

Journal of the House

TWENTY-NINTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Friday, February 22, 2002, 11:00 a.m.

The House met pursuant to adjournment with Speaker Glasscock in the chair.
The roll was called with 121 members present.

Reps. McCreary and O'Brien were excused on verified illness.

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

Prayer by Chaplain Chamberlain:

Loving God, in your wisdom you did not set us upon the earth to be automatons or hermits, but to think for ourselves as we live together. You gave us the gift of family and community where we could be nurtured and taught those things that are necessary for our well being. You populated our communities with houses of worship, places of learning and centers of community life. You introduced us to people whose teaching and example helped form who we are today—and even to this day we remember their gifts and seek to live up to their example.

Hear our thanks today for the places of our birth and the communities that nurtured and taught us the ways of life. Help us to act this day in a way that honors their gift and yours and in a way that blesses a new generation of Kansans. Amen.

The Pledge of Allegiance was led by Rep. Kuether.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 3003, An act concerning financing of certain postsecondary educational institutions; relating to out-district tuition; amending K.S.A. 13-13a25, 13-13a26, 13-13a27, 13-13a29, 13-13a31, 13-13a32, 13-13a33 and 13-13a34 and K.S.A. 2001 Supp. 19-101a, 71-301a, 71-304, 71-305, 71-306, 71-308, 71-401, 71-402, 71-403, 71-610 and 71-1705 and repealing the existing sections, by Committee on Appropriations.

HB 3004, An act concerning crimes and punishment; relating to battery against a law enforcement officer; amending K.S.A. 2001 Supp. 21-3413 and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill appearing in the Calendar of February 21 as "To Be Referred," was referred to committees as indicated:

Federal and State Affairs: **HB 3001** (separately).

Judiciary: **HB 3001** (separately).

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Agriculture: **SB 437**.

Appropriations: **SB 374**, **SB 375**.

Education: **SB 402**.

Environment: **HB 3002**.

Ethics and Elections: **SB 468**.

Federal and State Affairs: **HCR 5050; SB 405, SB 407**.

Financial Institutions: **SB 470**.

Judiciary: **SB 400, SB 412, SB 434, SB 443, SB 444, SB 445**.

Local Government: **SB 550**.

Taxation: **SB 372**.

Transportation: **HR 6007; SB 505, SB 506**.

To be referred: **SB 391, SB 416**.

CHANGE OF REFERENCE

Speaker Glasscock announced the withdrawal of **SB 388** from Committee on Financial Institutions and referral to Committee on Insurance.

CONSENT CALENDAR

No objection was made to **HB 2817** appearing on the Consent Calendar for the first day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2247, An act concerning the Kansas business health partnership act; relating to the removal of the sunset provision; amending K.S.A. 40-4707 and repealing the existing section, was considered on final action.

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

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

Nays: None.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, O'Neal, Spangler.

The bill passed.

HB 2619, An act relating to tax sheltered and deferred compensation accounts, annuities and plans provided for public employees; amending K.S.A. 72-8603 and 75-5524 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 112; Nays 8; Present but not voting: 1; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Crow, Dahl, DeCastro, Dillmore, Dreher, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McKinney, McLeland, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, Osborne, Ostmeyer, Owens, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Ballou, Cook, DiVita, Edmonds, Faber, Freeborn, Lloyd, Palmer.
 Present but not voting: Merrick.
 Absent or not voting: McCreary, O'Brien, O'Neal, Spangler.
 The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: Although **HB 2619** may be well intentioned, I feel that these new retirement matching dollars will have expensive consequences for our state. Research from the 2003 Budget indicates that a 5% match of all full-time state employee salaries will cost in excess of \$96 million. Additionally, a 5% match of all full-time K-12, Community Colleges and Regents' Schools' employees will cost in excess of \$140 million. With our state revenue shortfalls running in excess of \$400 million, I cannot justify these new expenses at this time. I vote no on **HB 2619**.—KAREN M. DIVITA

HB 2670, An act concerning townships; relating to officers and employees thereof, was considered on final action.

On roll call, the vote was: Yeas 86; Nays 35; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Freeborn, Gilbert, Glasscock, Gordon, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kirk, Krehbiel, Landwehr, Lane, Light, Lightner, Lloyd, P. Long, Loyd, Mason, Mayans, Mays, McClure, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, J. Peterson, Pottorff, L. Powell, T. Powell, Ray, Rehorn, Ruff, Schwartz, Showalter, Shriver, Shultz, Sloan, Stone, Tafanelli, Tanner, Tomlinson, Toplikar, Weber, Wells, Wilk, D. Williams, Winn.

Nays: Cook, Crow, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Goering, Grant, Howell, Kauffman, Klein, Kuether, Larkin, Levinson, Loganbill, M. Long, McKinney, Nichols, E. Peterson, Phelps, Powers, Pyle, Reardon, Sharp, Storm, Swenson, Thimesch, R. Toelkes, Vickrey, Welshimer, J. Williams, Wilson.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, O'Neal, Spangler.

The bill passed.

HB 2693, An act regulating traffic; concerning the use of compression release engine braking systems; amending K.S.A. 8-2118 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 105; Nays 16; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Compton, Cook, Cox, Crow, DeCastro, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kirk, Klein, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McClure, McKinney, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, Phelps, Pottorff, L. Powell, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Campbell, Dahl, Dillmore, Edmonds, Flora, Howell, Kauffman, Landwehr, Lightner, Mayans, McLeland, Neufeld, J. Peterson, T. Powell, Powers, Shriver.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, O'Neal, Spangler.

The bill passed, as amended.

HB 2698, An act concerning taxation; relating to real estate sales validation questionnaires; amending K.S.A. 79-1437e and repealing the existing section, was considered on final action.

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

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

Nays: None.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, O'Neal, Spangler.

