

# Journal of the House

THIRTY-SECOND DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Wednesday, February 27, 2002, 11:00 a.m.

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

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

Reps. Henderson and Kauffman were excused on excused absence by the Speaker.

Present later: Rep. Henderson.

Prayer by Chaplain Chamberlain:

Dear Lord, and Creator of humankind, our heaters kicked in early this morning as warmth continued to ebb from the world around us. The comfort of a safe and warm place to spend the night was a blessing that we experienced with thanksgiving.

In this city and in our state, there are those who did not enjoy the restful night we had. There are those who, for many different reasons, are not able to find warmth and comfort on a cold winter's night. There are many others who find it only as the result of the compassion of others in ministry to those in need.

Lord, there are not enough dollars, days or people to fix every problem, right every wrong or ease every hardship. That in the end is your work. We are faced instead with the need to discover the best ways to use the resources available—to determine how we are to be good stewards of the blessings that you have given us all. As we struggle to arrive at the answers to difficult questions do not allow us to imagine that our decisions, policies and platforms are without consequences. Even when we are unable to alleviate every pain, keep the faces of pain clear in our vision, for they are the faces of your children. Amen.

The Pledge of Allegiance was led by Rep. Sharp

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 3005**, An act amending the open records act; relating to application to certain records; amending K.S.A. 45-217 and repealing the existing section, by Committee on Federal and State Affairs.

**HB 3006**, An act concerning regulation and licensure of detective business; prohibiting certain acts and providing penalties for violations; amending K.S.A. 75-7b19 and K.S.A. 2001 Supp. 75-7b01, 75-7b04, 75-7b07, 75-7b10 and 75-7b13 and repealing the existing sections, by Committee on Federal and State Affairs.

## CONSENT CALENDAR

No objection was made to **HB 2665** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**HB 2665**, An act concerning emergency medical services; relating to certification; amending K.S.A. 2001 Supp. 65-6129 and repealing the existing section; also repealing K.S.A. 65-6122, 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, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, 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, Spangler, 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: Henderson, Kauffman, McCreary, O'Brien.

The bill passed.

**HB 2078**, An act concerning civil actions; relating to shoplifting; parents of minors; amending K.S.A. 60-3331 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 82; Nays 39; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Burroughs, Campbell, Compton, DeCastro, Dillmore, DiVita, Edmonds, Feuerborn, Findley, Freeborn, Garner, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Krehbiel, Landwehr, Larkin, Levinson, Light, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mayans, Mays, McKinney, McLeland, Merrick, Jim Morrison, Judy Morrison, Newton, Nichols, Novascone, O'Neal, Owens, Palmer, Patterson, J. Peterson, Pottorff, L. Powell, T. Powell, Pyle, Ray, Reardon, Ruff, Schwartz, Shultz, Sloan, Storm, Swenson, Tafanelli, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, D. Williams, J. Williams, Wilson.

Nays: Ballou, Boston, Cook, Cox, Crow, Dahl, Dreher, Faber, Flaharty, Flora, Gilbert, Goering, Kirk, Klein, Kuether, Lane, Lightner, Mason, McClure, Miller, Minor, Myers, Neufeld, Osborne, Ostmeyer, Pauls, E. Peterson, Phelps, Powers, Rehorn, Sharp, Showalter, Shriver, Spangler, Stone, Tanner, Welshimer, Wilk, Winn.

Present but not voting: None.

Absent or not voting: Henderson, Kauffman, McCreary, O'Brien.

The bill passed, as amended.

## EXPLANATION OF VOTE

MR. SPEAKER: Over the past few years I have seen a disturbing trend in our state's policies towards children and parents. While it has often been said that "it takes a village to raise a child," when a child breaks the law our "village" now shuns the child and seeks unrestrained retribution against the child. We now demonize and criminalize children for acts that 20 years ago would have resulted in a very serious conference between parent, child and the party harmed. I hope that in the future we will exercise greater restraint and discernment in our policies towards children and their families. I thank the body for the restraint it amended onto the bill yesterday and I reluctantly vote yes on **HB 2078** today.—KAREN M. DIVITA

**Sub. HB 2366**, An act concerning marriage; relating to common-law marriages; amending K.S.A. 2001 Supp. 23-101 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 1; 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, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, 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, Spangler, Stone, Storm, Swenson, Tafanelli, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Tanner.

