

Journal of the House

FORTY-FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, March 13, 2002, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Aurand in the chair. The roll was called with 122 members present.

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

Rep. Toelkes was excused on excused absence by the Speaker.

Present later: Rep. Toelkes.

Rep. Kuether was excused later on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Neil Gately, pastor, Grace United Methodist Church and Campus Ministry at Washburn University, Topeka:

May we pray,

We do not call upon you to invoke your presence among us O God, for by choosing to pause and reflect we acknowledge that you are already here. Instead we ask that you will evoke an awareness of your grace, wisdom and justice as the House goes about its work this day. We thank you for the gift of human intellect, and yet we confess that too often we rely on our own sense of reason, without seeking your divine wisdom. The issues before this House loom large, the work is difficult, and the stakes are high. Empower these Representatives so that they may see beyond the challenges of governance, to the solutions that will make life better for all Kansans. We also pray that you will stir up an awareness of your divine wisdom among Senate colleagues, as well as the Judiciary and our Governor.

Bestow your blessings upon the families and friends of these members of the House Representatives, for we know that loved ones give up so much during the weeks when this House is in session. And finally O God, do not allow these 60 seconds just past to be the only time that we ponder you this day.

These things we boldly pray. Amen.

The Pledge of Allegiance was led by Rep. Faber.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 3019**.

Education: **HB 3020**.

COMMUNICATIONS FROM STATE OFFICERS

From Barbara J. Hinton, Legislative Post Auditor, the following audit reports: *School District Budgets: Determining Ways to Structure the Budget Document to Make it Understandable and Allow for Meaningful Comparison* (plus the supplement showing the *Proposed Budget Format for USD 501 Topeka*); and *Department of Agriculture: Reviewing the Water Structures Program*, March 2002.

From Dale Brunton, Director, Division of Accounts and Reports, Department of Administration, *State of Kansas Monthly Financial Perspective for February, 2002*.

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

MESSAGE FROM THE SENATE

Announcing passage of **Sub. SB 339; SB 403, SB 559, SB 629, SB 637.**
Also, announcing passage of **HB 2622, HB 2656.**

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were thereupon introduced and read by title:
Sub. SB 339; SB 403, SB 559, SB 629, SB 637.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Larkin, **HR 6008**, A resolution in memory of Lloyd Polson, was adopted.

Rep. Larkin welcomed Delores Polson, wife of Lloyd Polson, and other members of his family including his son and wife, Craig and Linda Polson and their daughter, his sister Louise and her husband Howard Anderson.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Sub. HB 2488, An act concerning administrative procedure; concerning presiding officers; amending K.S.A. 2-1208a, 2-3311, 8-2426, 21-3110, 31-140, 36-509, 40-2,137, 44-322a, 44-1005, 49-606, 65-163a, 65-673, 65-2305, 65-3483, 65-3488, 65-3490, 75-37,122, 75-6207, 76-3110, 77-505, 77-549, 77-550, 77-551, 77-551, as amended by section 40 of this act, 79-3313 and 82a-1405, and K.S.A. 2001 Supp. 65-163, 65-525, 65-526, 66-1,117, 74-4904, 74-8804, 74-8816, 74-8817, 74-8837, 75-37,121, 77-514 and 77-514 as amended by section 36 of this act and repealing the existing sections; also repealing K.S.A. 75-5611a, was considered on final action.

On roll call, the vote was: Yeas 113; Nays 9; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Crow, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, 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, 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, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Ballou, Cook, DiVita, Faber, Huy, Johnson, McCreary, Myers, Vickrey.

Present but not voting: None.

Absent or not voting: O'Brien, Ruff, R. Toelkes.

The substitute bill passed.

HB 2867, An act concerning rights of certain aliens to transfer or inherit real property; amending K.S.A. 38-1507 and repealing the existing section; also repealing K.S.A. 59-511 and 59-512, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 1; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, 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, McCreary, 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, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: DiVita.

Present but not voting: None.

Absent or not voting: O'Brien, Ruff, R. Toelkes.

The bill passed.

EXPLANATION OF VOTE

MR. SPEAKER: It's not that I'm excited about raising taxes, or even that I want to. But in the face of a \$680 million (and growing) budget deficit we have little choice, and must act responsibly. To the extent we must raise revenues, I prefer the increase be broad based, and not heaped onto one tax. Inheritance tax should provide its share of the burden. Reinstating an inheritance tax upon strangers to a decedent (Class C), the vast majority of whom will live out of state, is reasonable. For those reasons I voted yes on the Swenson amendment to **HB 2867**.—WARD LOYD

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

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **HB 2265** be adopted; also, roll call was demanded on motion of Rep. Sharp to amend by striking all on pages 19 through 39;

On page 40, by striking all in lines 1 through 6 and inserting the following:

“Section 1. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 4.9% and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001. For the purposes of this subsection the term gross

receipts does not include purchases of telephone, telegraph or telecommunications using a prepaid telephone calling card or prepaid authorization number. As used in this subsection, a prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed; and (3) the gross receipts from the provision of services taxable under this subsection which are billed on a combined basis with nontaxable services, shall be accounted for and the tax remitted as follows: The taxable portion of the selling price of those combined services shall include only those charges for taxable services if the selling price for the taxable services can be readily distinguishable in the retailer's books and records from the selling price for the nontaxable services. Otherwise, the gross receipts from the sale of both taxable and nontaxable services billed on a combined basis shall be deemed attributable to the taxable services included therein. Within 90 days of billing taxable services on a combined basis with nontaxable services, the retailer shall enter into a written agreement with the secretary identifying the methodology to be used in determining the taxable portion of the selling price of those combined services. The burden of proving that any receipt or charge is not taxable shall be upon the retailer. Upon request from the customer, the retailer shall disclose to the customer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on a combined basis;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services ~~except laundry services, whether automatic or manually operated;~~

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities; but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment; but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants; and their spouses. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate; except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

—For the purposes of this subsection:

—(1) “Original construction” shall mean the first or initial construction of a new building or facility. The term “original construction” shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building or facility damaged or destroyed by fire, flood, tornado, lightning, explosion or earthquake;

but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

~~—(2) “building” shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;~~

~~—(3) “facility” shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or of any municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility, and~~

~~—(4) “residence” shall mean only those enclosures within which individuals customarily live. If any contractor has entered into a written binding contract prior to May 15, 2002, for the original construction of a building or facility or the construction, reconstruction, restoration, replacement or repair of a residence, bridge or highway, and such contract and the contract price includes the furnishing by the contractor of services which would have been exempt from taxation pursuant to this subsection prior to its amendment by this act, such services shall continue to be exempt from taxation if the contractor gives notice and proof of such contract to the director of taxation on or before July 10, 2002, which notice and proof shall be in such form and of such sufficiency as the director shall prescribe;~~