The bill passed, as amended.

HB 2699. An act relating to motor vehicles; concerning license plates; amending K.S.A. 8-133 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 84; Nays 37; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Crow, Dahl, Dillmore, DiVita, Dreher, Feuerborn, Findley, Flaharty, Gatewood, Gilbert, Glasscock, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Huff, Humerickhouse, Johnson, Kirk, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lloyd, Loganbill, M. Long, Loyd, Mason, McClure, McKinney, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Osborne, Owens, Palmer, Pauls, E. Peterson, J. Peterson, Pottorff, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Sloan, Stone, Storm, Swenson, Tanner, Thimesch, Tomlinson, Toplikar, Vickrey, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson.

Nays: Aday, Ballard, Cook, DeCastro, Edmonds, Faber, Flora, Freeborn, Garner, Goering, Gordon, Henderson, Howell, Huebert, Hutchins, Huy, Kauffman, Klein, Landwehr, Lightner, P. Long, Mayans, Mays, McLeland, Merrick, Novascone, Ostmeyer, Patterson, Phelps, L. Powell, T. Powell, Powers, Shultz, Tafanelli, R. Toelkes, Weber, Winn.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, O'Neal, Spangler.

The bill passed.

HB 2727. An act concerning improvement districts; relating to the powers and duties of the governing body thereof; amending K.S.A. 2001 Supp. 19-2765 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 97; Nays 24; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Crow, Dahl, DeCastro, DiVita, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Levinson, Light, Lloyd, Loganbill, M. Long, Loyd, Mason, Mayans, McClure, McKinney, McLeland, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, Osborne, Owens, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, T. Powell, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Weber, Wells, Welshimer, Wilk, D. Williams, Wilson, Winn.

Nays: Ballou, Cook, Dillmore, Dreher, Edmonds, Faber, Freeborn, Howell, Huy, Johnson, Kauffman, Larkin, Lightner, P. Long, Mays, Merrick, Miller, Ostmeyer, Palmer, L. Powell, Powers, Pyle, Vickrey, J. Williams.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, O'Neal, Spangler.

The bill passed.

HB 2741, An act concerning certain animals; prescribing penalties for inflicting harm or death; amending K.S.A. 2001 Supp. 21-4318 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 103; Nays 18; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Barnes, Beggs, Benlon, Boston, Compton, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huff, Humerickhouse, Hutchins, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McKinney, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Pyle, Ray, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Ballou, Bethell, Burroughs, Campbell, Cook, Faber, Gatewood, Goering, Huebert, Huy, Lightner, Minor, Neufeld, J. Peterson, Powers, Schwartz, Shultz, Vickrey.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, O'Neal, Spangler.

The bill passed.

HB 2747, An act relating to port authorities; amending K.S.A. 12-3402 and 12-3420 and repealing the existing sections, was considered on final action.

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

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

Nays: None.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, O'Neal, Spangler.

The bill passed.

HB 2768, An act concerning farm and pastureland tenancies; relating to termination thereof; amending K.S.A. 58-2506 and 58-2506a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 102; Nays 19; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Crow, Dahl, Dillmore, DiVita, Dreher, Edmonds, Feuerborn, Findley, Flaharty, Freeborn, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson,

Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McClure, McKinney, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, Osborne, Ostmeyer, Owens, Palmer, Patterson, E. Peterson, Phelps, Pottorff, L. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson.

Nays: Burroughs, DeCastro, Faber, Flora, Garner, Goering, Henderson, Kauffman, Kirk, Klein, Landwehr, Mayans, McLeland, Neufeld, Pauls, J. Peterson, T. Powell, Sharp, Winn.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, O'Neal, Spangler.

The bill passed.

EXPLANATION OF VOTE

MR. SPEAKER: Because my respected colleague, the Chairman of the House Agriculture Committee, has provided assurances that if **HB 2768** is passed by this body he will work to have the measure amended so as to change the date for notice and termination of pasture leases to mirror those dates applicable to farming leases, thereby avoiding the potential for significant damage to an unsuspecting populace which has operated under the existing statutes in effect since 1868, and subject to that assurance, I vote yes.—WARD LOYD

HB 2794. An act relating to motor vehicles; providing for a 48-hour transport permit; amending K.S.A. 8-145d and repealing the existing section, was considered on final action.

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

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

Nays: None.

Present but not voting: None.

Absent or not voting: McCreary, O'Brien, O'Neal, Spangler.

The bill passed, as amended.

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

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **HB 2337** be adopted; also, the motion to recommend the bill favorably for passage did not prevail.

Committee report recommending a substitute bill to **Sub. HB 2686** be adopted; and the substitute bill be passed.

Committee report to **HB 2676** be adopted; also, on motion of Rep. McLeland **HB 2676** be amended on page 1, in line 14, following "cards" by inserting "or debit cards"; in line 15, following "card" where it appears for the first and second times, by inserting "or debit card"; in line 16, following "card" by inserting "or debit card"; in line 22, following "card" by inserting "or debit card"; in line 25, following "card" by inserting "or debit card";

Also on page 1, in the title, in line 9, following "cards" by inserting "and debit cards"; and **HB 2676** be passed as amended.