Present but not voting: None.

Absent or not voting: Henderson, Kauffman, McCreary, O'Brien.

The substitute bill passed.

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

#### COMMITTEE OF THE WHOLE

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

Recommended that **HB 2959**, **HB 2844**, **HB 2708** be passed.

Committee report recommending a substitute bill to **Sub. HB 2285** be adopted; and the substitute bill be passed.

Committee report to **HB 2744** be adopted; and the bill be passed as amended.

Pursuant to House Rule 1903, **HB 2353**, **HB 2807**, **HB 2669** (see further action, Afternoon Session) be passed over and retain a place on the calendar.

Committee report to **HB 2830** be adopted; and the bill be passed as amended.

Committee report to **HB 2787** be adopted; also, on motion of Rep. Bethell be amended on page 1, by striking all in lines 32 through 42; following line 42, by inserting:

“New Sec. 2. Unless the boundaries of a taxing district are expanded as provided by section 3, and amendments thereto, whenever a school district which has established a rec-”;

On page 2, following line 6, by inserting:

“New Sec. 3. (a) The provisions of this section shall apply only to those recreation systems with taxing districts as defined in section 2, and amendments thereto.”;

Also on page 2, by redesignating subsections (2), (3) and (4) as subsections (b), (c) and (d), respectively; following line 38, by inserting:

“(e) When used in this section, “qualified voter” means a registered voter of a school district who is a resident of that portion of such school district which is not included in the taxing district of a recreation system following the consolidation of such school district with a school district which has established a recreation system or which is a part of a joint recreation system.”;

Also on page 2, by striking all in lines 39 through 43;

On page 3, by striking all in lines 1 through 30;

By renumbering sections accordingly; and **HB 2787** be passed as amended.

Committee report to **HB 2795** be adopted; also, on motion of Rep. Beggs to amend, Rep. Ballou requested a ruling on the amendment being germane to the bill. Pursuant to House Rule 1903, be passed over and retain a place on the calendar (see further action, Afternoon Session).

Committee report to **HB 2640** be adopted; and the bill be passed as amended.

Committee report to **HB 2709** be adopted; also, on motion of Rep. Campbell be amended on page 13, following line 5, by inserting:

“(2) another statute of this state expressly governs the creation, perfection, priority or enforcement of a security interest created by this state or a governmental unit of this state;”;

By renumbering the remaining paragraphs accordingly;

Also, roll call was demanded on motion of Rep. Feuerborn to amend **HB 2709** on page 11, in line 3, after “by” by inserting “section 4,”;

On page 15, after line 28, by inserting the following:

“New Sec. 4. (a) Grain contained in a public warehouse, including grain owned by the public warehouseman, is subject to a first priority lien in favor of outstanding receipt holders. The lien created pursuant to this section shall be preferred to any lien or security interest in favor of any creditor of the public warehouseman regardless of the time when the creditor’s lien or security interest attached to the grain. Notice of the lien created under this section need not be filed in order to perfect the lien. The lien created by this section is discharged as to grain sold by the public warehouseman to a buyer in the ordinary course of business. Such sale does not discharge the lien in favor of an individual receipt holder in the remaining grain in the public warehouse.

(b) As used in this section:

(1) “Agricultural chemical,” “agricultural production input,” “crop production input,” “feed,” “livestock production input,” “petroleum product” and “seed” shall have the meanings ascribed thereto in K.S.A. 58-241, and amendments thereto.

(2) “Person” means any individual, association, firm, partnership, profit or nonprofit corporation, trust, organization or any other business entity.

(3) “Public warehouse” and “public warehouseman” shall have the meanings ascribed thereto in K.S.A. 34-223, and amendments thereto, and shall include state and federally licensed public warehousemen.

(4) “Receipt holder” means a person who:

(A) Is storing or depositing grain in the public warehouse;

(B) has sold grain to the public warehouseman and has not received the check or the check has been received but returned for insufficient funds; or

(C) has prepaid the public warehouseman for an agricultural production input and has not received such input.

