S Sub for HB 2033**.

MR. PRESIDENT: My opposition to **S Sub for HB 2033** is caused by the fact that this bill will increase costs of health insurance for small business owners and may, in fact, result in the loss of health coverage for small business employees. With the downturn in economy this mandate could add costs that may result in business failures or layoff of employees. My opposition in no way relates to opposition of Mental Health Parity coverage, but specifically because of the poor timing—DAVID D. JACKSON AND KAY O'CONNOR

MR. PRESIDENT: The intent of this bill is to provide benefit coverage for individuals suffering from mental illness which is no less extensive than the benefit coverage provided for other physical illnesses. There is no medical or scientific basis for discriminating against those citizens with brain diseases. They are the working people of Kansas, who pay insurance premiums for themselves and their families. This bill is a step towards eliminating the financial discrimination these families experience when they or their children are diagnosed with mental illness. **Senate Sub for HB 2033** insures that these families will pay the same comprehensive co-pays and deductibles for their coverage, as well as benefit from the same comprehensive annual and lifetime limits—SANDY PRAEGER

HB 2063, An act relating to property taxation; exempting certain school dormitory personal property; amending K.S.A. 2000 Supp. 79-201a and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

HB 2082, An act concerning nonprobate transfer on death; relating to nontestamentary nature.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

HB 2101, An act concerning agriculture; relating to plant pests; creating the plant pest emergency response fund; amending K.S.A. 2-2126 and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 1, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Huelskamp.

The bill passed, as amended.

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.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

HB 2114. An act concerning the vehicle dealers and manufacturers licensing act; relating to vehicle bonds; amending K.S.A. 2000 Supp. 8-2404 and repealing the existing section.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Salmans, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Pugh, Schmidt, Taddiken, Tyson.

The bill passed, as amended.

HB 2147. An act relating to banks and banking; concerning unlawful transactions; amending K.S.A. 2000 Supp. 9-1112 and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 1, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Corbin.

The bill passed.

HB 2148. An act relating to trusts; providing for certification of trusts.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

HB 2169. An act relating to state moneys; concerning the investment thereof; amending K.S.A. 75-4221 and K.S.A. 2000 Supp. 75-4237 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

HB 2185. An act concerning improvement districts; concerning the issuance of revenue bonds; amending K.S.A. 19-2777 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh,

Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

HB 2193. An act relating to payday loans; limiting number of loans to same borrower; amending K.S.A. 2000 Supp. 16a-2-404 and repealing the existing section.

On roll call, the vote was: Yeas 38, Nays 2, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Jenkins, Jordan, Kerr, Lee, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Lyon.

The bill passed.

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.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 1, Absent or Not Voting 0.

Yeas: Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Present and Passing: Adkins.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "pass" on **HB 2300** because the legislation, if enacted, would extend the terms of office for current members of the Kansas Arts Commission. My wife is a current member of the Arts Commission. Consequently, I choose not to vote on this measure.—DAVID ADKINS

HCR 5011. A concurrent resolution memorializing the Congress of the United States to provide lifetime health care benefits for military retirees and their families.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The resolution was adopted.

ORIGINAL MOTION

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 2015**.

The Vice-President appointed Senators Umbarger, Schodorf and Downey as conferees on the part of the Senate.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Wednesday, March 21, 2001.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