Committee report to **HB 2767** be adopted; also, on motion of Rep. Dillmore to amend, Rep. Beggs requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. Rep. Beggs challenged the ruling, the question being "Shall the Rules Chair be sustained?" The Rules Chair was sustained and the question reverted back to the motion of Rep. Dillmore and **HB 2767** be amended on page 1, in line 14, before "Section" by inserting "New"; after line 22, by inserting additional sections as follows:

"Sec. 2. K.S.A. 2001 Supp. 50-670 is hereby amended to read as follows: 50-670. (a) As used in this section *and section 2, and amendments thereto*:

(1) "Consumer telephone call" means a call made by a telephone solicitor to the residence of a consumer for the purpose of soliciting a sale of any property or services to the person called, or for the purpose of soliciting an extension of credit for property or services to the person called, or for the purpose of obtaining information that will or may be used for the direct solicitation of a sale of property or services to the person called or an extension of credit for such purposes;

(2) "unsolicited consumer telephone call" means a consumer telephone call other than a call made:

(A) In response to an express request of the person called;

(B) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call; or

(C) to any person with whom the telephone solicitor or the telephone solicitor's predecessor in interest ~~had has an existing established~~ business relationship ~~if the solicitor is not an employee, a contract employee or an independent contractor of a provider of telecommunications services; or~~

(3) "telephone solicitor" means any natural person, firm, organization, partnership, association or corporation who makes or causes to be made a consumer telephone call, including, but not limited to, calls made by use of automatic dialing-announcing device;

(4) "automatic dialing-announcing device" means any user terminal equipment which:

(A) When connected to a telephone line can dial, with or without manual assistance, telephone numbers which have been stored or programmed in the device or are produced or selected by a random or sequential number generator; or

(B) when connected to a telephone line can disseminate a recorded message to the telephone number called, either with or without manual assistance;

(5) "negative response" means a statement from a consumer indicating the consumer does not wish to listen to the sales presentation or participate in the solicitation presented in the consumer telephone call; or

(6) "*established business relationship*" means the existence of an oral or written arrangement, agreement, contract or other such legal state of affairs between the telephone solicitor and a consumer, where both parties have a course of conduct or established pattern of activity for commercial or mercantile purposes and for the benefit or profit of both parties. The "*established business relationship*" must exist between the consumer and business directly, and does not extend to any related business entity or other business organization of the telephone solicitor or related to the telephone solicitor or such solicitor's agent, including, but not limited to, a parent corporation, subsidiary partnership, company or other corporation or affiliate.

(b) Any telephone solicitor who makes an unsolicited consumer telephone call to a residential telephone number shall:

(1) Identify themselves;

(2) identify the business on whose behalf such person is soliciting;

(3) identify the purpose of the call immediately upon making contact by telephone with the person who is the object of the telephone solicitation;

(4) promptly discontinue the solicitation if the person being solicited gives a negative response at any time during the consumer telephone call;

(5) hang up the phone, or in the case of an automatic dialing-announcing device operator, disconnect the automatic dialing-announcing device from the telephone line within 25 seconds of the termination of the call by the person being called; and

(6) a live operator or an automated dialing-announcing device shall answer the line within five seconds of the beginning of the call. If answered by automated dialing-announcing device, the message provided shall include only the information required in subsection (b)(1) and (2), but shall not contain any unsolicited advertisement.

(c) A telephone solicitor shall not withhold the display of the telephone solicitor's *identifying information and* telephone number from a caller identification service when that number is being used for telemarketing purposes ~~and when the telephone solicitor's service or equipment is capable of allowing the display of such number.~~

(d) A telephone solicitor shall not transmit any written information by facsimile machine or computer to a consumer after the consumer requests orally or in writing that such transmissions cease.

(e) A telephone solicitor shall not obtain by use of any professional delivery, courier or other pickup service receipt or possession of a consumer's payment unless the goods are delivered with the opportunity to inspect before any payment is collected.

(f) *No supplier shall make or cause to be made any unsolicited telephone call to the residential telephone number of any consumer in this state who has given notice to the information network of Kansas, in accordance with section 2, and amendments thereto, of such consumer's objection to receiving consumer telephone calls.*

(g) Local exchange carrier and telecommunications carriers shall not be responsible for the enforcement of the provisions of this section.

~~(g)~~ (h) Any violation of this section is an unconscionable act or practice under the Kansas consumer protection act.

~~(h)~~ (i) This section shall be part of and supplemental to the Kansas consumer protection act.

New Sec. 3. (a) A consumer living or residing in Kansas may give notice of such consumer's objection to receiving unsolicited consumer telephone calls to such consumer's residential telephone number. There shall be no cost to the consumer for such notice of objection. Such consumer's telephone number shall be listed in Kansas' no-call database by doing any of the following:

(1) Completing a written form designed by the attorney general and the information network of Kansas for the purpose of recording a consumer's notice of objection to receiving unsolicited consumer telephone calls and submitting that to the information network of Kansas;

(2) calling a toll-free number established by the attorney general and the information network of Kansas for the purpose of recording a consumer's notice of objection to receiving unsolicited consumer telephone calls and properly responding to the voice prompts; or

(3) accessing the appropriate internet site established by the attorney general and the information network of Kansas for the purpose of recording a consumer's notice of objection to receiving unsolicited consumer telephone calls and inputting the proper data requested by the website prompts.

(b) The no-call database shall consist of the aggregate collection of the telephone numbers of properly submitted notices of objection to receiving unsolicited consumer telephone calls. The information network of Kansas may maintain the no-call database in either a written or an electronic format.

(c) The telephone numbers of properly submitted notices of objection to receiving unsolicited consumer telephone calls shall become part of the no-call database in the quarter following the deadline for receipt of notice according to the following:

(1) The receipt deadline for the quarter commencing January 1 and ending March 31 is November 1;

(2) the receipt deadline for the quarter commencing April 1 and ending June 30 is February 1;

(3) the receipt deadline for the quarter commencing July 1 and ending September 30 is May 1; and

(4) the receipt deadline for the quarter commencing October 1 and ending December 31 is August 1.

(d) A notice of objection to receiving unsolicited consumer telephone calls shall remain in effect for two years from the date that telephone number first appears in the no-call

database. The notice of objection may be renewed for additional two-year periods by using the methods provided in subsection (a).

(e) If a consumer whose telephone number is part of the no-call database changes telephone numbers, such consumer shall submit a new notice of objection to receiving unsolicited consumer telephone calls and provide the new number to the information network of Kansas.