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property, ~~except computer software described in subsection (s);~~ which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) the gross receipts received from the sale of computer software, and the sale of the services of modifying, altering, updating or maintaining computer software. As used in this subsection, “computer software” means information and directions loaded into a computer which dictate different functions to be performed by the computer. Computer software includes any canned or prewritten program which is held or existing for general or repeated sale, even if the program was originally developed for a single end user as custom computer software. ~~The sale of computer software or services does not include: (1) The initial sale of any custom computer program which is originally developed for the exclusive use of a single end user, or (2) those services rendered in the modification of computer software when the modification is developed exclusively for a single end user only to the extent of the modification and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements and other billing documents provided to the end user. The services of modification, alteration, updating and maintenance of computer software shall only include the modification, alteration, updating and maintenance of computer software taxable under this subsection whether or not the services are actually provided;~~

(t) the gross receipts received for telephone answering services, including mobile phone services, beeper services and other similar services;

(u) the gross receipts received from the sale of prepaid telephone calling cards or prepaid authorization numbers and the recharge of such cards or numbers. A prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed. If the sale or recharge of such card or number does not take place at the vendor’s place of business, it shall be conclusively determined to take place at the customer’s shipping address; if there is no item shipped then it shall be the customer’s billing address; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*, and amendments thereto, ~~shall be~~

taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001, and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*, and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 2. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

~~(a) All sales of motor vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, and dry-cleaning and laundry services taxed pursuant to K.S.A. 2001 Supp. 65-34,150, and amendments thereto;~~

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

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

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

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

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

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

~~(g) sales of aircraft including remanufactured and modified aircraft, sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft sold to persons using directly or through an authorized agent such aircraft and aircraft repair, modification and replacement parts as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, aircraft parts, replacement parts and services employed in the remanufacture, modification and repair of aircraft for use outside of the United States;~~

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

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

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

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

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

~~(e) all sales of tangible personal property the taxation of which is prohibited by the United States constitution or federal law;~~

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

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

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

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

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

~~(r) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this sub-~~

section, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, used to alleviate the malfunction of any part of the body, or used to assist any disabled person in leading a normal life by facilitating such person's mobility, such term shall include accessories attached or to be attached to motor vehicles, but such term shall not include motor vehicles or personal property which when installed becomes a fixture to real property;

—(s)—except as provided in K.S.A. 2001 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 *et seq.* and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

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

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

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

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

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

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

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

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

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

—(cc)—all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, “business” and “retail business” have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

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

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

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

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

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

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

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

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

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

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

—(2)—For purposes of this subsection:

—(A)—“integrated production operation” means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations, (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations, and (iv) waste, pollution and environmental control operations, if any;

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

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

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

—(E)—“repair and replacement parts and accessories” means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill

bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

—(F) “primary” or “primarily” mean more than 50% of the time;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;~~

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

~~—(E) furniture and other furnishings;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—(vv)—all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:~~

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

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

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

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

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

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

~~—(7)—the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease; and~~

~~—(8)—the National Kidney Foundation of Kansas and Western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;~~

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

~~—(xx)—all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate~~

~~to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;~~

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

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

~~—(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for~~

which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

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

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

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

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

~~—(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment, and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation, and~~

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

Sec. 3. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3603, 79-3603b and 79-3606 are hereby repealed.”;

Also, on page 40, in line 8, by striking “statute book” and inserting “Kansas register”;

By renumbering existing section 3 as section 4;

In the title, in line 11, by striking all after the semicolon; by striking all in lines 12 and 13 and inserting “abolishing certain exemptions therefrom; amending K.S.A. 2001 Supp. 79-3603 and 79-3606 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 79-3603b.”;

On roll call, the vote was: Yeas 22; Nays 100; Present but not voting: 0; Absent or not voting: 3.

Yeas: Ballard, Benlon, Burroughs, Cox, DiVita, Findley, Gilbert, Henderson, Lane, M. Long, Owens, Ray, Reardon, Sharp, Sloan, Spangler, Storm, Tanner, Tomlinson, Wells, Welshimer, Winn.

Nays: Aday, Aurand, Ballou, Barnes, Beggs, Bethell, Boston, Campbell, Compton, Cook, Crow, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Garner, Gatewood, Glasscock, Goering, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Klein, Krehbiel, Kuether, Landwehr, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Rehorn, Schwartz, Showalter, Shriver, Shultz, Stone, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wilk, D. Williams, J. Williams, Wilson.

Present but not voting: None.

Absent or not voting: Kirk, O'Brien, Ruff.

The motion of Rep. Sharp did not prevail.

Also, on motion of Rep. Tomlinson to amend **HB 2265**, Rep. Klein requested the amendment be divided. Pursuant to House Rule 2105(b), the Chair inquired if any member desired to request a ruling on the entire amendment being germane to the bill. Rep. Mays requested a ruling; the Rules Chair ruled the amendment germane. Rep. Mays challenged the ruling, the question being "Shall the Rules Chair be sustained?" The Rules Chair was sustained. The question reverted back to the request of Rep. Klein that the amendment be divided. The amendment was divided.

On Part A of the amendment of Rep. Tomlinson **HB 2265** be amended on page 40, after line 5, by inserting the following:

"New Sec. 2. (a) All revenue, as certified by the secretary of revenue to the director of accounts and reports, attributable to the operation of the provisions of K.S.A. 79-3603 and 79-3703, as each such section is specifically amended by this act, shall be transferred by the director of accounts and reports from the state general fund to the state school district finance fund and the post-secondary education excellence fund, which is hereby established, on January 15, March 15 and June 15 of each year commencing on January 15, 2003, in the following proportion: 80.54% of each such transfer to the state school district finance fund and 19.46% of each such transfer to the post-secondary education excellence fund. All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund and shall not be subject to reduction under K.S.A. 75-6704, and amendments thereto.

(b) The post-secondary education excellence fund shall be used for the purpose of financing post-secondary education and for no other governmental purpose. It is the intent of the legislature that the fund shall remain intact and inviolate for such purpose, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.";

And by renumbering sections accordingly;

Also, roll call was demanded on Part B of the motion of Rep. Tomlinson to amend **HB 2265** by striking all on pages 19 through 39;

On page 40, by striking all in lines 1 through 6 and inserting the following:

"Section 1. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of ~~4.9%~~ 5.5% and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members

of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001. For the purposes of this subsection the term gross receipts does not include purchases of telephone, telegraph or telecommunications using a prepaid telephone calling card or prepaid authorization number. As used in this subsection, a prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed; and (3) the gross receipts from the provision of services taxable under this subsection which are billed on a combined basis with nontaxable services, shall be accounted for and the tax remitted as follows: The taxable portion of the selling price of those combined services shall include only those charges for taxable services if the selling price for the taxable services can be readily distinguishable in the retailer's books and records from the selling price for the nontaxable services. Otherwise, the gross receipts from the sale of both taxable and nontaxable services billed on a combined basis shall be deemed attributable to the taxable services included therein. Within 90 days of billing taxable services on a combined basis with nontaxable services, the retailer shall enter into a written agreement with the secretary identifying the methodology to be used in determining the taxable portion of the selling price of those combined services. The burden of proving that any receipt or charge is not taxable shall be upon the retailer. Upon request from the customer, the retailer shall disclose to the customer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on a combined basis;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and waxing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building

or facility damaged or destroyed by fire, flood, tornado, lightning, explosion or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 *et seq.*, and amendments thereto, or of any municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility; and

