

Journal of the House

FORTY-SECOND DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, March 14, 2002, 11:00 a.m.

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

The roll was called with 123 members present.

Rep. O'Brien was excused on verified illness.

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

Prayer sung by guest chaplains, the Reverends Tom and Lois Harder, Lorraine Avenue Mennonite Church, Wichita, and guests of Rep. Loganbill:

Prayer of St. Francis

Lord, make me an instrument of your peace.

Where there is hatred, let me sow love.

Where there is injury, pardon.

And where there is doubting, let me bring faith in thee.

And Lord, make me an instrument of your peace.

Where there is despairing, let me bring your hope.

Where there is darkness, your light.

And where there is sadness, let me bring your joy.

O divine master, grant that I may seek

Not so much to be consoled, as to console.

To be understood, as to understand,

Not so much to be loved, as to love another.

For it is in giving that we now receive.

It is in pardoning that we are now pardoned.

And it is in dying that we are now born again.

Lord, make me an instrument of your peace.

Where there is hatred, let me bring your love. Amen.

The Pledge of Allegiance was led by Rep. Barnes.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Appropriations: **HCR 5052; SB 637.**

Business, Commerce and Labor: **HB 3021.**

Federal and State Affairs: **SB 629.**

Judiciary: **Sub. SB 339; SB 559.**

To be referred: **HB 3022; SB 403.**

MESSAGE FROM THE SENATE

Announcing passage of **SB 483, SB 521, SB 541, SB 557.**

Also, announcing passage of **HB 2679.**

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were thereupon introduced and read by title:

SB 483, SB 521, SB 541, SB 557.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6009—

By Representative D. Williams

A RESOLUTION urging the Legislature to take timely action on school finance.

WHEREAS, The education of our children is one of the basic responsibilities of our society; and

WHEREAS, The Constitution of the State of Kansas mandates that the Legislature make suitable provision for financing the educational needs of the state; and

WHEREAS, By state statute, Kansas school districts must notify teachers by May 1 of each year as to whether or not their contracts are being renewed; and

WHEREAS, There are those Kansas school districts which have policies requiring they provide early notification should they have to reduce their teaching staff; and

WHEREAS, The education of our children from kindergarten through high school comprises the largest portion of our state budget, at 54%, and could continue to increase; and

WHEREAS, The state is experiencing revenue shortfalls because of the economic recession felt in Kansas and throughout our country therefore making the desired increases in school funding difficult to meet; and

WHEREAS, Finalizing school funding often occurs in the final moments of the legislative session thus delaying school districts from completing planning, budgeting and teacher contracts: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That the House of Representatives pledges to complete, along with the Senate, the necessary legislation providing for the financing of Kansas public schools from kindergarten through high school by April 5, 2002.

CONSENT CALENDAR

No objection was made to **SB 390** appearing on the Consent Calendar for the first day.

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

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **HB 2560** be adopted; also, roll call was demanded on motion of Rep. Newton to amend, on page 1, by striking all in lines 17 through 43;

On page 4, by striking all in line 11 and inserting the following:

“Section. 1. On and after June 1, 2002, K.S.A. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. The rate of such tax shall be ~~\$24~~ \$1.14 on each 20 cigarettes or fractional part thereof or ~~\$30~~ \$1.37 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided.

The taxes imposed by this act are hereby levied upon all sales of cigarettes made to any department, institution or agency of the state of Kansas, and to the political subdivisions thereof and their departments, institutions and agencies.

New Sec. 2. On or before June 30, 2002, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on June 1, 2002. A tax of \$.90 on each 20 cigarettes or fractional part thereof or \$1.07 on each 25 cigarettes, as the case requires and \$.90 or \$1.07, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to June 1, 2002, is hereby imposed and shall be due and payable on or before June 30, 2002. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only

once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 3. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied stamps only to licensed wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and stamps applied by the heat process and meter imprints shall be supplied to wholesale dealers at a discount of ~~2.65%~~ 0.55% from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the bond. Failure on the part of any wholesale dealer to remit as herein specified shall be cause for forfeiture of such dealer's bond. All revenue received from the sale of such stamps or meter imprints 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. The state treasurer shall first credit such amount as the director shall order to the cigarette tax refund fund and shall credit the remaining balance to the state general fund. A refund fund designated the cigarette tax refund fund not to exceed \$10,000 at any time shall be set apart and maintained by the director from taxes collected under this act and held by the state treasurer for prompt payment of all refunds authorized by this act. Such cigarette tax refund fund shall be in such amount as the director shall determine is necessary to meet current refunding requirements under this act.