(f) A consumer may revoke notice of objection to receiving unsolicited consumer telephone calls by completing a written form designed by the attorney general and the information network of Kansas for the purpose of revoking a consumer's notice of objection to receiving unsolicited consumer telephone calls and submitting that completed form to the information network of Kansas. A consumer may also revoke notice of objection to receiving unsolicited consumer telephone calls by accessing the appropriate internet site established by the information network of Kansas and inputting the proper data requested by the website prompts. Upon receipt of such revocation notice, the information network of Kansas will remove the relevant telephone number from the no-call database according to the same schedule used for adding telephone numbers to the no-call database as provided in subsection (c). In addition, the information network of Kansas may remove a telephone number from the no-call database if the Kansas certified local exchange carrier responsible for the assignment of the relevant telephone number indicates in writing, or if available, by internet, to the information network of Kansas that the consumer who submitted the objection to receiving unsolicited consumer telephone calls is no longer assigned to that telephone number.

(g) A person or entity desiring to make unsolicited consumer telephone calls in Kansas may obtain a copy of the no-call database for such person's or entity's lawful use, or for the lawful use by such entity's employees, or for the lawful use by such person's or entity's independent contractors for use in their business, so long as the independent contractor is regularly associated with the person or entity and is engaged in the same or related type of business as the person or entity, by doing the following:

(1) Signing a written confidentiality agreement prepared by the attorney general and the information network of Kansas that: (A) Restricts use of the no-call database exclusively for the purpose of compliance with this section; and (B) prohibits the transfer of the copy of the no-call database to any person or entity who has not submitted the signed written confidentiality agreement and payment to the information network of Kansas for receipt of a copy of the no-call database; and

(2) submitting the signed confidentiality agreement along with payment in an amount equal to \$25 per quarter for each Kansas area code to the information network of Kansas for providing a copy of the no-call database in downloadable electronic format. Those persons or entities desiring to obtain access to only part of the no-call database may do so by submitting the signed confidentiality agreement along with a request designating by area code the portion or portions of the no-call database they desire and providing payment in the amount of \$25 per quarter per area code to the information network of Kansas for providing a copy of the requested portion of the no-call database in downloadable electronic format. The information network of Kansas may require payment of a media and handling charge from persons who request a computer disk copy of the no-call database.

(h) No supplier who obtains a copy of the no-call database shall use that information for purposes other than compliance with this section. Information contained in the no-call database shall be used only for the purpose of compliance with this section or in a proceeding or action for violations of this section. Such information shall not be considered a public record pursuant to K.S.A. 45-215 *et seq.*, and amendments thereto.

(i) Moneys collected pursuant to subsection (g) shall be used first to pay the cost of the database maintained by the information network of Kansas. Any moneys collected pursuant to subsection (g) in excess of the cost of the database maintained by the information network of Kansas shall be paid to the attorney general to investigate and prosecute violations of this section. Penalties and fees recovered from prosecutions of violations of this section shall be paid to the attorney general to investigate and prosecute violations of this section.

(j) The attorney general may enter into agreements with private entities, as determined necessary by the attorney general, to comply with the provisions of this act related to the creation and maintenance of the no-call data base.

Sec. 4. K.S.A. 2001 Supp. 50-670 is hereby repealed.”;

By renumbering section 2 accordingly;

On page 1, in the title, in line 10, by striking all after the semicolon; in line 11, by striking all before the period and inserting “amending K.S.A. 2001 Supp. 50-670 and repealing the existing section”;

Also, on motion of Rep. L. Powell to amend **HB 2767**, Rep. Lane requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane.

Also, roll call was demanded on motion of Rep. McKinney to amend **HB 2767** on page 1, in line 14, before “Section” by inserting “New”; after line 22, by inserting an additional section as follows:

“Sec. 2. K.S.A. 2001 Supp. 50-627 is hereby amended to read as follows: 50-627. (a) No supplier shall engage in any unconscionable act or practice in connection with a consumer transaction. An unconscionable act or practice violates this act whether it occurs before, during or after the transaction.

(b) The unconscionability of an act or practice is a question for the court. In determining whether an act or practice is unconscionable, the court shall consider circumstances of which the supplier knew or had reason to know, such as, but not limited to the following that:

(1) The supplier took advantage of the inability of the consumer reasonably to protect the consumer’s interests because of the consumer’s physical infirmity, ignorance, illiteracy, inability to understand the language of an agreement or similar factor;

(2) when the consumer transaction was entered into, the price grossly exceeded the price at which similar property or services were readily obtainable in similar transactions by similar consumers;

(3) the consumer was unable to receive a material benefit from the subject of the transaction;

(4) when the consumer transaction was entered into, there was no reasonable probability of payment of the obligation in full by the consumer;

(5) the transaction the supplier induced the consumer to enter into was excessively one-sided in favor of the supplier;

(6) the supplier made a misleading statement of opinion on which the consumer was likely to rely to the consumer’s detriment; and

(7) except as provided by K.S.A. 50-639, and amendments thereto, the supplier excluded, modified or otherwise attempted to limit either the implied warranties of merchantability and fitness for a particular purpose or any remedy provided by law for a breach of those warranties.

(c) (1) “Contractor” means a person who owns a commodity that is produced by a contract producer at the contract producer’s contract operation according to a production contract;

(2) “producer” means a person who produces a commodity, including but not limited to, a contract producer. Producer does not include a commercial fertilizer or pesticide applicator, a feed supplier or a veterinarian, when acting in such capacity; and

(3) “production contract” means an oral or written agreement that provides for the production of a commodity or the provision of management services relating to the production of a commodity by a contract producer. A production contract is executed when it is signed or orally agreed to by each party to the contract or by a person authorized to act on the party’s behalf.