Sec. 5. K.S.A. 2001 Supp. 84-9-201 is hereby amended to read as follows: 84-9-201. (a) **General effectiveness.** Except as otherwise provided in the uniform commercial code, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) **Applicable consumer laws and other law.** A transaction subject to this article is subject to any applicable rule of law which establishes a different rule for consumers, to any other statute or rule and regulation of this state that regulates the rates, charges, agreements, and practices for loans, credit sales, or other extensions of credit, and to any consumer protection statute or rule and regulation of this state and, including, but not limited to, *section 4*, K.S.A. 2-1319, 2-2608, 2-3007, 34-239, 47-836, 58-201, 58-203, 58-204, 58-207, 58-218, 58-220, 58-221, 58-241, 58-242, 58-2524, 58-2525, 58-2526, 58-2527, 58-2528 and 84-7-209.

(c) **Other applicable law controls.** In case of conflict between this article and a rule of law, statute, or regulation described in subsection (b), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (b) has only the effect the statute or regulation specifies.

(d) **Further deference to other applicable law.** This article does not:

(1) Validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (b); or

(2) extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.”;

And by renumbering sections accordingly;

Also on page 15, in line 29, after “84-9-109” by inserting “, 84-9-201”;

In the title, in line 11, by striking all after the semicolon where it appears for the first time; in line 12, after “84-9-109” by inserting “, 84-9-201”;

On roll call, the vote was: Yeas 89; Nays 29; Present but not voting: 0; Absent or not voting: 7.

Yeas: Aday, Ballard, Barnes, Boston, Burroughs, Campbell, Compton, Cook, Crow, DeCastro, Dillmore, DiVita, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Goering, Grant, Hayzlett, Henry, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Kirk, Klein, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lloyd, Loganbill, M. Long, P. Long, Mason, Mayans, Mays, McClure, McKinney, McLeland, Merrick, Minor, Jim Morrison, Myers, Newton, Nichols, Novascone, Osborne, Ostmeyer, Palmer, Pauls, E. Peterson, J. Peterson, Phelps, T. Powell, Powers, Pyle, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shultz, Sloan, Stone, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Wells, Welshimer, D. Williams, J. Williams, Wilson, Winn.

Nays: Aurand, Ballou, Beggs, Benlon, Bethell, Cox, Dahl, Dreher, Edmonds, Glasscock, Gordon, Johnson, Krehbiel, Lightner, Loyd, Miller, Judy Morrison, Neufeld, O'Neal, Owens, Patterson, Pottorff, L. Powell, Ray, Shriver, Tanner, Tomlinson, Weber, Wilk.

Present but not voting: None.

Absent or not voting: Henderson, Hermes, Kauffman, McCreary, O'Brien, Spangler, Storm.

The motion of Rep. Feuerborn prevailed, and **HB 2709** be passed as amended.

Rose and reported.

#### REPORTS OF STANDING COMMITTEES

The Committee on **e-Government** recommends **HB 2719** be passed.

The Committee on **Ethics and Elections** recommends **HB 2996** be passed.

The Committee on **Ethics and Elections** recommends **HB 2761** be amended on page 1, in the title, in line 9, by striking "elections", and inserting "crimes, criminal procedure and punishment; relating to civil and voting rights of convicted felons"; and the bill be passed as amended.

The Committee on **Federal and State Affairs** recommends **HB 2823** be passed.

The Committee on **Judiciary** recommends **HB 2802** be passed.

The Committee on **Judiciary** recommends **HB 2487** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2487," as follows:

"Substitute for HOUSE BILL No. 2487

By Committee on Judiciary

"AN ACT concerning the uniform commercial code; relating to secured transactions; amending K.S.A. 58-244, 66-1217, 66-1219, 79-2616 and 79-2617 and K.S.A. 2001 Supp. 17-630, 84-1-105, 84-9-102, 84-9-104, 84-9-306, 84-9-311, 84-9-316, 84-9-317, 84-9-331, 84-9-334, 84-9-406, 84-9-509, 84-9-513, 84-9-525, 84-9-608, 84-9-613, 84-9-615, 84-9-625, 84-9-628, 84-9-702 and 84-9-705 and repealing the existing sections."; and the substitute bill be passed.