The wholesale cigarette dealer shall affix to each package of cigarettes stamps or tax meter imprints required by this act prior to the sale of cigarettes to any person, by such dealer or such dealer's agent or agents, within the state of Kansas. The director is empowered to authorize wholesale dealers to affix revenue tax meter imprints upon original packages of cigarettes and is charged with the duty of regulating the use of tax meters to secure payment of the proper taxes. No wholesale dealer shall affix revenue tax meter imprints to original packages of cigarettes without first having obtained permission from the director to employ this method of affixation. If the director approves the wholesale dealer's application for permission to affix revenue tax meter imprints to original packages of cigarettes, the director shall require such dealer to file a suitable bond payable to the state of Kansas executed by a corporate surety authorized to do business in Kansas. The director may, to assure the proper collection of taxes imposed by the act, revoke or suspend the privilege of imprinting tax meter imprints upon original packages of cigarettes. All meters shall be under the direct control of the director, and all transfer assignments or anything pertaining thereto must first be authorized by the director. All inks used in the stamping of cigarettes must be of a special type devised for use in connection with the machine employed and approved by the director. All repairs to the meter are strictly prohibited except by a duly authorized representative of the director. Requests for service shall be directed to the director. Meter machine ink imprints on all packages shall be clear and legible. If a wholesale dealer continuously issues illegible cigarette tax meter imprints, it shall be considered sufficient cause for revocation of such dealer's permit to use a cigarette tax meter.

A licensed wholesale dealer may, for the purpose of sale in another state, transport cigarettes not bearing Kansas indicia of tax payment through the state of Kansas provided such cigarettes are contained in sealed and original cartons.

Sec. 4. On and after June 1, 2002, K.S.A. 79-3312 is hereby amended to read as follows: 79-3312. The director shall redeem any unused stamps or meter imprints that any wholesale dealer presents for redemption within six months after the purchase thereof, at the face value less ~~2.65%~~ 0.55% thereof if such stamps or meter imprints have been purchased from

the director. The director shall prepare a voucher showing the net amount of such refund due, and the director of accounts and reports shall draw a warrant on the state treasurer for the same. Wholesale dealers shall be entitled to a refund of the tax paid on cigarettes which have become unfit for sale upon proof thereof less ~~2.65%~~ 0.55% of such tax.

Sec. 5. On and after June 1, 2002, K.S.A. 79-3371 is hereby amended to read as follows: 79-3371. A tax is hereby imposed upon the privilege of selling or dealing in tobacco products in this state by any person engaged in business as a distributor thereof, at the rate of ~~ten percent (10%)~~ 22% of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings or causes to be brought into this state from without the state tobacco products for sale; (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (c) ships or transports tobacco products to retailers in this state to be sold by those retailers.

New Sec. 6. On or before June 30, 2002, each distributor having a place of business in this state shall file a report with the director in such form as the director may prescribe, showing the tobacco products on hand at 12:01 a.m. on June 1, 2002. A tax at a rate equal to 12% of the wholesale sales price of such tobacco products is hereby imposed upon such tobacco products and shall be due and payable on or before June 30, 2002. The tax upon such tobacco products shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit 80.54% thereof to the state school district finance fund and 19.46% thereof to the post-secondary education excellence fund.

Sec. 7. On and after June 1, 2002, K.S.A. 79-3378 is hereby amended to read as follows: 79-3378. On or before the ~~twentieth~~ 20th day of each calendar month every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product (~~+~~) brought, or caused to be brought, into this state for sale; and (~~2~~) made, manufactured, or fabricated in this state for sale in this state during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the director. Each return shall be accompanied by a remittance for the full tax liability shown therein, less ~~four percent (4%)~~ 1.8% of such liability as compensation to reimburse the distributor for his or her expenses incurred in the administration of this act. As soon as practicable after any return is filed, the director shall examine the return. If the director finds that, ~~in his or her judgment,~~ the return is incorrect and any amount of tax is due from the distributor and unpaid, ~~he or she~~ the director shall notify the distributor of the deficiency. If a deficiency disclosed by the director's examination cannot be allocated by him to a particular month or months, ~~he or she~~ the director may nevertheless notify the distributor that a deficiency exists and state the amount of tax due. Such notice shall be given to the distributor by registered or certified mail.

Sec. 8. On and after June 1, 2002, K.S.A. 79-3310, 79-3312, 79-3371 and 79-3378 and K.S.A. 2001 Supp. 79-3311 are hereby repealed.;

Also, on page 4, in line 13, by striking "statute book" and inserting "Kansas register";

By renumbering existing section 3 as section 9;

In the title, in line 12, after "cigarettes" by inserting "and tobacco products; increasing the rate thereof"; by striking all in lines 13 and 14 and inserting "amending K.S.A. 79-3310, 79-3312, 79-3371 and 79-3378 and K.S.A. 2001 Supp. 79-3311 and repealing the existing sections.;"

On roll call, the vote was: Yeas 22; Nays 99; Present but not voting: 0; Absent or not voting: 4.

Yeas: Ballard, Benlon, Bethell, Campbell, Dahl, DiVita, Dreher, Glasscock, Huff, Lane, Lightner, Merrick, Judy Morrison, Newton, Owens, Patterson, J. Peterson, Powers, Ray, Storm, Tomlinson, D. Williams.

Nays: Aday, Aurand, Ballou, Barnes, Beggs, Boston, Burroughs, Compton, Cook, Cox, Crow, DeCastro, Dillmore, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Humerickhouse, Hutchins, Huy, Johnson,

Kauffman, Kirk, Klein, Kuether, Landwehr, Larkin, Levinson, Light, Lloyd, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Miller, Minor, Jim Morrison, Myers, Neufeld, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Palmer, Pauls, E. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Pyle, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Krehbiel, Loganbill, O'Brien, Spangler.

The motion of Rep. Newton did not prevail.