(d) For purposes of this section, a producer shall be deemed a “consumer” and a contractor shall be deemed a “supplier” as defined in K.S.A. 50-624, and amendments thereto, when they are parties to a production contract.

Sec. 3. K.S.A. 2001 Supp. 50-627 is hereby repealed.”;

By renumbering section 2 accordingly;

Also on page 1, in the title, in line 10, by striking all after the semicolon, in line 11, by striking all before the period and inserting "amending K.S.A. 2001 Supp. 50-627 and repealing the existing section"

On roll call, the vote was: Yeas 70; Nays 44; Present but not voting: 0; Absent or not voting: 11.

Yeas: Ballard, Barnes, Burroughs, Cook, Crow, DeCastro, Dillmore, DiVita, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Goering, Grant, Henderson, Henry, Horst, Howell, Huebert, Huy, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Larkin, Levinson, Loganbill, M. Long, P. Long, McClure, McKinney, McLeland, Merrick, Minor, Jim Morrison, Myers, Nichols, Ostmeyer, Palmer, Pauls, E. Peterson, Phelps, Pottorff, T. Powell, Powers, Pyle, Reardon, Rehorn, Ruff, Sharp, Showalter, Storm, Swenson, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Wells, Welshimer, D. Williams, J. Williams, Wilson, Winn.

Nays: Aday, Aurand, Ballou, Beggs, Benlon, Bethell, Compton, Cox, Dahl, Dreher, Edmonds, Freeborn, Glasscock, Hayzlett, Hermes, Huff, Humerickhouse, Hutchins, Johnson, Lane, Light, Lightner, Lloyd, Mason, Miller, Judy Morrison, Neufeld, Newton, Novascone, Osborne, Owens, Patterson, J. Peterson, L. Powell, Ray, Schwartz, Shriver, Sloan, Stone, Tafanelli, Tanner, Weber, Wilk.

Present but not voting: None.

Absent or not voting: Boston, Campbell, Gordon, Holmes, Mayans, Mays, McCreary, O'Brien, O'Neal, Shultz, Spangler.

The motion of Rep. McKinney prevailed.

Also, roll call was demanded on motion of Rep. Beggs to rerefer **HB 2767** to Committee on Business, Commerce and Labor.

On roll call, the vote was: Yeas 38; Nays 79; Present but not voting: 0; Absent or not voting: 8.

Yeas: Aday, Aurand, Ballou, Beggs, Bethell, Boston, Compton, Cox, Dahl, Dreher, Edmonds, Freeborn, Glasscock, Hayzlett, Huff, Humerickhouse, Johnson, Krehbiel, Lane, Light, Lightner, Lloyd, Mason, Miller, Judy Morrison, Neufeld, Novascone, Patterson, J. Peterson, L. Powell, Ray, Schwartz, Shriver, Stone, Tanner, Tomlinson, Weber, Wilk.

Nays: Ballard, Barnes, Benlon, Burroughs, Cook, Crow, DeCastro, Dillmore, DiVita, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Goering, Grant, Henderson, Henry, Hermes, Horst, Howell, Huebert, Hutchins, Huy, Kauffman, Kirk, Klein, Kuether, Landwehr, Larkin, Levinson, Loganbill, M. Long, P. Long, Loyd, Mays, McClure, McKinney, McLeland, Merrick, Minor, Jim Morrison, Myers, Newton, Nichols, Osborne, Ostmeyer, Owens, Palmer, Pauls, E. Peterson, Phelps, Pottorff, T. Powell, Powers, Pyle, Reardon, Rehorn, Ruff, Sharp, Showalter, Shultz, Sloan, Storm, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Wells, Welshimer, D. Williams, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Campbell, Gordon, Holmes, Mayans, McCreary, O'Brien, O'Neal, Spangler.

The motion of Rep. Beggs did not prevail, and **HB 2767** be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Appropriations** recommends **HB 2690** be amended on page 2, in line 42, by striking "to" and by inserting "and shall";

On page 3, in line 15, by striking "not more than"; by striking all in line 16; in line 17, by striking all before the period and inserting "Seven voting members and one nonvoting member. The seven voting members shall be appointed as follows: (1) One voting member shall be appointed by the speaker of the house of representatives, (2) one voting member shall be appointed by the minority leader of the house of representatives, (3) one voting member shall be appointed by the president of the senate, (4) one voting member shall be appointed by the minority leader of the senate, and (5) three voting members shall be appointed by the board of regents. Each voting member of the board of directors shall serve at the pleasure of the officer or board making the appointment. The voting members appointed by the speaker of the house of representatives, the minority leader of the house of

representatives, the president of the senate and minority leader of the senate may be, but are not required to be, members of the legislature. Of the three voting members appointed by the board of regents, not more than two may be members of the board of regents. Any vacancy occurring in the board of directors shall be filled in the same manner as the original appointment. The secretary of administration, or the secretary's designee who shall serve at the pleasure of the secretary of administration, shall serve as the nonvoting member of the board of directors. All members of the board of directors shall serve without compensation"; in line 23, after the period, by inserting "The subsidiary corporation formed pursuant to this section shall be dissolved by the board of regents after completion and official acceptance by the board of regents of all of the capital improvement projects initiated for research and development facilities for state educational institutions under this act or at such earlier time as may be prescribed or determined in accordance with the provisions of the articles of incorporation of the subsidiary corporation.";

On page 4, following line 32, by inserting the following:

"(3) Upon acceptance by the board of regents of each project initiated and completed under this act and upon a determination by the board of regents that the period for repayment of debt for such project is to commence, the board of regents shall certify to the director of accounts and reports that principal and interest payments for such project are to commence and the dates and amounts of all principal and interest payments for such project. Pursuant to each such certification, the director of accounts shall transfer, from the state general fund to the debt service fund or funds at a state educational institution as specified in the certification for such project, the amount certified on or before the respective payment date therefor. Transfers shall be made under this section pursuant to any such certification on or after July 1, 2003. The aggregate of all such transfers from the state general fund during any fiscal year shall not exceed \$10,000,000 and the aggregate of all such transfers from the state general fund under this section shall not exceed \$50,000,000. The Kansas development finance authority and the board of regents shall enter into contracts with respect to the scientific research and development facilities financed under this act prescribing the obligation of the board of regents and the state educational institutions to provide for repayment of amounts of bond debt service in addition to those amounts provided for by transfers under this section from the state general fund.";

On page 7, by striking all in lines 16 through 26, and inserting the following material to read as follows:

"Sec. 10. (a) As used in this section, unless the context expressly provides otherwise:

(1) "Ancillary technical services" include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing of air conditioning, ventilating, heating and other mechanical building systems, testing and consultant services that are determined by the board of regents to be required for a project;

(2) "architectural services" means those services described by subsection (e) of K.S.A. 74-7003, and amendments thereto;

(3) "construction services" means the work performed by a construction contractor to commence and complete a project;

(4) "construction management at-risk services" means the services provided by a firm which has entered into a contract with the board of regents to be the construction manager at risk for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor and which is required to solicit competitive bids for the trade packages developed for a project and to enter into the trade contracts for a project with the lowest responsible bidder therefor, and may include, but are not limited to, such services as scheduling, value analysis, systems analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees, and construction coordination;

(5) "division of facilities management" means the division of facilities management of the department of administration;

(6) "engineering services" means those services described by subsection (i) of K.S.A. 74-7003, and amendments thereto;

(7) "firm" means (A) with respect to architectural services, an individual, firm, partnership, corporation, association or other legal entity which is: (i) permitted by law to practice the profession of architecture; and (ii) maintaining an office in Kansas staffed by one or more architects who are licensed by the board of technical professions; or (iii) not maintaining an office in Kansas, but which is qualified to perform special architectural services that are required in special cases where in the judgment of the board of regents it is necessary to go outside the state to obtain such services; (B) with respect to engineering services or land surveying, an individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of engineering and provide engineering services or practice the profession of land surveying and provide land surveying services, respectively; (C) with respect to construction management at-risk services, a qualified individual, firm, partnership, corporation, association or other legal entity permitted by law to perform construction management at-risk services; (D) with respect to ancillary technical services or other services that are determined by the board of regents to be required for a project, a qualified individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the required profession or perform the other required services, as determined by the board of regents; and (E) with respect to construction services, a qualified individual, firm, partnership, corporation, association, or other legal entity permitted by law to perform construction services for a project;

(8) "land surveying" means those services described in subsection (j) of K.S.A. 74-7003, and amendments thereto;

(9) "negotiating committee" means the board of directors of the subsidiary corporation formed under section 5, and amendments thereto;

(10) "project" means (A) the project for the KSU food safety and security research facility, (B) the project for the KUMC biomedical research facility, (C) the project for the WSU engineering complex expansion and research laboratory, or (D) the project for the acquisition and installation of equipment for the KU biosciences research building, which are funded from the proceeds of the bonds authorized to be issued under section 7, and amendments thereto, within the limitation of \$110,000,000, in the aggregate, plus all amounts required for costs of any bond issuance, costs of interest on any bond issued or obtained for such scientific research and development facilities and any required reserves for payment of principal and interest on any such bond, and from any moneys received as gifts, grants or otherwise from any public or private nonstate source;

(11) "project services" means architectural services, engineering services, land surveying, construction management at-risk services, construction services, ancillary technical services or other construction-related services determined by the board of regents to be required for a project; and

(12) "state building advisory commission" means the state building advisory commission created by K.S.A. 75-3780, and amendments thereto.

(b) The board of regents, when acting under authority of this act, and each project authorized by the board of regents under this act are exempt from the provisions of K.S.A. 75-1269, 75-3738 through 75-3741b, 75-3742 through 75-3744, and 75-3783, and amendments thereto, except as otherwise specifically provided by this act.

(c) Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, or the provisions of any other statute to the contrary, all contracts for any supplies, materials or equipment for a project authorized by the board of regents under this act, shall be entered into in accordance with procurement procedures determined by the board of regents, subject to the provisions of this section, except that, in the discretion of the board of regents, any such contract may be entered into in the manner provided in and subject to the provisions of any such statute otherwise applicable thereto. Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, if the board of regents does not obtain construction management at-risk services for a project, the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services for such project shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the board of regents which shall be consistent with the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(d) When it is necessary in the judgment of the board of regents to obtain project services for a particular project by conducting negotiations therefor, the board of regents shall publish a notice of the commencement of negotiations for the required project services at least 15 days prior to the commencement of such negotiations in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, and in such other appropriate manner as may be determined by the board of regents.

(e) (1) Notwithstanding the provisions of subsection (b) of K.S.A. 75-1251, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-1250 through 75-1270, and amendments thereto, with respect to the procurement of architectural services for a project authorized by the board of regents under this act, "negotiating committee" shall mean the board of directors of the subsidiary corporation formed under section 5, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required architectural services for the project in accordance with the provisions of K.S.A. 75-1250 through 75-1270, and amendments thereto, except that no limitation on the fees for architectural services for the project shall apply to the fees negotiated by the board of directors for such architectural services.

(2) Notwithstanding the provisions of subsection (e) of K.S.A. 75-5802, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-5801 through 75-5807, and amendments thereto, with respect to the procurement of engineering services or land surveying services for a project authorized by the board of regents under this act, "negotiating committee" shall mean the board of directors of the subsidiary corporation formed under section 5, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required engineering services or land surveying services for the project in accordance with the provisions of K.S.A. 75-5801 through 75-5807, and amendments thereto.