(**Sub HB 2487** was thereupon introduced and read by title.)

The Committee on **Judiciary** recommends **HB 2763** be amended on page 1, after line 12, by inserting the following:

"Section 1. K.S.A. 20-348 is hereby amended to read as follows: 20-348. Except for expenses required by law to be paid by the state, ~~from and after January 10, 1977,~~ the board of county commissioners of each county *have an obligation to adequately fund the operation of the district court in the county* and shall be responsible for all expenses incurred for the operation of the district court in the county.

Sec. 2. K.S.A. 2001 Supp. 20-349 is hereby amended to read as follows: 20-349. The chief judge in each judicial district shall be responsible for the preparation of the budget to be submitted to the board of county commissioners of each county. The board of county commissioners shall then have final authority to determine and approve the budget for district court operations payable by their county. The judicial administrator of the courts shall prescribe the form upon which such budgets shall be submitted. The budget shall include all expenditures payable by the county for operations of the district court in such county. A separate budget shall be prepared for each county within the district and the judges of the district court shall approve the budget for the county in which such judges are regularly assigned prior to submission of such budget to the board of county commis-

sioners. The compensation to be paid to district court personnel excluded from the judicial personnel classification system pursuant to subsection (b) of K.S.A. 20-162, and amendments thereto, shall be listed in the budget as a separate item for each job position. After the amount of such district court budget is established, the expenditures under such budget, other than expenditures for job positions contained in the budget, shall be under the control and supervision of the chief judge, subject to supreme court rules relating thereto, and the board of county commissioners shall approve all claims submitted by the chief judge within the limits of such district court budget. ~~No board of county commissioners shall decrease such budget for district court operations to a level below the amount of the 1978 calendar year budget approved by the board of county commissioners less the amount of compensation and fringe benefits provided in such budget for judges and other personnel positions which are assumed by the state pursuant to this act.~~ The financial affairs of the district court in each county including, but not limited to, nonexpendable trust funds, law library funds and court trustee operations shall be subject to audit pursuant to the provisions of K.S.A. 75-1122, and amendments thereto, as part of the annual county audit. Reports of fiscal or managerial discrepancies or noncompliance with applicable law shall be made to the judicial administrator of the courts as well as the board of county commissioners.”;

By renumbering the remaining sections accordingly;

In line 13, after “K.S.A.” by inserting “20-348,”; after “20-713” by inserting “and K.S.A. 2001 Supp. 20-349”;

In the title, in line 9, after the semicolon where it appears the second time, by inserting “amending K.S.A. 20-348 and K.S.A. 2001 Supp. 20-349 and repealing the existing sections; also”; and the bill be passed as amended.

The Committee on **New Economy** recommends **HB 2609**, **HB 2962**, **HB 2978**, **HB 2990** be passed.

The Committee on **New Economy** recommends **HB 2988** be amended on page 2, in line 12, by striking “All” and inserting “Other provisions of law notwithstanding, all”; also in line 12, by striking “this” and inserting “the job expansion and investment credit”; and the bill be passed as amended.

The Committee on **New Economy** recommends **HB 2989** be amended on page 1, in line 27, after the period, by inserting “If a taxpayer has been engaged in commercial operations for less than five years, the amount invested shall be greater than the annual average amount invested by the taxpayer for the entire period of commercial operation.”; in line 29, after the period, by inserting “The value of such credit shall not be reduced by the value of any existing equipment owned by the taxpayer.”;

On page 4, in line 10, by striking all after the period; by striking all in lines 11 and 12;

On page 5, after line 26, by inserting an additional section as follows:

“New Sec. 2. The provisions of this act shall be effective for all taxable years commencing after December 31, 1992. No taxpayer shall be subject to audit, penalty or interest for underpayment of tax due to failure to properly calculate the value of an investment by deducting the value of any existing equipment owned by the taxpayer.”;

By renumbering the existing sections accordingly; and the bill be passed as amended.