Also, roll call was demanded on further motion of Rep. Newton to amend **HB 2560**, on page 1, by striking all in lines 17 through 43;

On page 4, by striking all in line 11 and inserting the following:

"Section. 1. On and after June 1, 2002, K.S.A. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. The rate of such tax shall be ~~\$.24~~ \$.99 on each 20 cigarettes or fractional part thereof or ~~\$.30~~ \$1.19 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided.

The taxes imposed by this act are hereby levied upon all sales of cigarettes made to any department, institution or agency of the state of Kansas, and to the political subdivisions thereof and their departments, institutions and agencies.

New Sec. 2. On or before June 30, 2002, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on June 1, 2002. A tax of \$.75 on each 20 cigarettes or fractional part thereof or \$.89 on each 25 cigarettes, as the case requires and \$.75 or \$.89, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to June 1, 2002, is hereby imposed and shall be due and payable on or before June 30, 2002. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 3. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied stamps only to licensed wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and stamps applied by the heat process and meter imprints shall be supplied to wholesale dealers at a discount of ~~2.65%~~ 0.64% from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the bond. Failure on the part of any wholesale dealer to remit as herein specified shall be cause for forfeiture of such dealer's bond. All revenue received from the sale of such stamps or meter imprints 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. The state treasurer shall first credit such amount as the director shall order to the cigarette tax refund fund and shall credit the remaining balance to the state general fund. A refund fund designated the cigarette tax refund fund not to exceed \$10,000 at any time shall be set apart and maintained by the director from taxes collected under this act and held by the state

treasurer for prompt payment of all refunds authorized by this act. Such cigarette tax refund fund shall be in such amount as the director shall determine is necessary to meet current refunding requirements under this act.

The wholesale cigarette dealer shall affix to each package of cigarettes stamps or tax meter imprints required by this act prior to the sale of cigarettes to any person, by such dealer or such dealer's agent or agents, within the state of Kansas. The director is empowered to authorize wholesale dealers to affix revenue tax meter imprints upon original packages of cigarettes and is charged with the duty of regulating the use of tax meters to secure payment of the proper taxes. No wholesale dealer shall affix revenue tax meter imprints to original packages of cigarettes without first having obtained permission from the director to employ this method of affixation. If the director approves the wholesale dealer's application for permission to affix revenue tax meter imprints to original packages of cigarettes, the director shall require such dealer to file a suitable bond payable to the state of Kansas executed by a corporate surety authorized to do business in Kansas. The director may, to assure the proper collection of taxes imposed by the act, revoke or suspend the privilege of imprinting tax meter imprints upon original packages of cigarettes. All meters shall be under the direct control of the director, and all transfer assignments or anything pertaining thereto must first be authorized by the director. All inks used in the stamping of cigarettes must be of a special type devised for use in connection with the machine employed and approved by the director. All repairs to the meter are strictly prohibited except by a duly authorized representative of the director. Requests for service shall be directed to the director. Meter machine ink imprints on all packages shall be clear and legible. If a wholesale dealer continuously issues illegible cigarette tax meter imprints, it shall be considered sufficient cause for revocation of such dealer's permit to use a cigarette tax meter.

A licensed wholesale dealer may, for the purpose of sale in another state, transport cigarettes not bearing Kansas indicia of tax payment through the state of Kansas provided such cigarettes are contained in sealed and original cartons.

Sec. 4. On and after June 1, 2002, K.S.A. 79-3312 is hereby amended to read as follows: 79-3312. The director shall redeem any unused stamps or meter imprints that any wholesale dealer presents for redemption within six months after the purchase thereof, at the face value less ~~2.65%~~ 0.64% thereof if such stamps or meter imprints have been purchased from the director. The director shall prepare a voucher showing the net amount of such refund due, and the director of accounts and reports shall draw a warrant on the state treasurer for the same. Wholesale dealers shall be entitled to a refund of the tax paid on cigarettes which have become unfit for sale upon proof thereof less ~~2.65%~~ 0.64% of such tax.

Sec. 5. On and after June 1, 2002, K.S.A. 79-3371 is hereby amended to read as follows: 79-3371. A tax is hereby imposed upon the privilege of selling or dealing in tobacco products in this state by any person engaged in business as a distributor thereof, at the rate of ~~ten percent (10%)~~ 20% of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings or causes to be brought into this state from without the state tobacco products for sale; (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (c) ships or transports tobacco products to retailers in this state to be sold by those retailers.

New Sec. 6. On or before June 30, 2002, each distributor having a place of business in this state shall file a report with the director in such form as the director may prescribe, showing the tobacco products on hand at 12:01 a.m. on June 1, 2002. A tax at a rate equal to 10% of the wholesale sales price of such tobacco products is hereby imposed upon such tobacco products and shall be due and payable on or before June 30, 2002. The tax upon such tobacco products shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 7. On and after June 1, 2002, K.S.A. 79-3378 is hereby amended to read as follows: 79-3378. On or before the ~~twentieth~~ 20th day of each calendar month every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product (~~±~~) brought, or caused to be brought, into this state for sale; and (~~±~~) made, manufactured, or fabricated in this state for sale in this state during the preceding calendar month. Every licensed distributor outside this state shall

in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the director. Each return shall be accompanied by a remittance for the full tax liability shown therein, less ~~four percent (4%)~~ 2% of such liability as compensation to reimburse the distributor for his or her expenses incurred in the administration of this act. As soon as practicable after any return is filed, the director shall examine the return. If the director finds that, ~~in his or her judgment,~~ the return is incorrect and any amount of tax is due from the distributor and unpaid, ~~he or she~~ the director shall notify the distributor of the deficiency. If a deficiency disclosed by the director's examination cannot be allocated by him to a particular month or months, ~~he or she~~ the director may nevertheless notify the distributor that a deficiency exists and state the amount of tax due. Such notice shall be given to the distributor by registered or certified mail.