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property, except computer software described in subsection (s), which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) the gross receipts received from the sale of computer software, and the sale of the services of modifying, altering, updating or maintaining computer software. As used in this subsection, "computer software" means information and directions loaded into a computer which dictate different functions to be performed by the computer. Computer software includes any canned or prewritten program which is held or existing for general or repeated sale, even if the program was originally developed for a single end user as custom computer software. The sale of computer software or services does not include: (1) The initial sale of any custom computer program which is originally developed for the exclusive use of a single end user; or (2) those services rendered in the modification of computer software when the modification is developed exclusively for a single end user only to the extent of the modification and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements and other billing documents provided to the end user. The services of modification, alteration, updating and maintenance of computer software shall only include the modification, alteration, updating and maintenance of computer software taxable under this subsection whether or not the services are actually provided;

(t) the gross receipts received for telephone answering services, including mobile phone services, beeper services and other similar services;

(u) the gross receipts received from the sale of prepaid telephone calling cards or prepaid authorization numbers and the recharge of such cards or numbers. A prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed. If the sale or recharge of such card or number does not take place at the vendor's place of business, it shall be conclusively determined to take place at the customer's shipping address; if there is no item shipped then it shall be the customer's billing address; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*, and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*, and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 2. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every

person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of ~~4.9%~~ 5.5%. Within a redevelopment district established pursuant to K.S.A. 2001 Supp. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 3. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

(c) (1) The state treasurer shall credit $\frac{5}{98}$ s of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) *The state treasurer shall credit $\frac{5}{110}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

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

Sec. 4. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A revolving fund, designated as "compensating tax refund fund" not to exceed \$10,000 shall be set apart and maintained by the director from compensating tax collections

and estimated tax collections and held by the state treasurer for prompt payment of all compensating tax refunds. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) (1) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) *The state treasurer shall credit $\frac{5}{110}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

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

Sec. 5. On and after June 1, 2002, K.S.A. 2001 Supp. 79-2959 is hereby amended to read as follows: 79-2959. (a) There is hereby created the local ad valorem tax reduction fund. All moneys transferred or credited to such fund under the provisions of this act or any other law shall be apportioned and distributed in the manner provided herein.

(b) On January 15 and on July 15 of each year, the director of accounts and reports shall make transfers in equal amounts which in the aggregate equal 4.5% of the total retail sales and compensating taxes credited to the state general fund pursuant to articles 36 and 37 of chapter 79 of Kansas Statutes Annotated and acts amendatory thereof and supplemental thereto during the preceding calendar year from the state general fund to the local ad valorem tax reduction fund, except that: (1) The transfers on January 15 and July 15 of each year shall be in equal amounts which in the aggregate equal 3.630% of such taxes credited to the state general fund during the preceding calendar year; ~~and~~ (2) the amount of the transfer on each such date during state fiscal year ~~2002~~ 2003 shall be \$27,340,335.50; (3) *the amount of the transfer on each such date during state fiscal year 2004 shall be \$32,462,000;* (4) *the amount of the transfer on each such date during state fiscal year 2005 shall be \$33,502,000;* (5) *the amount of the transfer on each such date during state fiscal year 2006 shall be \$34,643,000;* and (6) *the amount of the transfer on each such date during state fiscal year 2007 shall be \$35,884,000.* All such transfers are subject to reduction under K.S.A. 75-6704 and amendments thereto. All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal year ending June 30, 2002, shall be considered revenue transfers from the state general fund.

(c) The state treasurer shall apportion and pay the amounts transferred under subsection (b) to the several county treasurers on January 15 and on July 15 in each year as follows: (1) Sixty-five percent of the amount to be distributed shall be apportioned on the basis of the population figures of the counties certified to the secretary of state pursuant to K.S.A. 11-201 and amendments thereto on July 1 of the preceding year; and (2) thirty-five percent of such amount shall be apportioned on the basis of the equalized assessed tangible valuations on the tax rolls of the counties on November 1 of the preceding year as certified by the director of property valuation.

Sec. 6. On and after June 1, 2002, K.S.A. 2001 Supp. 79-2964 is hereby amended to read as follows: 79-2964. There is hereby created the county and city revenue sharing fund. All moneys transferred or credited to such fund under the provisions of this act or any other law shall be allocated and distributed in the manner provided herein. The director of ac-

counts and reports in each year on July 15 and December 10, shall make transfers in equal amounts which in the aggregate equal 3.5% of the total retail sales and compensating taxes credited to the state general fund pursuant to articles 36 and 37 of chapter 79 of the Kansas Statutes Annotated and acts amendatory thereof and supplemental thereto during the preceding calendar year from the state general fund to the county and city revenue sharing fund, except that: (a) The transfers on July 15 and December 10 of each year shall be in equal amounts which in the aggregate equal 2.823% of such taxes credited to the state general fund during the preceding calendar year; ~~and~~ (b) the amount of the transfer on each such date during state fiscal year ~~2002~~ 2003 shall be \$17,438,174.50; (c) *the amount of the transfer on each such date during state fiscal year 2004 shall be \$24,857,000;* (d) *the amount of the transfer on each such date during state fiscal year 2005 shall be \$25,633,000;* (e) *the amount of the transfer on each such date during state fiscal year 2006 shall be \$26,475,000;* and (f) *the amount of the transfer on each such date during state fiscal year 2007 shall be \$27,407,000.* All such transfers are subject to reduction under K.S.A. 75-6704 and amendments thereto. All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal year ending June 30, 2002, shall be considered revenue transfers from the state general fund.

Sec. 7. On and after June 1, 2002, K.S.A. 2001 Supp. 79-34,147 is hereby amended to read as follows: 79-34,147. (a) (1) On July 1, 1999, and quarterly thereafter the secretary of revenue shall certify to the director of accounts and reports the amount equal to 7.628% of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(2) On July 1, 2001, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to 9.5% of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(3) On July 1, 2002, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to ~~11%~~ \$36,298,000 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(4) On July 1, 2003, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to ~~11.25%~~ \$38,631,750 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(5) On July 1, 2004, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to ~~12%~~ \$47,899,500 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(6) *On July 1, 2005, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to \$44,578,250 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.*

(7) *On July 1, 2006, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to \$46,202,250 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.*

(b) Upon receipt of each certification under subsection (a), the director of accounts and reports shall transfer from the state general fund to the state highway fund an amount equal to the amount so certified, on each July 1, October 1, January 1 and April 1, ~~except that the~~

~~amount of the transfer on each such date during state fiscal year 2002 shall not exceed \$30,277,162.~~ All transfers made pursuant to this section are subject to reduction under K.S.A. 75-6704, and amendments thereto.