The Committee on **Taxation** recommends **HB 2066** be amended on page 1, in line 14, by striking “2000” and inserting “2001”; in line 24, by striking “oil”; in line 25, by striking the first “or”; in line 26, after the period by inserting “The rate of such tax shall be 7.567% of the gross value of all oil severed from the earth or water in this state and subject to the tax imposed under this act.”; in line 27, by striking “\$1” and inserting “\$.90”;

On page 6, by striking all in line 25; in line 26, by striking all before the period and inserting “for the calendar year 1988, and all years thereafter, the severance or production of the first 350,000 tons of coal from any mine as certified by the state geological survey”; in line 41, by striking “2000” and inserting “2001”;

In the title, in line 9, by striking all after the semicolon; in line 10, by striking all before the semicolon and inserting “concerning the rate thereof imposed upon coal and oil”; also, in line 10, by striking “2000” and inserting “2001”; and the bill be passed as amended.

The Committee on **Taxation** recommends **HB 2560** be amended on page 1, in line 14, by striking “On and after June 1, 2001.”; in line 15, after “is” by inserting “hereby”; in line 17, by striking “\$.39” and inserting “\$.25”; in line 18, by striking “\$.49” and inserting “\$.30”;

also in line 18, by striking “on and”; by striking all in lines 19 through 26; in line 27, by striking all before the period; in line 28, by striking “as provided in this act. Such tax shall be paid”; by striking all in line 35 through 43;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 7; after line 7, by inserting the following:

“Sec 2. K.S.A. 79-3310 is hereby repealed.”; in line 8, by striking “6” and inserting “3”; in line 9, by striking “Kansas register” and inserting “statute book”;

In the title, in line 9, by striking all after the semicolon; in line 10, by striking “thereon”; also in line 10, by striking “, 79-3311 and 79-3312”; in line 11, by striking “sections” and inserting “section”; and the bill be passed as amended.

The Committee on **Transportation** recommends **HB 2799** be passed.

The Committee on **Transportation** recommends **HB 2886** be amended on page 1, in line 22, preceding “Every” by inserting “(a)”; in line 27, by striking “(a)” and inserting “(1)”; in line 31, by striking “(b)” and inserting “(2)”; in line 36, by striking “(c)” and inserting “(3)”; in line 39, by striking all following “208”; by striking all in lines 40 through 42; in line 43, by striking all preceding the period;

On page 2, preceding line 1, by inserting:

“(b) If the number of children subject to the requirements of subsection (a) exceeds the number of passenger securing locations available for use by children affected by such requirements, and all of those securing locations are in use by children, then there is not a violation of this section.”;

Also on page 2, in line 1, by striking “subsection (b)” and inserting “paragraph (2) of subsection (a)”; also in line 1, following “any” by inserting “seating”; in line 5, following “upon” by inserting “the first”; in line 6, preceding “\$60” by inserting “\$20 and upon the second or subsequent conviction, shall be punished by a fine of”; in line 12, by striking “The fine provided for in subsection (a)”; in line 13, preceding “shall” by inserting “Upon the first conviction of a driver for violating paragraph (1) or (2) of subsection (a) of K.S.A. 8-1344, and amendments thereto, \$10 of the fine provided in subsection (a) and court costs assessed under K.S.A. 28-172a, and amendments thereto.”; in line 14, by striking all following “driver”; in line 15, by striking all preceding “provides” and inserting “so convicted”; in line 17, by striking all following the period; by striking all in line 18; in line 30, by striking “subsection (b)” and inserting “paragraph (2) of subsection (a)”; and the bill be passed as amended.

#### MESSAGE FROM THE SENATE

Announcing passage of **SB 265, SB 382, SB 413, SB 414, SB 417, SB 435, SB 439, SB 446, SB 459, SB 463, SB 464, Sub. SB 465, SB 480, SB 486, SB 491, SB 492, SB 499, SB 502, SB 507, SB 511, SB 531, SB 531, SB 531, SB 540, SB 543, SB 604, SB 605.**

#### INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills thereupon introduced and read by title:

**SB 265, SB 382, SB 413, SB 414, SB 417, SB 435, SB 439, SB 446, SB 459, SB 463, SB 464, Sub. SB 465, SB 480, SB 486, SB 491, SB 492, SB 499, SB 502, SB 507, SB 511, SB 531, SB 540, SB 543, SB 604, SB 605.**

On motion of Rep. Weber, the House recessed until 1:15 p.m.