Sec. 8. On and after June 1, 2002, K.S.A. 79-3310, 79-3312, 79-3371 and 79-3378 and K.S.A. 2001 Supp. 79-3311 are hereby repealed.”;

Also, on page 4, in line 13, by striking “statute book” and inserting “Kansas register”;

By renumbering existing section 3 as section 9;

In the title, in line 12, after “cigarettes” by inserting “and tobacco products; increasing the rate thereof”; by striking all in lines 13 and 14 and inserting “amending K.S.A. 79-3310, 79-3312, 79-3371 and 79-3378 and K.S.A. 2001 Supp. 79-3311 and repealing the existing sections.”;

On roll call, the vote was: Yeas 23; Nays 95; Present but not voting: 0; Absent or not voting: 7.

Yeas: Ballard, Benlon, Bethell, Campbell, Dahl, DiVita, Dreher, Glasscock, Huff, Lane, Lightner, P. Long, Newton, Owens, Patterson, J. Peterson, Powers, Ray, Stone, Storm, Tomlinson, Wilk, D. Williams.

Nays: Aday, Aurand, Ballou, Barnes, Beggs, Boston, Burroughs, Compton, Cook, Cox, Crow, DeCastro, Dillmore, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Holmes, Horst, Howell, Huebert, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kuether, Landwehr, Larkin, Levinson, Light, Lloyd, M. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Nichols, Novascone, O’Neal, Osborne, Ostmeyer, Palmer, Pauls, E. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Pyle, Reardon, Rehorn, Ruff, Schwartz, Showalter, Shriver, Shultz, Sloan, Swenson, Tafanelli, Tanner, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Hermes, Krehbiel, Loganbill, O’Brien, Sharp, Spangler, Thimesch. The motion of Rep. Newton did not prevail.

Also, roll call was demanded on further motion of Rep. Newton to amend **HB 2560**, on page 1, by striking all in lines 17 through 43;

On page 4, by striking all in line 11 and inserting the following:

“Section. 1. On and after June 1, 2002, K.S.A. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. The rate of such tax shall be ~~\$.24~~ \$.74 on each 20 cigarettes or fractional part thereof or ~~\$.30~~ \$.89 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided.

The taxes imposed by this act are hereby levied upon all sales of cigarettes made to any department, institution or agency of the state of Kansas, and to the political subdivisions thereof and their departments, institutions and agencies.

New Sec. 2. On or before June 30, 2002, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on June 1, 2002. A tax of \$.50 on each 20 cigarettes or fractional part thereof or \$.59 on each 25 cigarettes, as the case requires and \$.50 or \$.59, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to

June 1, 2002, is hereby imposed and shall be due and payable on or before June 30, 2002. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 3. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied stamps only to licensed wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and stamps applied by the heat process and meter imprints shall be supplied to wholesale dealers at a discount of ~~2.65%~~ 0.85% from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the bond. Failure on the part of any wholesale dealer to remit as herein specified shall be cause for forfeiture of such dealer's bond. All revenue received from the sale of such stamps or meter imprints 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. The state treasurer shall first credit such amount as the director shall order to the cigarette tax refund fund and shall credit the remaining balance to the state general fund. A refund fund designated the cigarette tax refund fund not to exceed \$10,000 at any time shall be set apart and maintained by the director from taxes collected under this act and held by the state treasurer for prompt payment of all refunds authorized by this act. Such cigarette tax refund fund shall be in such amount as the director shall determine is necessary to meet current refunding requirements under this act.

The wholesale cigarette dealer shall affix to each package of cigarettes stamps or tax meter imprints required by this act prior to the sale of cigarettes to any person, by such dealer or such dealer's agent or agents, within the state of Kansas. The director is empowered to authorize wholesale dealers to affix revenue tax meter imprints upon original packages of cigarettes and is charged with the duty of regulating the use of tax meters to secure payment of the proper taxes. No wholesale dealer shall affix revenue tax meter imprints to original packages of cigarettes without first having obtained permission from the director to employ this method of affixation. If the director approves the wholesale dealer's application for permission to affix revenue tax meter imprints to original packages of cigarettes, the director shall require such dealer to file a suitable bond payable to the state of Kansas executed by a corporate surety authorized to do business in Kansas. The director may, to assure the proper collection of taxes imposed by the act, revoke or suspend the privilege of imprinting tax meter imprints upon original packages of cigarettes. All meters shall be under the direct control of the director, and all transfer assignments or anything pertaining thereto must first be authorized by the director. All inks used in the stamping of cigarettes must be of a special type devised for use in connection with the machine employed and approved by the director. All repairs to the meter are strictly prohibited except by a duly authorized representative of the director. Requests for service shall be directed to the director. Meter machine ink imprints on all packages shall be clear and legible. If a wholesale dealer continuously issues illegible cigarette tax meter imprints, it shall be considered sufficient cause for revocation of such dealer's permit to use a cigarette tax meter.