(c) All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund.

Sec. 8. On and after June 1, 2002, K.S.A. 2001 Supp. 79-2959, 79-2964, 79-34,147, 79-3603, 79-3603b, 79-3620, 79-3703 and 79-3710 are hereby repealed.”;

Also, on page 40, in line 8, by striking “statute book” and inserting “Kansas register”;

By renumbering existing section 3 as section 10;

In the title, in line 11, by striking all after the semicolon; by striking all in line 12; in line 13, by striking all before the period and inserting “increasing the rate thereof; amending K.S.A. 2001 Supp. 79-2959, 79-2964, 79-34,147, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 79-3603b”;

On roll call, the vote was: Yeas 24; Nays 94; Present but not voting: 0; Absent or not voting: 7.

Yeas: Ballard, Benlon, Bethell, Campbell, Cox, DiVita, Hermes, Horst, Huff, Krehbiel, Lane, Larkin, Loyd, Neufeld, Newton, Owens, Patterson, E. Peterson, J. Peterson, Ray, Sloan, Stone, Storm, Tomlinson.

Nays: Aday, Aurand, Ballou, Barnes, Beggs, Boston, Burroughs, Compton, Cook, Crow, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Holmes, Howell, Huebert, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kuether, Landwehr, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Mason, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Nichols, O’Neal, Osborne, Ostmeyer, Palmer, Pauls, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Reardon, Rehorn, Schwartz, Showalter, Shriver, Shultz, Spangler, Swenson, Tafaneli, Tanner, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Goering, Humerickhouse, Mayans, Novascone, O’Brien, Ruff, Sharp.

Part B of the motion of Rep. Tomlinson did not prevail.

Also, on further motion of Rep. Tomlinson to amend **HB 2265**, Rep. Klein requested the question be divided. Rep. Klein subsequently withdrew his request and Rep. Tomlinson withdrew the amendment.

Also, roll call was demanded on further motion of Rep. Tomlinson to amend **HB 2265** by striking all on pages 19 through 39;

On page 40, by striking all in lines 1 through 6 and inserting the following:

“Section 1. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of ~~4.9%~~ *5.5% on and after June 1, 2002, but before June 1, 2005, and 4.9% on and after June 1, 2005*, and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer’s telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer’s telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type

service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001. For the purposes of this subsection the term gross receipts does not include purchases of telephone, telegraph or telecommunications using a prepaid telephone calling card or prepaid authorization number. As used in this subsection, a prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed; and (3) the gross receipts from the provision of services taxable under this subsection which are billed on a combined basis with nontaxable services, shall be accounted for and the tax remitted as follows: The taxable portion of the selling price of those combined services shall include only those charges for taxable services if the selling price for the taxable services can be readily distinguishable in the retailer's books and records from the selling price for the nontaxable services. Otherwise, the gross receipts from the sale of both taxable and nontaxable services billed on a combined basis shall be deemed attributable to the taxable services included therein. Within 90 days of billing taxable services on a combined basis with nontaxable services, the retailer shall enter into a written agreement with the secretary identifying the methodology to be used in determining the taxable portion of the selling price of those combined services. The burden of proving that any receipt or charge is not taxable shall be upon the retailer. Upon request from the customer, the retailer shall disclose to the customer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on a combined basis;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such

machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall

be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building or facility damaged or destroyed by fire, flood, tornado, lightning, explosion or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or of any municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility; and

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property, except computer software described in subsection (s), which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) the gross receipts received from the sale of computer software, and the sale of the services of modifying, altering, updating or maintaining computer software. As used in this subsection, "computer software" means information and directions loaded into a computer which dictate different functions to be performed by the computer. Computer software includes any canned or prewritten program which is held or existing for general or repeated sale, even if the program was originally developed for a single end user as custom computer software. The sale of computer software or services does not include: (1) The initial sale of any custom computer program which is originally developed for the exclusive use of a single end user; or (2) those services rendered in the modification of computer software when the modification is developed exclusively for a single end user only to the extent of the modification and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements and other billing documents provided to the end user. The services of modification, alteration, updating and maintenance of computer software shall only include the modification, alteration, updating and maintenance of computer software taxable under this subsection whether or not the services are actually provided;

(t) the gross receipts received for telephone answering services, including mobile phone services, beeper services and other similar services;

(u) the gross receipts received from the sale of prepaid telephone calling cards or prepaid authorization numbers and the recharge of such cards or numbers. A prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed. If the sale or recharge of such card or number does not take place at the vendor's place of business, it shall be conclusively determined to

take place at the customer's shipping address; if there is no item shipped then it shall be the customer's billing address; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*, and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*, and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 2. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of ~~4.9%~~ 5.5% on and after June 1, 2002, but before June 1, 2005, and 4.9% on and after June 1, 2005. Within a redevelopment district established pursuant to K.S.A. 2001 Supp. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 3. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

(c) (1) The state treasurer shall credit $\frac{5}{8}$ s of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) *The state treasurer shall credit $\frac{5}{10}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

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

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

Sec. 4. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

(c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) *The state treasurer shall credit $\frac{5}{110}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

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

Sec. 5. On and after June 1, 2002, K.S.A. 2001 Supp. 79-2959 is hereby amended to read as follows: 79-2959. (a) There is hereby created the local ad valorem tax reduction fund. All moneys transferred or credited to such fund under the provisions of this act or any other law shall be apportioned and distributed in the manner provided herein.

(b) On January 15 and on July 15 of each year, the director of accounts and reports shall make transfers in equal amounts which in the aggregate equal 4.5% of the total retail sales and compensating taxes credited to the state general fund pursuant to articles 36 and 37 of chapter 79 of Kansas Statutes Annotated and acts amendatory thereof and supplemental thereto during the preceding calendar year from the state general fund to the local ad valorem tax reduction fund, except that: (1) The transfers on January 15 and July 15 of each year shall be in equal amounts which in the aggregate equal 3.630% of such taxes credited to the state general fund during the preceding calendar year; ~~and~~ (2) the amount of the transfer on each such date during state fiscal year ~~2002~~ 2003 shall be \$27,340,335.50; (3) *the amount of the transfer on each such date during state fiscal year 2004 shall be \$32,462,000;* (4) *the amount of the transfer on each such date during state fiscal year 2005 shall be \$33,502,000;* (5) *the amount of the transfer on each such date during state fiscal year 2006 shall be \$34,643,000;* and (6) *the amount of the transfer on each such date during state fiscal year 2007 shall be \$35,884,000.* All such transfers are subject to reduction under K.S.A. 75-6704 and amendments thereto. All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal year ending June 30, 2002, shall be considered revenue transfers from the state general fund.