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#### AFTERNOON SESSION

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

#### CHANGE OF REFERENCE

Speaker pro tem Aurand announced the withdrawal of **HB 2868** from Committee on Business, Commerce and Labor and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2779, HB 2904** from Committee on Education and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2710** from Committee on Environment and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2715, HB 2905** from Committee on Health and Human Services and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2879, HB 2946, HB 2984** from Committee on Insurance and referral to Committee on Appropriations.

Also, the withdrawal of **Sub. HB 2135; HB 2851, HB 2867, HB 2899, HB 2932, HB 2934** from Committee on Judiciary and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2760, HB 2949** from Committee on Local Government and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2890** from Committee on Tourism and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2754** from Committee on Utilities and referral to Committee on Appropriations.

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

#### COMMITTEE OF THE WHOLE

On motion of Rep. O'Neal, Committee of the Whole report, as follows, was adopted:

Recommended that **HB 2729, HB 2820, HB 2901, HB 2900, HB 2807** be passed.

On motion of Rep. Toplikar to amend **HB 2821**, the motion did not prevail, and the bill be passed.

Committee report to **HB 2831** be adopted; and the bill be passed as amended.

Pursuant to House Rule 1903, **HB 2666** be passed over and retain a place on the calendar.

Committee report to **HB 2999** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **Sub. HB 2872** be adopted; and the substitute bill be passed.

Discussion resumed on the pending motion of Rep. Beggs to amend **HB 2795** (see previous action, Morning Session). Rep. Ballou withdrew his request for a ruling on the amendment being germane to the bill. The question reverted back to the motion of Rep. Beggs to amend, which was withdrawn.

Also, on further motion of Rep. Beggs to amend **HB 2795**, the motion did not prevail and the bill be passed as amended.

Committee report to **HB 2353** be adopted; and the bill be passed as amended.

Committee report to **HB 2669** be adopted; also, on motion of Rep. Tomlinson to amend, Rep. Howell offered a motion to refer the bill to Committee on Federal and State Affairs. The motion prevailed and the bill be referred to Committee on Federal and State Affairs.

#### REPORTS OF STANDING COMMITTEES

The Committee on **e-Government** recommends **HB 2667** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2667," as follows:

"Substitute for HOUSE BILL No. 2667

By Committee on E-Government

"AN ACT concerning electronic and digital signatures; relating to the adoption of rules and regulations; amending K.S.A. 2001 Supp. 16-1605 and repealing the existing section."; and the substitute bill be passed.

(**Sub. HB 2667** was thereupon introduced and read by title.)

The Committee on **Education** recommends **HB 2953** be passed.

The Committee on **Education** recommends **HB 2668** be amended on page 1, in line 24, by striking "The" and inserting "If the consolidation is effectuated commencing with the 2001-2002 school year and prior to July 1, 2005, the"; in line 26, by striking "succeeding" and inserting "four"; in line 27, by striking "year." and inserting "years. If the consolidation is effectuated on or after July 1, 2005, the sum is the state financial aid of the consolidated



district for the school year in which the consolidation is effectuated and for the next three years.”; in line 29, by striking “K.S.A. 72-7301” and inserting “the statutory provisions contained in article 73 of chapter 72 of the Kansas Statutes Annotated”; in line 35, by striking “K.S.A. 72-7301” and inserting “the statutory provisions contained in article 73 of chapter 72 of the Kansas Statutes Annotated”; in line 41, by striking “The” and inserting “If the attachment is effectuated commencing with the 2001-2002 school year and prior to July 1, 2005, the”; in line 43, by striking “succeeding” and inserting “four”; also in line 43, by striking “year.” and inserting “years. If the attachment is effectuated on or after July 1, 2005, the sum is the state financial aid of the district for the school year in which the attachment is effectuated and for next three years.”; and the bill be passed as amended.