A licensed wholesale dealer may, for the purpose of sale in another state, transport cigarettes not bearing Kansas indicia of tax payment through the state of Kansas provided such cigarettes are contained in sealed and original cartons.

Sec. 4. On and after June 1, 2002, K.S.A. 79-3312 is hereby amended to read as follows: 79-3312. The director shall redeem any unused stamps or meter imprints that any wholesale

dealer presents for redemption within six months after the purchase thereof, at the face value less ~~2.65%~~ 0.85% thereof if such stamps or meter imprints have been purchased from the director. The director shall prepare a voucher showing the net amount of such refund due, and the director of accounts and reports shall draw a warrant on the state treasurer for the same. Wholesale dealers shall be entitled to a refund of the tax paid on cigarettes which have become unfit for sale upon proof thereof less ~~2.65%~~ 0.85% of such tax.

Sec. 5. On and after June 1, 2002, K.S.A. 79-3371 is hereby amended to read as follows: 79-3371. A tax is hereby imposed upon the privilege of selling or dealing in tobacco products in this state by any person engaged in business as a distributor thereof, at the rate of ~~ten percent (10%)~~ 16% of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings or causes to be brought into this state from without the state tobacco products for sale; (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (c) ships or transports tobacco products to retailers in this state to be sold by those retailers.

New Sec. 6. On or before June 30, 2002, each distributor having a place of business in this state shall file a report with the director in such form as the director may prescribe, showing the tobacco products on hand at 12:01 a.m. on June 1, 2002. A tax at a rate equal to 6% of the wholesale sales price of such tobacco products is hereby imposed upon such tobacco products and shall be due and payable on or before June 30, 2002. The tax upon such tobacco products shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 7. On and after June 1, 2002, K.S.A. 79-3378 is hereby amended to read as follows: 79-3378. On or before the ~~twentieth~~ 20th day of each calendar month every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product ~~(+) brought~~, or caused to be brought, into this state for sale; and ~~(2)~~ made, manufactured, or fabricated in this state for sale in this state during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the director. Each return shall be accompanied by a remittance for the full tax liability shown therein, less ~~four percent (4%)~~ 2.5% of such liability as compensation to reimburse the distributor for his or her expenses incurred in the administration of this act. As soon as practicable after any return is filed, the director shall examine the return. If the director finds that, ~~in his or her judgment,~~ the return is incorrect and any amount of tax is due from the distributor and unpaid, ~~he or she~~ the director shall notify the distributor of the deficiency. If a deficiency disclosed by the director's examination cannot be allocated by him to a particular month or months, ~~he or she~~ the director may nevertheless notify the distributor that a deficiency exists and state the amount of tax due. Such notice shall be given to the distributor by registered or certified mail.

Sec. 8. On and after June 1, 2002, K.S.A. 79-3310, 79-3312, 79-3371 and 79-3378 and K.S.A. 2001 Supp. 79-3311 are hereby repealed.”;

Also, on page 4, in line 13, by striking “statute book” and inserting “Kansas register”;

By renumbering existing section 3 as section 9;

In the title, in line 12, after “cigarettes” by inserting “and tobacco products; increasing the rate thereof”; by striking all in lines 13 and 14 and inserting “amending K.S.A. 79-3310, 79-3312, 79-3371 and 79-3378 and K.S.A. 2001 Supp. 79-3311 and repealing the existing sections.”;

On roll call, the vote was: Yeas 34; Nays 83; Present but not voting: 0; Absent or not voting: 8.

Yeas: Aurand, Ballard, Benlon, Bethell, Campbell, Cox, Crow, Dahl, DiVita, Dreher, Findley, Glasscock, Hermes, Huff, Lane, Loyd, Judy Morrison, Newton, O’Neal, Owens, Patterson, E. Peterson, J. Peterson, Pottorff, Powers, Ray, Ruff, Sloan, Stone, Storm, Tanner, Tomlinson, Wilk, D. Williams.

Nays: Aday, Ballou, Barnes, Beggs, Boston, Burroughs, Compton, Cook, DeCastro, Dillmore, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert,

Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Holmes, Horst, Howell, Huebert, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kuether, Landwehr, Larkin, Levinson, Lightner, Lloyd, M. Long, P. Long, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Myers, Neufeld, Nichols, Novascone, Osborne, Ostmeyer, Palmer, Pauls, Phelps, L. Powell, T. Powell, Pyle, Reardon, Rehorn, Schwartz, Showalter, Shriver, Shultz, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Krehbiel, Light, Loganbill, Mason, Jim Morrison, O'Brien, Sharp, Spangler.

The motion of Rep. Newton did not prevail.

Also, roll call was demanded on further motion of Rep. Newton to amend **HB 2560**, on page 1, by striking all in lines 17 through 43;

On page 4, by striking all in line 11, after line 11, by inserting the following:

"Section 1. On and after June 1, 2002, K.S.A. 2001 Supp. 41-501 is hereby amended to read as follows: 41-501. (a) As used in this section and K.S.A. 41-501a, and amendments thereto:

(1) "Gallon" means wine gallon.