(c) The state treasurer shall apportion and pay the amounts transferred under subsection (b) to the several county treasurers on January 15 and on July 15 in each year as follows: (1) Sixty-five percent of the amount to be distributed shall be apportioned on the basis of the population figures of the counties certified to the secretary of state pursuant to K.S.A. 11-201 and amendments thereto on July 1 of the preceding year; and (2) thirty-five percent of such amount shall be apportioned on the basis of the equalized assessed tangible valuations on the tax rolls of the counties on November 1 of the preceding year as certified by the director of property valuation.

Sec. 6. On and after June 1, 2002, K.S.A. 2001 Supp. 79-2964 is hereby amended to read as follows: 79-2964. There is hereby created the county and city revenue sharing fund. All moneys transferred or credited to such fund under the provisions of this act or any other law shall be allocated and distributed in the manner provided herein. The director of accounts and reports in each year on July 15 and December 10, shall make transfers in equal amounts which in the aggregate equal 3.5% of the total retail sales and compensating taxes credited to the state general fund pursuant to articles 36 and 37 of chapter 79 of the Kansas Statutes Annotated and acts amendatory thereof and supplemental thereto during the preceding calendar year from the state general fund to the county and city revenue sharing fund, except that: (a) The transfers on July 15 and December 10 of each year shall be in equal amounts which in the aggregate equal 2.823% of such taxes credited to the state general fund during the preceding calendar year; ~~and~~ (b) the amount of the transfer on each such date during state fiscal year ~~2002~~ 2003 shall be \$17,438,174.50; (c) *the amount of the transfer on each such date during state fiscal year 2004 shall be \$24,857,000;* (d) *the amount of the transfer on each such date during state fiscal year 2005 shall be \$25,633,000;* (e) *the amount of the transfer on each such date during state fiscal year 2006 shall be \$26,475,000;* and (f) *the amount of the transfer on each such date during state fiscal year 2007 shall be \$27,407,000.* All such transfers are subject to reduction under K.S.A. 75-6704 and amendments thereto. All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal year ending June 30, 2002, shall be considered revenue transfers from the state general fund.

Sec. 7. On and after June 1, 2002, K.S.A. 2001 Supp. 79-34,147 is hereby amended to read as follows: 79-34,147. (a) (1) On July 1, 1999, and quarterly thereafter the secretary of revenue shall certify to the director of accounts and reports the amount equal to 7.628% of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(2) On July 1, 2001, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to 9.5% of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(3) On July 1, 2002, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to ~~11%~~ \$36,298,000 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(4) On July 1, 2003, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to ~~11.25%~~ \$38,631,750 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(5) On July 1, 2004, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to ~~12%~~ \$42,899,500 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(6) On July 1, 2005, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to \$44,578,250 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(7) On July 1, 2006, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to \$46,202,250 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(b) Upon receipt of each certification under subsection (a), the director of accounts and reports shall transfer from the state general fund to the state highway fund an amount equal to the amount so certified, on each July 1, October 1, January 1 and April 1, ~~except that the amount of the transfer on each such date during state fiscal year 2002 shall not exceed \$30,277,162.~~ All transfers made pursuant to this section are subject to reduction under K.S.A. 75-6704, and amendments thereto.

(c) All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund.

Sec. 8. On and after June 1, 2002, K.S.A. 2001 Supp. 79-2959, 79-2964, 79-34,147, 79-3603, 79-3603b, 79-3620, 79-3703 and 79-3710 are hereby repealed.”;

Also, on page 40, in line 8, by striking “statute book” and inserting “Kansas register”;

By renumbering existing section 3 as section 10;

In the title, in line 11, by striking all after the semicolon; by striking all in line 12; in line 13, by striking all before the period and inserting “increasing the rate thereof; amending K.S.A. 2001 Supp. 79-2959, 79-2964, 79-34,147, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 79-3603b”;

On roll call, the vote was: Yeas 34; Nays 80; Present but not voting: 0; Absent or not voting: 11.

Yeas: Aurand, Ballard, Benlon, Campbell, Cox, DiVita, Feuerborn, Freeborn, Gatewood, Glasscock, Horst, Huff, Krehbiel, Lane, Larkin, Light, Loyd, Merrick, Newton, O'Neal, Owens, Patterson, E. Peterson, J. Peterson, Pottorff, Ray, Schwartz, Showalter, Sloan, Stone, Storm, Tanner, Tomlinson, Wilk.

Nays: Aday, Ballou, Barnes, Beggs, Boston, Burroughs, Compton, Cook, Crow, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Faber, Findley, Flaharty, Flora, Garner, Gilbert, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Holmes, Howell, Huebert, Humrickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Landwehr, Levinson, Lightner, Lloyd, Loganbill, P. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Miller, Judy Morrison, Myers, Neufeld, Nichols, Novascone, Osborne, Ostmeyer, Palmer, Pauls, Phelps, L. Powell, T. Powell, Powers, Pyle, Reardon, Rehorn, Shultz, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, D. Williams, J. Williams, Wilson, Wimm.

Present but not voting: None.

Absent or not voting: Bethell, Hermes, Kuether, M. Long, Minor, Jim Morrison, O'Brien, Ruff, Sharp, Shriver, Spangler.

The motion of Rep. Tomlinson did not prevail.

Also, roll call was demanded on further motion of Rep. Tomlinson to amend **HB 2265** by striking all on pages 19 through 39;

on page 40, by striking all in lines 1 through 6 and inserting the following:

“Section 1. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of ~~4.9%~~ 5.25% and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001. For the purposes of this subsection the term gross receipts does not include purchases of telephone, telegraph or telecommunications using a prepaid telephone calling card or prepaid authorization number. As used in this subsection, a prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed; and (3) the gross receipts from the provision of services taxable under this subsection which are billed on a combined basis with nontaxable services, shall be accounted for and the tax remitted as follows: The taxable portion of the selling price of those combined services shall include only those charges for taxable services if the selling price for the taxable services can be readily distinguishable in the retailer's books and records from the selling price for the nontaxable services. Otherwise, the gross receipts from the sale of both taxable and nontaxable services billed on a combined basis shall be deemed attributable to the taxable services included therein. Within 90 days of billing taxable services on a combined basis with nontaxable services, the retailer shall enter into a written agreement with the secretary identifying the methodology to be used in determining the taxable portion of the selling price of those combined services. The burden of proving that any receipt or charge is not taxable shall be upon the retailer. Upon request from the customer, the retailer shall disclose to the customer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on a combined basis;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other

corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building or facility damaged or destroyed by fire, flood, tornado, lightning, explosion or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 *et seq.*, and amendments thereto, or of any municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility; and