The Committee on **Education** recommends **HB 2951** be amended on page 3, in line 26, by striking “or”; in line 27, by striking “business”; and the bill be passed as amended.

On motion of Rep. Weber, the House recessed until 5:30 p.m.

## EVENING SESSION

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

### REPORTS OF STANDING COMMITTEES

The Committee on **Health and Human Services** recommends **HB 2057** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2057,” as follows:

“Substitute for HOUSE BILL No. 2057

By Committee on Health and Human Services

“AN ACT concerning medical scholarships and loans; concerning medically underserved areas; amending K.S.A. 65-2811a, 76-379, 76-383 and 76-384 and K.S.A. 2001 Supp. 74-32, 132, 76-375, 76-381 and 76-385 and repealing the existing sections; also repealing K.S.A. 76-373, 76-374, 76-377, 76-377a and K.S.A. 2001 Supp. 76-376.”; and the substitute bill be passed.

(**Sub. HB 2057** was thereupon introduced and read by title.)

The Committee on **Judiciary** recommends **HB 2085** be amended on page 1, in line 16, by striking “\$25 per day” and inserting “\$10”; also in line 16, by striking “five days” and inserting “day if the person serves on a jury panel”; in line 17, by striking “\$40” and inserting “\$25”; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2399** be amended on page 1, by striking all in lines 14 through 43;

By striking all of page 2;

On page 3, by striking all in lines 1 through 41 and inserting in lieu thereof the following: “Section 1. K.S.A. 2001 Supp. 22-4902 is hereby amended to read as follows: 22-4902.

As used in this act, unless the context otherwise requires:

- (a) “Offender” means: (1) A sex offender as defined in subsection (b);
- (2) a violent offender as defined in subsection (d);
- (3) a sexually violent predator as defined in subsection (f);
- (4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:

(A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;

(B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or

(C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;

(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

(A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;

(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendment thereto;

or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person who is a resident of this state who has been required to register under any federal, military or other state's law;

(7) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4) or (5), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4) or (5); or

(8) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4) or (5).

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is *adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c)*.

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;

(6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;

(8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;

(9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;

(10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;

(11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or

(12) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

(13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

(14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, after the effective date of this act, is convicted of any of the following crimes:

(1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;

(2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;

(3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;

- (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;
- (5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto;

or

(6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 *et seq.* and amendments thereto.

(g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 2001 Supp. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (f).

Sec. 2. K.S.A. 2001 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) Any person required to register as provided in this act shall be required to register: (1) Upon the first conviction of a sexually violent crime as defined in subsection (c) of K.S.A. 22-4902 and amendments thereto, any offense as defined in subsection (a) of K.S.A. 22-4902 and amendments thereto or any offense as defined in subsection (d) of K.S.A. 22-4902 and amendments thereto, if not confined, for a period of 10 years after conviction, or, if confined, for a period of 10 years after paroled, discharged or released; or (2) upon a second or subsequent conviction for such person's lifetime.

(b) Upon the first conviction, liability for registration terminates, if not confined, at the expiration of 10 years from the date of conviction, or, if confined, at the expiration of 10 years from the date of parole, discharge or release, if the convicted offender does not again become liable to register as provided by this act during that period.

(c) Any person who has been convicted of an aggravated offense shall be required to register for such person's lifetime. The provisions of this subsection shall expire on June 30, 2009.

(d) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 *et seq.*, and amendments thereto, shall register for such person's lifetime.

(e) Any nonresident worker shall register for the duration of such person's employment. The provisions of this subsection are in addition to subsections (a) and (b).

(f) Any nonresident student shall register for the duration of such person's attendance at a school or educational institution as provided in this act. The provisions of this subsection are in addition to subsections (a) and (b).