(2) "Federal area" means any lands or premises which are located within the exterior boundaries of this state and which are held or acquired by or for the use of the United States or any department, establishment or agency of the United States.

(3) "Malt product" means malt syrup, malt extract, liquid malt or wort.

(b) (1) For the purpose of raising revenue a tax is imposed upon the manufacturing, using, selling, storing or purchasing alcoholic liquor, cereal malt beverage or malt products in this state or a federal area at a rate of ~~\$-15~~ \$.23 per gallon on beer and cereal malt beverage; ~~\$-20~~ \$.26 per gallon on all wort or liquid malt; ~~\$-10~~ \$.13 per pound on all malt syrup or malt extract; ~~\$-50~~ \$.40 per gallon on wine containing 14% or less alcohol by volume; ~~\$-75~~ \$1.00 per gallon on wine containing more than 14% alcohol by volume; and ~~\$2.50~~ \$3.25 per gallon on alcohol and spirits.

(2) The tax imposed by this section shall be paid only once and shall be paid by the person in this state or federal area who first manufactures, uses, sells, stores, purchases or receives the alcoholic liquor or cereal malt beverage. The tax shall be collected and paid to the director as provided in this act. If the alcoholic liquor or cereal malt beverage is manufactured and sold in this state or a federal area, the tax shall be paid by the manufacturer, microbrewery or farm winery producing it. If the alcoholic liquor or cereal malt beverage is imported into this state by a distributor for the purpose of sale at wholesale in this state or a federal area, the tax shall be paid by the distributor, and in no event shall such tax be paid by the manufacturer unless the alcoholic liquor or cereal malt beverage is manufactured in this state. If not to exceed one gallon, or metric equivalent, per person of alcoholic liquor has been purchased by a private citizen outside the borders of the United States and is brought into this state by the private citizen in such person's personal possession for such person's own personal use and not for sale or resale, such import is lawful and no tax payment shall be due thereon.

(c) Manufacturers, microbreweries, farm wineries or distributors at wholesale of alcoholic liquor or cereal malt beverage shall be exempt from the payment of the gallonage tax imposed on alcoholic liquor and cereal malt beverage, upon satisfactory proof, including bills of lading furnished to the director by affidavit or otherwise as the director requires, that the liquor or cereal malt beverage was manufactured in this state but was shipped out of the state for sale and consumption outside the state.

(d) Wines manufactured or imported solely and exclusively for sacramental purposes and uses shall not be subject to the tax provided for by this section.

(e) The tax provided for by this section is not imposed upon:

(1) Any alcohol or wine, whether manufactured in or imported into this state, when sold to a nonbeverage user licensed by the state, for use in the manufacture of any of the following when they are unfit for beverage purposes: Patent and proprietary medicines and medicinal, antiseptic and toilet preparations; flavoring extracts and syrups and food products; scientific,

industrial and chemical products; or scientific, chemical, experimental or mechanical purposes; or

(2) the privilege of engaging in any business of interstate commerce or otherwise, which business may not be made the subject of taxation by this state under the constitution and statutes of the United States.

(f) The tax imposed by this section shall be in addition to all other taxes imposed by the state of Kansas or by any municipal corporation or political subdivision thereof.

(g) Retail sales of alcoholic liquor, sales of beer to consumers by microbreweries and sales of wine to consumers by farm wineries shall not be subject to the tax imposed by the Kansas retailers' sales tax act but shall be subject to the enforcement tax provided for in this act.

(h) Notwithstanding any ordinance to the contrary, no city shall impose an occupation or privilege tax on the business of any person, firm or corporation licensed as a manufacturer, distributor, microbrewery, farm winery, retailer or nonbeverage user under this act and doing business within the boundaries of the city except as specifically authorized by K.S.A. 41-310, and amendments thereto.

(i) The director shall collect the taxes imposed by this section and shall account for and remit all moneys collected from the tax 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 and the state treasurer shall credit ~~to~~ 7.14% of the moneys collected from taxes imposed upon alcohol and spirits under subsection (b)(1) to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and shall credit the balance of the moneys collected to the state general fund.

(j) If any alcoholic liquor manufactured in or imported into this state is sold to a licensed manufacturer or distributor of this state to be used solely as an ingredient in the manufacture of any beverage for human consumption, the tax imposed upon the manufacturer or distributor shall be reduced by the amount of the taxes which have been paid under this section as to the alcoholic liquor so used.