(3) In any case of a conflict between the provisions of this section and the provisions of K.S.A. 75-1250 through 75-1270, or 75-5801 through 75-5807, and amendments thereto, with respect to a project authorized by the board of regents under this act, the provisions of this section shall govern.

(f) (1) For the procurement of construction management at-risk services for projects under this act, the secretary of administration shall encourage firms engaged in the performance of construction management at-risk services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to (A) the firm's capacity and experience, including experience on similar or related projects, (B) the capabilities and other qualifications of the firm's personnel, and (C) performance data of all consultants the firm proposes to use.

(2) Whenever the board of regents determines that a construction manager at risk is required for a project under this act, the board of regents shall notify the state building advisory commission and the state building advisory commission shall prepare a list of at least three and not more than five firms which are, in the opinion of the state building advisory commission, qualified to serve as construction manager at risk for the project. Such list shall be submitted to the negotiating committee, without any recommendation of preference or other recommendation. The negotiating committee shall have access to statements of qualifications of and performance data on the firms listed by the state building advisory commission and all information and evaluations regarding such firms gathered and developed by the secretary of administration under K.S.A. 75-3783, and amendments thereto.

(3) The negotiating committee shall conduct discussions with each of the firms so listed regarding the project. The negotiating committee shall determine which construction management at-risk services are desired and then shall proceed to negotiate with and attempt to enter into a contract with the firm considered to be most qualified to serve as construction manager at risk for the project. The negotiating committee shall proceed in accordance with the same process with which negotiations are undertaken to contract with a firm to be a project architect under K.S.A. 75-1257, and amendments thereto, to the extent that such provisions can be made to apply. Should the negotiating committee be unable to negotiate a satisfactory contract with the firm considered to be most qualified, negotiations with that

firm shall be terminated and shall undertake negotiations with the second most qualified firm, and so forth, in accordance with that statute.

(4) The contract to perform construction management at-risk services for a project shall be prepared by the division of facilities management and entered into by the board of regents with the firm contracting to perform such construction management at-risk services.

(g) (1) To assist in the procurement of construction services for projects under this act, the secretary of administration shall encourage firms engaged in the performance of construction services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to (A) the firm's capacity and experience, including experience on similar or related projects, (B) the capabilities and other qualifications of the firm's personnel, (C) performance data of all subcontractors the firm proposes to use, and (D) such other information related to the qualifications and capability of the firm to perform construction services for projects as may be prescribed by the secretary of administration.

(2) The construction manager at risk shall publish a construction services bid notice in the Kansas register and in such other appropriate manner as may be determined by the board of regents. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager at risk and the state board of regents with the assistance of the division of facilities management. The current statements of qualifications of and performance data on the firms submitting bid proposals shall be made available to the construction manager at risk and the board of regents by the state building advisory commission along with all information and evaluations developed regarding such firms by the secretary of administration under K.S.A. 75-3783, and amendments thereto. At the time for opening the bids, the construction manager at risk shall evaluate the bids and shall determine the lowest responsible bidder. The construction manager at risk shall enter into contracts with each firm performing the construction services for the project and make a public announcement of each firm selected in accordance with this subsection.

(h) The division of facilities management shall provide such information and assistance as may be requested by the board of regents or the negotiating committee for a project, including all or part of any project services as requested by the board of regents, and (1) shall prepare the request for proposals and publication information for each publication of notice under this section, subject to the provisions of this section, (2) shall prepare each contract for project services for a project, including each contract for construction services for a project, (3) shall conduct design development reviews for each project, (4) shall review and approve all construction documents for a project prior to soliciting bids or otherwise soliciting proposals from construction contractors or construction service providers for a project, (5) shall obtain and maintain copies of construction documents for each project, and (6) shall conduct periodic inspections of each project, including jointly conducting the final inspection of each project.

(i) Notwithstanding the provisions of any other statute, the board of regents shall enter into one or more contracts with the division of facilities management for each project for the services performed by the division of facilities management for the project as required by this section or at the request of the board of regents. The division of facilities management shall receive fees from the board of regents to recover the costs incurred to provide such services pursuant to such contracts.

(j) Design development reviews and construction document reviews conducted by the division of facilities management shall be limited to ensuring only that the construction documents do not change the project description and that the construction documents comply with the standards established under K.S.A. 75-3783, and amendments thereto, by the secretary of administration for the planning, design and construction of buildings and major repairs and improvements to buildings for state agencies, including applicable building and life safety codes and appropriate and practical energy conservation and efficiency standards.

(k) Each project for a state educational institution shall receive a final joint inspection by the division of facilities management and the board of regents. Each such project shall be officially accepted by the board of regents before such project is occupied or utilized by

the state educational institution, unless otherwise agreed to in writing by the contractor and the board of regents as to the satisfactory completion of the work on part of the project that is to be occupied and utilized, including any corrections of the work thereon.

(1) (1) The board of regents shall issue monthly reports of progress on each project and shall advise and consult with the joint committee on state building construction regarding each project. Change orders and changes of plans for a project shall be authorized or approved by the board of regents.

(2) No change order or change of plans for a project involving either cost increases of \$75,000 or more or involving a change in the proposed use of a project shall be authorized or approved by the board of regents without having first advised and consulted with the joint committee on state building construction.

(3) Change orders or changes in plans for a project involving a cost increase of less than \$75,000 and any change order involving a cost reduction, other than a change in the proposed use of the project, may be authorized or approved by the board of regents without prior consultation with the joint committee on state building construction. The board of regents shall report to the joint committee on state building construction all action relating to such change orders or changes in plans.