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property, except computer software described in subsection (s), which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) the gross receipts received from the sale of computer software, and the sale of the services of modifying, altering, updating or maintaining computer software. As used in this subsection, "computer software" means information and directions loaded into a computer which dictate different functions to be performed by the computer. Computer software includes any canned or prewritten program which is held or existing for general or repeated sale, even if the program was originally developed for a single end user as custom computer software. The sale of computer software or services does not include: (1) The initial sale of any custom computer program which is originally developed for the exclusive use of a single end user; or (2) those services rendered in the modification of computer software when the modification is developed exclusively for a single end user only to the extent of the modification and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements and other billing documents provided to the end user. The services of modification, alteration, updating and maintenance of computer software

shall only include the modification, alteration, updating and maintenance of computer software taxable under this subsection whether or not the services are actually provided;

(t) the gross receipts received for telephone answering services, including mobile phone services, beeper services and other similar services;

(u) the gross receipts received from the sale of prepaid telephone calling cards or prepaid authorization numbers and the recharge of such cards or numbers. A prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed. If the sale or recharge of such card or number does not take place at the vendor's place of business, it shall be conclusively determined to take place at the customer's shipping address; if there is no item shipped then it shall be the customer's billing address; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*, and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*, and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 2. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of ~~4.9%~~ 5.25%. Within a redevelopment district established pursuant to K.S.A. 2001 Supp. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 3. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

(c) (1) The state treasurer shall credit $\frac{5}{100}$ s of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) *The state treasurer shall credit $\frac{5}{100}$ s of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.25%, and deposited*

as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

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

Sec. 4. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

(c) (1) The state treasurer shall credit $\frac{5}{100}$ s of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) *The state treasurer shall credit $\frac{5}{100}$ s of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.25%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

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

Sec. 5. On and after June 1, 2002, K.S.A. 2001 Supp. 79-2959 is hereby amended to read as follows: 79-2959. (a) There is hereby created the local ad valorem tax reduction fund. All moneys transferred or credited to such fund under the provisions of this act or any other law shall be apportioned and distributed in the manner provided herein.

(b) On January 15 and on July 15 of each year, the director of accounts and reports shall make transfers in equal amounts which in the aggregate equal 4.5% of the total retail sales and compensating taxes credited to the state general fund pursuant to articles 36 and 37 of chapter 79 of Kansas Statutes Annotated and acts amendatory thereof and supplemental thereto during the preceding calendar year from the state general fund to the local ad valorem tax reduction fund, except that: (1) The transfers on January 15 and July 15 of each year shall be in equal amounts which in the aggregate equal 3.630% of such taxes credited to the state general fund during the preceding calendar year; ~~and~~ (2) the amount of the transfer on each such date during state fiscal year ~~2002~~ 2003 shall be \$27,340,335.50;

(3) the amount of the transfer on each such date during state fiscal year 2004 shall be \$32,462,000; (4) the amount of the transfer on each such date during state fiscal year 2005 shall be \$33,502,000; (5) the amount of the transfer on each such date during state fiscal year 2006 shall be \$34,643,000; and (6) the amount of the transfer on each such date during state fiscal year 2007 shall be \$35,884,000. All such transfers are subject to reduction under K.S.A. 75-6704 and amendments thereto. All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal year ending June 30, 2002, shall be considered revenue transfers from the state general fund.

(c) The state treasurer shall apportion and pay the amounts transferred under subsection (b) to the several county treasurers on January 15 and on July 15 in each year as follows: (1) Sixty-five percent of the amount to be distributed shall be apportioned on the basis of the population figures of the counties certified to the secretary of state pursuant to K.S.A. 11-201 and amendments thereto on July 1 of the preceding year; and (2) thirty-five percent of such amount shall be apportioned on the basis of the equalized assessed tangible valuations on the tax rolls of the counties on November 1 of the preceding year as certified by the director of property valuation.

Sec. 6. On and after June 1, 2002, K.S.A. 2001 Supp. 79-2964 is hereby amended to read as follows: 79-2964. There is hereby created the county and city revenue sharing fund. All moneys transferred or credited to such fund under the provisions of this act or any other law shall be allocated and distributed in the manner provided herein. The director of accounts and reports in each year on July 15 and December 10, shall make transfers in equal amounts which in the aggregate equal 3.5% of the total retail sales and compensating taxes credited to the state general fund pursuant to articles 36 and 37 of chapter 79 of the Kansas Statutes Annotated and acts amendatory thereof and supplemental thereto during the preceding calendar year from the state general fund to the county and city revenue sharing fund, except that: (a) The transfers on July 15 and December 10 of each year shall be in equal amounts which in the aggregate equal 2.823% of such taxes credited to the state general fund during the preceding calendar year; ~~and~~ (b) the amount of the transfer on each such date during state fiscal year ~~2002~~ 2003 shall be \$17,438,174.50; (c) the amount of the transfer on each such date during state fiscal year 2004 shall be \$24,857,000; (d) the amount of the transfer on each such date during state fiscal year 2005 shall be \$25,633,000; (e) the amount of the transfer on each such date during state fiscal year 2006 shall be \$26,475,000; and (f) the amount of the transfer on each such date during state fiscal year 2007 shall be \$27,407,000. All such transfers are subject to reduction under K.S.A. 75-6704 and amendments thereto. All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal year ending June 30, 2002, shall be considered revenue transfers from the state general fund.

Sec. 7. On and after June 1, 2002, K.S.A. 2001 Supp. 79-34,147 is hereby amended to read as follows: 79-34,147. (a) (1) On July 1, 1999, and quarterly thereafter the secretary of revenue shall certify to the director of accounts and reports the amount equal to 7.628% of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(2) On July 1, 2001, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to 9.5% of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(3) On July 1, 2002, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to ~~11%~~ \$36,298,000 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(4) On July 1, 2003, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to ~~11.25%~~ \$38,631,750 of the total

revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(5) On July 1, 2004, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to ~~12%~~ \$42,899,500 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(6) On July 1, 2005, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to \$44,578,250 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(6) On July 1, 2006, and quarterly thereafter, the secretary of revenue shall certify to the director of accounts and reports the amount equal to \$46,202,250 of the total revenues received by the secretary from the taxes imposed under the Kansas retailers' sales tax act and deposited in the state treasury and credited to the state general fund during the preceding three calendar months.

(b) Upon receipt of each certification under subsection (a), the director of accounts and reports shall transfer from the state general fund to the state highway fund an amount equal to the amount so certified, on each July 1, October 1, January 1 and April 1, ~~except that the amount of the transfer on each such date during state fiscal year 2002 shall not exceed \$30,277,162.~~ All transfers made pursuant to this section are subject to reduction under K.S.A. 75-6704, and amendments thereto.

(c) All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund.