(g) *Notwithstanding any other provisions of this section, a person who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, shall be required to register until such person reaches 18 years of age or at the expiration of five years from the date of adjudication, whichever date occurs later.*;

And by renumbering sections accordingly;

Also on page 3, in line 42, by striking "2000" and inserting "2001"; also in line 42, by striking "is" and inserting "and 22-4906 are";

In the title, in line 10, by striking "2000" and inserting "2001"; also in line 10, after "22-4902" by inserting "and 22-4906"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2735** be amended on page 1, in line 37, by striking "or"; in line 38 by striking "(a)(3)(A)"; in line 39, by striking the comma and inserting "or"; also in line 39, by striking "or (a)(3)(B)"; in line 41, after "(a)(2)(A)" by inserting "or (a)(3)(A)"; in line 42, after "(a)(2)(B)" by inserting "or (a)(3)(B)"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2751** be amended on page 1, in line 16, by striking all after "benefit" where it appears the first time; in line 19, after "person" by striking ", either real or fictitious,"; in line 23, after "theft" by inserting "for economic benefit"; also in line 23, after the period, by inserting "Identity theft for non-economic benefit is a class A, nonperson misdemeanor.,"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2752** be amended on page 1, in line 14, by striking all after "(1)"; by striking all of line 15; in line 16, by striking "(2)"; in line 17, after "in" by inserting "gathering,"; in line 19 by striking "natural gas gathering lines or"; in line 21, by striking "(3)" and inserting "(2)"; in line 25, by striking "(4)" and inserting "(3)"; in line 27, by striking "3" and inserting "5"; in line 29, by striking "3" and inserting "5"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2850** be amended on page 1, in line 23, before the semicolon, by inserting "when the victim is less than 18 years of age"; in line 24, by striking "the victim" and inserting "one of the parties involved"; in line 25, before "K.S.A." by inserting "subsection (b)(1) of"; also in line 25, by striking "the victim" and inserting "one of the parties involved"; in line 27, by striking "the victim" and inserting "one of the parties involved"; also in line 27, by striking "a violation of K.S.A."; by striking all in line 28; in line 29, by striking "of age,";

On page 2, in line 13, after "site" by inserting "and by personnel"; in line 27, after "site" by inserting "and by personnel";

On page 3, in line 2, by striking "and categorize"; also in line 2, by striking "into genetic marker groupings"; in line 3, by striking all after the period; by striking all in lines 4 through 12; in line 13, by striking "genetic marker groupings" and inserting "DNA (deoxyribonucleic acid) records and DNA samples"; in line 15, by striking all after "automated"; in line 16, by striking "system" and inserting "DNA databank and DNA database"; also in line 16, by striking "classifying" and inserting "searching"; in line 17, by striking "analysis of"; also in line 17, by striking "(deoxyribonucleic acid) and other biological molecules" and inserting "records"; in line 18, by striking all after "The"; in line 19, by striking "tem" and inserting "DNA database"; in line 21, by striking "may" and inserting "shall"; in line 24, by striking "genetic marker grouping analysis information" and inserting "DNA records"; in line 25, by striking "law"; by striking all in lines 26 through 28; in line 29, by striking all before the period and inserting "authorized criminal justice agencies"; in line 31, by striking "genetic marker grouping analysis information" and inserting "DNA records and DNA samples"; in line 32, by striking "may" and inserting "shall"; in line 33, by striking "of blood"; in line 34, by striking "and saliva samples" and inserting ", maintenance and expungement of DNA samples"; also in line 34, before "The" by inserting "These rules and regulations also shall require compliance with national quality assurance standards to ensure that the DNA records satisfy standards of acceptance of such records into the national DNA identification index.,"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2979** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2979," as follows:

"Substitute for HOUSE BILL No. 2979

By Committee on Judiciary

"AN ACT concerning vehicles; relating to storage fees; requiring notice to lienholders.," and the substitute bill be passed.

(**Sub. HB 2979** was thereupon introduced and read by title.)

**REPORT ON ENGROSSED BILLS**

**HB 2078** reported correctly engrossed February 26, 2002.

**REPORT ON ENROLLED BILLS**

**HB 2603** reported correctly enrolled, properly signed and presented to the governor on February 27, 2002.

On motion of Rep. Weber, the House adjourned until 9:30 a.m., Thursday, February 28, 2002.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