(4) If the board of regents determines that it is in the best interest of the state to authorize or approve a change order, a change in plans or a change in the proposed use of any project that the board of regents is required to first advise and consult with the joint committee on state building construction prior to issuing such approval and if no meeting of the joint committee is scheduled to take place within the next 10 business days, then the board of regents may use the procedure authorized by subsection (d) of K.S.A. 75-1264, and amendments thereto, in lieu of advising and consulting with the joint committee at a meeting. In any such case, the board of regents shall mail a summary description of the proposed change order, change in plans or change in the proposed use of any project to each member of the joint committee on state building construction and to the director of the legislative research department. If the board of regents provides notice and information to the members of the joint committee and to such director in the manner required and subject to the same provisions and conditions that apply to the secretary of administration under such statute, and if less than two members of the joint committee contact the director of the legislative research department within seven business days of the date the summary description was mailed and request a presentation and review of any such proposed change order, change in plans or change in use at a meeting of the joint committee, then the board of regents shall be deemed to have advised and consulted with the joint committee about such proposed change order, change in plans or change in proposed use and may authorize or approve such proposed change order, change in plans or change in proposed use.

(m) The provisions of this section shall apply to each project authorized by the board of regents under this act and shall not apply to any other capital improvement project of the board of regents or of any state educational institution that is specifically authorized by any other statute.”; and the bill be passed as amended.

The Committee on **Appropriations** recommends **HB 2764** be amended on page 2, in line 33, after “matching” by inserting “ad valorem property tax levy”; in line 34, after the comma, by inserting “or the single entity responsible for ad valorem property tax levies for services for the aging, as designated by the local units of government,”; and the bill be passed as amended.

The Committee on **Appropriations** recommends **HB 2829** be amended on page 2, in line 4, after “(b)”, by inserting “(1)””; also on page 2, after line 12, by inserting the following:

(2) Any administrative fines received under this subsection (b) shall be remitted by the secretary of administration 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 building and ground fund created by K.S.A. 75-3765, and amendments thereto.”; and the bill be passed as amended.

The Committee on **Education** recommends **HB 2669** be amended on page 2, in line 10, after “(10)”, by inserting “live”; in line 19, before the period, by inserting “; (6) spent ammunition”;

On page 3, in line 13, after "(10)", by inserting "live"; in line 22, before the period, by inserting "(6) spent ammunition"; and the bill be passed as amended.

The Committee on **Environment** recommends **HB 2703** be amended on page 3, in line 11, following the semicolon where it appears for the first time, by inserting "treated wood from construction or demolition projects; small amounts of municipal solid waste generated by the consumption of food and drinks at construction or demolition sites, including, but not limited to, cups, bags and bottles;"; in line 30, by striking "Small amounts"; by striking all in line 31; in line 32, by striking "papers" and inserting "Caulking tubes"; in line 38, by striking "on land"; and the bill be passed as amended.

The Committee on **Environment** recommends **HB 2830** be amended on page 3, in line 27, by striking "county clerk" and inserting "register of deeds";

On page 4, in line 39, by striking "county clerk" and inserting "register of deeds";

On page 5, in line 31, by striking all after the period; by striking all in lines 32 and 33; in line 38, by striking all after the period; by striking all in lines 39 and 40;

On page 6, in line 2, by striking "is hereby authorized and directed to" and inserting "may"; in line 11, by striking all after the period; by striking all in line 12; in line 31, after "public" by inserting "in a manner which allows review by either city or county"; in line 36, after "(4)" by inserting "cause and type of the environmental contamination;

(5)";

Also on page 6, in line 37, by striking "(5)" and inserting "(6)"; and the bill be passed as amended.

The Committee on **Federal and State Affairs** recommends **HB 2770** be passed.

(Having been referred separately, **HB 2770** is now in Committee on **Appropriations**.)

The Committee on **Health and Human Services** recommends **HB 2665** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

The Committee on **Health and Human Services** recommends **HB 2808** be amended on page 1, in line 37, after the period, by inserting "Such organization shall also pay the costs of providing and maintaining the written information and educational materials required to be distributed under subsection (g) of K.S.A. 8-247, and amendments thereto, and under subsection (b) of K.S.A. 8-1325, and amendments thereto."

On page 6, in line 2, by striking "On and after January 1, 1999, for" and inserting "For"; and the bill be passed as amended.

REPORT OF STANDING COMMITTEE

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

Request No. 69, by Representative Tanner, congratulating Danny Beuthien, Hans Broers and Joshua Michael Cosgrove on attaining the rank of Eagle Scout;

Request No. 70, by Representative Huff, congratulating Joe Pastrano on his outstanding career with the Colgate-Palmolive Company;

Request No. 71, by Representative Pottorff, congratulating Tracy Callard in honor of her being named Teacher of the Year 2002 and a finalist for 2002 National Teacher of the Year;

Request No. 72, by Representative Hermes, commending Glen and Eddie Engler for their fifty years of involvement in the Auburn Grange Fair;

Request No. 73, by Representative Thimesch, congratulating Nathaniel Christopher Kohls on attaining the rank of Eagle Scout;

Request No. 74, by Representative Dahl, congratulating Leonard and Joan Stalnaker on their 50th wedding anniversary;

Request No. 75, by Representative Neufeld, congratulating Kyle Borger on his achieving the rank of Eagle Scout;

Request No. 76, by Representative Nichols, congratulating students for being named to the Washburn President's Honor Roll Program;

Request No. 77, by Representative Henderson, commending the Alpha Kappa Sorority, Inc and The Greater Kansas City Chapter of Links, Inc. for their dedication in improving health care, economic empowerment, the arts, education and scholarship opportunities; be approved and the Chief Clerk of the House be directed to order the printing of said certificates and drafting of said resolutions.

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

REPORT ON ENGROSSED BILLS

HB 2619, HB 2693, HB 2698, HB 2794 reported correctly engrossed February 21, 2002.

On motion of Rep. Weber, the House adjourned until 11:00 a.m., Monday, February 25, 2002.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