Sec. 8. On and after June 1, 2002, K.S.A. 2001 Supp. 79-2959, 79-2964, 79-34,147, 79-3603, 79-3603b, 79-3620, 79-3703 and 79-3710 are hereby repealed.”;

Also, on page 40, in line 8, by striking “statute book” and inserting “Kansas register”;

By renumbering existing section 3 as section 10;

In the title, in line 11, by striking all after the semicolon; by striking all in line 12; in line 13, by striking all before the period and inserting “increasing the rate thereof; amending K.S.A. 2001 Supp. 79-2959, 79-2964, 79-34,147, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 79-3603b”;

On roll call, the vote was: Yeas 29; Nays 86; Present but not voting: 0; Absent or not voting: 10.

Yeas: Ballard, Benlon, Bethell, Campbell, Cox, DiVita, Feuerborn, Freeborn, Gatewood, Glasscock, Horst, Huff, Krehbiel, Lane, Loyd, Merrick, Newton, O'Neal, Owens, Patterson, E. Peterson, J. Peterson, Pottorff, Ray, Sloan, Stone, Storm, Tafanelli, Tomlinson.

Nays: Aday, Aurand, Ballou, Barnes, Beggs, Boston, Burroughs, Compton, Cook, Crow, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Faber, Findley, Flaharty, Flora, Garner, Gilbert, Goering, Gordon, Hayzlett, Henderson, Henry, Holmes, Howell, Huebert, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Landwehr, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, P. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Miller, Minor, Judy Morrison, Myers, Neufeld, Nichols, Novascone, Osborne, Ostmeyer, Palmer, Pauls, Phelps, L. Powell, T. Powell, Powers, Pyle, Reardon, Rehorn, Schwartz, Showalter, Shriver, Swenson, Tanner, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Grant, Hermes, Kuether, M. Long, Jim Morrison, O'Brien, Ruff, Sharp, Shultz, Spangler.

The motion of Rep. Tomlinson did not prevail.

Also, on motion of Rep. D. Williams to amend **HB 2265**, the motion did not prevail. Also, on motion to recommend the bill favorably for passage, the motion did not prevail.

REPORTS OF STANDING COMMITTEES

The Committee on **Education** recommends **Sub. SB 394** be passed.

The Committee on **Health and Human Services** recommends **HB 2666**, be amended by adoption of the amendments recommended by the House Committee on Appropriations as reported in the Journal of the House of Representatives on February 26, 2002, and the bill, as printed with amendments by House Committee, be further amended on page 2, preceding line 32, by inserting the following material to read as follows:

“Sec. 3. K.S.A. 2001 Supp. 65-2418 is hereby amended to read as follows: 65-2418. (a) Except as otherwise provided in this section, the secretary shall fix and charge the fees, if any, to be paid for certified copies of certificates or for search of the files or records when no certified copy is made. Fees for certified copies of certificates shall be fixed by rules and regulations of the secretary except that the fee for the first copy of a birth ~~or death certificate~~ shall include a \$3 surcharge and the fee for each additional copy of the same birth ~~or death certificate~~ requested at the same time shall include a \$1 surcharge, *and the fee for the first copy of a death certificate shall include a \$4 surcharge and the fee for each additional copy of the same death certificate requested at the same time shall include a \$2 surcharge.* The secretary shall not charge any fee for a certified copy of a certificate or for a search of the files or records if the certificate or search is requested by a person who exhibits correspondence from the United States veterans administration or the Kansas commission on veterans' affairs which indicates that the person is applying for benefits from the United States veterans administration and that such person needs the requested information to obtain such benefits, except that, for a second or subsequent certified copy of a certificate or search of the files requested by the person, the usual fee shall be charged. The secretary may provide by rules and regulations for exemptions from such fees.

(b) Subject to K.S.A. 65-2420, and amendments thereto, the national office of vital statistics may be furnished copies or data it requires for national statistics. The state shall be reimbursed for the cost of furnishing the data. The data shall not be used for other than statistical purposes by the national office of vital statistics unless so authorized by the state registrar of vital statistics.

(c) (1) The secretary shall remit all moneys received by or for the secretary from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, other than remittances for fees for birth certificates, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(2) Upon receipt of any such remittance of a fee for a birth certificate, \$3 of each such fee for the first copy of a birth certificate and \$1 of each such fee for each additional copy of the same birth certificate requested at the same time shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the permanent families account of the family and children investment fund created by K.S.A. 38-1808, and amendments thereto. Upon receipt of any such remittance of a fee for a death certificate, ~~\$3~~ \$4 of each such fee for the first copy of a death certificate and ~~\$1~~ \$2 of each such fee for each additional copy of the same death certificate requested at the same time shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the district coroners fund created by K.S.A. 22a-245, and amendments thereto. The balance of the money received for a fee for a birth certificate shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(d) *Upon receipt of any fee for a certified copy of a birth, death, fetal death, marriage or divorce certificate, \$1 of each such fee shall be remitted to the state treasurer who shall deposit the entire amount of each such remittance in the state treasury and credit it to the vital statistics maintenance fee fund created by K.S.A. 2001 Supp. 65-2814b, and amendments thereto. For the purposes of the vital statistics maintenance fee fund, the secretary of*

health and environment shall adopt rules and regulations providing for an increase of \$1 in fees charged by the state treasurer for providing a certified copy of a birth, death, fetal death, marriage or divorce certificate.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 32, after “22a-245” by inserting “and K.S.A. 2001 Supp. 65-2418 and 65-2418a”;

In the title, in line 11, after “22a-245” by inserting “and K.S.A. 2001 Supp. 65-2418”; also in line 11, after “sections” by inserting “; also repealing K.S.A. 2001 Supp. 65-2418a”; and the bill be passed as amended.

The Committee on **Insurance** recommends **SB 390** 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 **Insurance** recommends **HB 2879** be amended on page 1, in line 37, after the stricken material, by inserting “. Such five-year period shall begin at the first policy anniversary date following the effective date of the policy”; and the bill be passed as amended.

The Committee on **Judiciary** recommends **SB 444, SB 445**, be passed.

The Committee on **Judiciary** recommends **SB 95** be amended on page 15, in line 22, by striking “2001” and inserting “2002” and the bill be passed as amended.