(k) The tax provided for by this section is not imposed upon alcohol or wine used by any school or college for scientific, chemical, experimental or mechanical purposes or by hospitals, sanatoria or other institutions caring for the sick. Any school, college, hospital, sanatorium or other institution caring for the sick may import alcohol or wine for scientific, chemical, experimental, mechanical or medicinal purposes by making application to the director for a permit to import it and receiving such a permit. Application for the permit shall be on a form prescribed and furnished by the director, and a separate permit shall be required for each purchase of alcohol or wine. A fee of \$2 shall accompany each application. All permits shall be issued in triplicate to the applicant and shall be under the seal of the office of the director. Two copies of the permit shall be forwarded by the applicant to the microbrewery, farm winery, manufacturer or distributor from which the alcohol or wine is purchased, and the microbrewery, farm winery, manufacturer or distributor shall return to the office of the director one copy of the permit with its shipping affidavit and invoice. Within 10 days after receipt of any alcohol or wine, the school, college, hospital or sanatorium ordering it shall file a report in the office of the director upon forms furnished by the director, showing the amount of alcohol or wine received, the place where it is to be stored, from whom it was received, the purpose for which it is to be used and such other information as required by the director. Any school, college, hospital, sanatorium or institution caring for the sick, which complies with the provisions of this subsection, shall not be required to have any other license to purchase alcohol or wine from a microbrewery, farm winery, manufacturer or distributor.

New Sec. 2. On June 1, 2002, a tax at the rate of \$.05 per gallon on all beer and cereal malt beverage, \$.10 per gallon for wine containing 14% or less of alcohol by volume, \$.25 per gallon for wine containing more than 14% of alcohol by volume, \$.75 per gallon on alcohol and spirits, \$.06 per gallon on wort and liquid malt, and \$.03 per pound of malt syrup and malt extract, is hereby imposed on the manufacture, use, sale, storage or purchase of such alcoholic liquors owned at 12:01 a.m. on June 1, 2002, by a licensed distributor or retail dealer as to which the tax has been imposed as provided in K.S.A. 41-501, and amend-

ments thereto. Such tax shall be paid by the licensed distributor or retail dealer owning such alcoholic liquors, cereal malt beverage or beer at such time and date. On or before June 25, 2002, every such distributor and retail dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons of such alcoholic liquors, cereal malt beverage or beer so owned at 12:01 a.m. on June 2, 2002, and such report shall be accompanied by a remittance of the tax due.

The license of any licensed distributor or retail dealer who shall fail to make such report or pay such tax, within the time hereinbefore prescribed, shall be subject to suspension or revocation as provided by K.S.A. 41-320 and amendments thereto. All taxes collected by the director under this section shall be paid into the state treasury and the state treasurer shall credit the entire amount thereof to the state general fund.

Sec. 3. On and after June 1, 2002, K.S.A. 2001 Supp. 41-501 is hereby repealed.”;

Also, on page 4, in line 13, by striking “statute book” and inserting “Kansas register”;

By renumbering existing section 3 as section 4;

In the title, in line 12, by striking all after “of”; by striking all in line 13; in line 14, by striking all before the period and inserting “alcoholic beverages; increasing the rate thereof; amending K.S.A. 2001 Supp. 41-501 and repealing the existing section”;

On roll call, the vote was: Yeas 31; Nays 87; Present but not voting: 1; Absent or not voting: 6.

Yeas: Aurand, Benlon, Bethell, Campbell, Dahl, Dreher, Freeborn, Glasscock, Hermes, Horst, Hutchins, Lane, Lightner, P. Long, Loyd, Judy Morrison, Newton, O’Neal, Owens, Patterson, Pauls, E. Peterson, Powers, Ray, Shultz, Stone, Storm, Tanner, Tomlinson, Wilk, D. Williams.

Nays: Aday, Ballou, Barnes, Beggs, Boston, Burroughs, Compton, Cook, Cox, Crow, DeCastro, Dillmore, DiVita, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Goering, Gordon, Hayzlett, Henderson, Henry, Holmes, Howell, Huebert, Huff, Humerickhouse, Huy, Johnson, Kauffman, Kirk, Klein, Kuether, Landwehr, Larkin, Levinson, Light, Lloyd, M. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Myers, Neufeld, Nichols, Novascone, Osborne, Ostmeyer, Palmer, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Pyle, Reardon, Rehorn, Ruff, Schwartz, Showalter, Shriver, Sloan, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, J. Williams, Wilson, Winn.

Present but not voting: Grant.

Absent or not voting: Ballard, Krehbiel, Loganbill, O’Brien, Sharp, Spangler.

The motion of Rep. Newton did not prevail.

Also, roll call was demanded on further motion of Rep. Newton to amend **HB 2560**, on page 1, by striking all in lines 17 through 43;

On page 4, by striking all in line 11; after line 11, by inserting the following:

“Section 1. On and after June 1, 2002, K.S.A. 79-4101 is hereby amended to read as follows: 79-4101. (a) For the purpose of providing revenue which may be used by the state, counties and cities in the enforcement of the provisions of this act, from and after the effective date of this act, for the privilege of engaging in the business of selling alcoholic liquor by retailers or farm wineries to consumers in this state or selling alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments or caterers in this state, there is hereby levied and there shall be collected and paid a tax at the rate of ~~8%~~ 10% upon the gross receipts received from: (1) The sale of alcoholic liquor by retailers, microbreweries or farm wineries to consumers within this state; and (2) the sale of alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments or caterers in this state.

(b) The tax imposed by this section shall be in addition to the license fee imposed on distributors, retailers, microbreweries and farm wineries by K.S.A. 41-310 and amendments thereto.