The Committee on **Local Government** recommends **HB 2949** be amended by redesignating Section 1 and Sec. 2 through Sec. 10 as New Section 1 and New Sec. 2 through New Sec. 10, respectively;

On page 6, following line 9, by inserting:

“Sec. 11. K.S.A. 25-432 is hereby amended to read as follows: 25-432. An election shall not be conducted under this act unless:

(a) Conducted on a date, mutually agreed upon by the governing body of the political or taxing subdivision and the county election officer, not later than 120 days following the date the request is submitted by the political or taxing subdivision; and

(b) the secretary of state approves a written plan for conduct of the election, which shall include a written timetable for the conduct of the election, submitted by the county election officer; and

(c) the election is nonpartisan; and

(d) the election is not one at which any candidate is elected, retained or recalled; and

(e) the election is not held on the same date as another election in which the qualified electors of that subdivision of government are eligible to cast ballots; and

(f) the election is a question submitted election at which all of the qualified electors of one of the following subdivisions of government are the only electors eligible to vote:

(1) Counties;

(2) cities;

(3) school districts, except in an election held pursuant to K.S.A. 72-7302 *et seq.*, and amendments thereto;

(4) townships;

(5) benefit districts ~~as~~ organized under K.S.A. 31-301, and amendments thereto;

(6) cemetery districts ~~as~~ organized under K.S.A. 15-1013 or 17-1330, and amendments thereto;

(7) combined sewer districts ~~as~~ organized under K.S.A. 19-27,169, and amendments thereto;

(8) community college districts ~~as~~ organized under K.S.A. 71-1101 *et seq.*, and amendments thereto;

(9) fire districts ~~as~~ organized under K.S.A. 19-3601 or 80-1512, and amendments thereto;

(10) hospital districts;

(11) improvement districts ~~as~~ organized under K.S.A. 19-2753, and amendments thereto;

(12) Johnson county park and recreation district ~~as~~ organized under K.S.A. 19-2859, and amendments thereto;

(13) sewage disposal districts ~~as~~ organized under K.S.A. 19-27,140, and amendments thereto; ~~or~~

(14) water districts ~~as~~ organized under K.S.A. 19-3501 *et seq.*, and amendments thereto; *or*

(15) *transportation development districts created pursuant to section 1 et seq., and amendments thereto.*

Sec. 2. K.S.A. 25-432 is hereby repealed.”;

By renumbering Sec. 11 as Sec. 13;

In the title, in line 10, before the period, by inserting “; amending K.S.A. 25-432 and repealing the existing section”; and the bill be passed as amended.

The Committee on **Transportation** recommends **SB 463**, **SB 507** be passed.

The **Select Committee on Redistricting** recommends **HB 3012** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 3012,” as follows:

“Substitute for HOUSE BILL No. 3012

By Select Committee on Redistricting

“AN ACT concerning congressional districts; providing for the redistricting thereof; repealing K.S.A. 4-128, 4-133 and 4-135.”; and the substitute bill be passed.

(**Sub. HB 3012** was thereupon introduced and read by title.)

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

HB 3021, An act concerning the employment security law; amending K.S.A. 44-705 and K.S.A. 2001 Supp. 44-703 and 44-710 and repealing the existing sections, by Committee on Appropriations.

HB 3022, An act concerning business entities; amending K.S.A. 17-6102, 17-6201, 17-6202, 17-6301, 17-6302, 17-6305, 17-6402, 17-6407, 17-6410, 17-6412, 17-6417, 17-6418, 17-6420, 17-6422, 17-6423, 17-6424, 17-6425, 17-6426, 17-6501, 17-6503, 17-6504, 17-6505, 17-6506, 17-6507, 17-6508, 17-6509, 17-6510, 17-6511, 17-6512, 17-6513, 17-6514, 17-6517, 17-6518, 17-6519, 17-6520, 17-6604, 17-6801, 17-6805a, 17-6808, 17-6810, 17-6811, 17-6902, 17-6903, 17-6904, 17-6905, 17-6906, 17-6907, 17-6908, 17-6909, 17-6910, 17-6911, 17-7003, 17-7103, 17-7104, 17-7202, 17-7303, 17-7304, 17-7501, 17-7507, 17-7510, 17-7512 and 17-7514 and K.S.A. 2001 Supp. 17-6002, 17-6003, 17-6205, 17-6206, 17-6401, 17-6502, 17-6605, 17-6701, 17-6702, 17-6703, 17-6704, 17-6705, 17-6706, 17-6707, 17-6712, 17-6804, 17-7301, 17-7302, 17-7306, 17-7503, 17-7504, 17-7505, 17-7506 and 17-7508 and repealing the existing sections; also repealing K.S.A. 17-7513 and K.S.A. 2001 Supp. 17-7502, by Committee on Federal and State Affairs.

HOUSE CONCURRENT RESOLUTION No. 5052—

By Committee on Appropriations

A PROPOSITION to amend the constitution of the state of Kansas by adding a new article thereto, prescribing certain limitations upon expenditures by the state.

Be it resolved by the legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: The constitution of the state of Kansas is amended by adding a new article thereto to read as follows:

“Article 16.—LIMITATIONS ON STATE EXPENDITURES

§ 1. (a) For the state fiscal year 2004 and each state fiscal year thereafter, all of the moneys received by the state pursuant to the tobacco litigation settlement agreements entered into by the attorney general on behalf of the state of Kansas, or

pursuant to any judgment rendered, regarding the litigation against tobacco industry companies and related entities, including all bond proceeds received from the state securitizing all or a portion of the state's future tobacco receipts, shall be deposited in the state treasury and credited to the Kansas endowment for youth fund.

(b) All moneys in the Kansas endowment for youth fund, or any successor fund, shall constitute an endowment and shall be expended only for the following purposes:

(1) Transfers to the children's initiatives fund pursuant to law for the purposes of providing additional funding for programs, projects, improvements, services and other purposes directly or indirectly beneficial to the physical and mental health, welfare, safety and overall well-being of children in Kansas;

(2) to provide an ongoing source of investment earnings available for transfers to the children's initiative fund. Moneys allocated or appropriated from the children's initiatives fund shall not be used to replace or substitute for moneys appropriated in the immediately preceding fiscal year.

§ 2. The limitation imposed on the state by subsection (a) of section 1 of this article may be rescinded for a state fiscal year upon the vote by two-thirds of the members then elected (or appointed) and qualified of each house of the legislature approving the expenditure.

§ 3. Commencing during the regular session of the legislature held in calendar year 2003, the legislature shall enact legislation consistent with, and as may be necessary to implement and enforce, the provisions of this article."

Sec. 2. The following statements shall be printed on the ballot with the amendments as a whole:

"Explanatory statement. This amendment would limit expenditures from the moneys received by the state pursuant to the tobacco litigation settlement agreements, or pursuant to any judgment rendered, to the children's initiatives fund and authorized programs for children and youth.

"A vote for the proposition would impose a limit on expenditures from the moneys received by the state pursuant to the tobacco litigation settlement to authorized children and youth programs as defined therein.

"A vote against the proposition would have the legislature enact laws and spend these moneys."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate, shall be entered on the journals, together with the yeas and nays. The secretary of the state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 2002 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

REPORT ON ENROLLED BILLS

HB 2622, HB 2656 reported correctly enrolled, properly signed and presented to the governor on March 13, 2002.

REPORT ON ENROLLED RESOLUTIONS

HR 6008 reported correctly enrolled and properly signed on March 13, 2002.

On motion of Rep. Weber, the House adjourned until 11:00 a.m., Thursday, March 14, 2002.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