Sec. 2. On and after June 1, 2002, K.S.A. 79-4101 is hereby repealed.”;

Also, on page 4, in line 13, by striking “statute book” and inserting “Kansas register”;

In the title, in line 12, by striking all after “of”; by striking all in line 13; in line 14, by striking all before the period and inserting “certain sales of alcoholic liquors; increasing the rate thereof; amending K.S.A. 79-4101 and repealing the existing section”;

On roll call, the vote was: Yeas 27; Nays 90; Present but not voting: 1; Absent or not voting: 7.

Yeas: Ballard, Benlon, Bethell, Campbell, Dahl, Dreher, Freeborn, Glasscock, Horst, Hutchins, Lane, Lightner, Loyd, Newton, O'Neal, Owens, Patterson, Pauls, Powers, Ray, Sloan, Stone, Storm, Tanner, Tomlinson, Wilk, D. Williams.

Nays: Aday, Aurand, Ballou, Barnes, Beggs, Boston, Burroughs, Compton, Cook, Cox, Crow, DeCastro, Dillmore, DiVita, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Gamer, Gatewood, Gilbert, Goering, Gordon, Hayzlett, Henderson, Henry, Hermes, Holmes, Howell, Huebert, Huff, Humerickhouse, Huy, Johnson, Kauffman, Kirk, Klein, Kuether, Landwehr, Larkin, Levinson, Light, Lloyd, P. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Nichols, Novascone, Osborne, Ostmeyer, Palmer, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Pyle, Reardon, Rehorn, Ruff, Schwartz, Showalter, Shriver, Shultz, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, J. Williams, Wilson.

Present but not voting: Grant.

Absent or not voting: Krehbiel, Loganbill, M. Long, O'Brien, Sharp, Spangler, Winn.

The motion of Rep. Newton did not prevail.

Also, roll call was demanded on further motion of Rep. Newton to amend **HB 2560**, on page 1, by striking all in line 17 through 43;

On page 4, by striking all in line 11 and inserting the following:

“Section 1. On and after June 1, 2002, K.S.A. 79-41a02 is hereby amended to read as follows: 79-41a02. (a) There is hereby imposed, for the privilege of selling alcoholic liquor, a tax at the rate of ~~10%~~ 15% upon the gross receipts derived from the sale of alcoholic liquor by any club, caterer, drinking establishment or temporary permit holder.

(b) The tax imposed by this section shall be paid by the consumer to the club, caterer, drinking establishment or temporary permit holder and it shall be the duty of each and every club, caterer, drinking establishment or temporary permit holder subject to this section to collect from the consumer the full amount of such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each club, caterer, drinking establishment or temporary permit holder collecting the tax imposed hereunder shall be responsible for paying over the same to the state department of revenue in the manner prescribed by K.S.A. 79-41a03 and amendments thereto and the state department of revenue shall administer and enforce the collection of such tax.

Sec. 2. On and after June 1, 2002, K.S.A. 2001 Supp. 79-41a03 is hereby amended to read as follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-41a02, and amendments thereto, shall become due and payable by the club, caterer, drinking establishment or temporary permit holder monthly, or on or before the 25th day of the month immediately succeeding the month in which it is collected, but any club, caterer, drinking establishment or temporary permit holder filing an annual or quarterly return under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607, and amendments thereto, shall, upon such conditions as the secretary of revenue may prescribe, pay the tax required by this act on the same basis and at the same time the club, caterer, drinking establishment or temporary permit holder pays such retailers' sales tax. Each club, caterer, drinking establishment or temporary permit holder shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross receipts derived from the sale of alcoholic liquor by the club, caterer, drinking establishment or temporary permit holder for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross receipts derived from the sale of alcoholic liquor shall be kept separate and apart from the records of other retail sales made by a club, caterer, drinking establishment or temporary permit holder in order to facilitate the examination of books and records as provided herein.

(b) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a club, caterer, drinking establishment or temporary permit holder as may be necessary to determine the accuracy of such reports required hereunder.

(c) The secretary of revenue is hereby authorized to administer and collect the tax imposed hereunder and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any club, caterer, drinking establishment or temporary permit holder liable to pay the tax imposed hereunder refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617, and amendments thereto.

(d) The secretary of revenue shall remit all revenue collected under the provisions of this act 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. Subject to the maintenance requirements of the local alcoholic liquor refund fund created under K.S.A. 79-41a09, and amendments thereto, ~~25%~~ 50% of the remittance shall be credited to the state general fund, ~~5%~~ 3.33% shall be credited to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and the balance shall be credited to the local alcoholic liquor fund created by K.S.A. 79-41a04, and amendments thereto.

(e) Whenever, in the judgment of the secretary of revenue, it is necessary, in order to secure the collection of any tax, penalties or interest due, or to become due, under the provisions of this act, the secretary may require any person subject to such tax to file a bond with the director of taxation under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

(f) The amount of tax imposed by this act shall be assessed within three years after the return is filed, and no proceedings in court for the collection of such taxes shall be begun after the expiration of such period except in the cases of fraud. In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may be begun at any time, within two years from the discovery of such fraud. No refund or credit shall be allowed by the director after three years from the date of payment of the tax as provided in this act unless before the expiration of such period a claim therefor is filed by the taxpayer, and no suit or action to recover on any claim for refund shall be commenced until after the expiration of six months from the date of filing a claim therefor with the director. Before the expiration of time prescribed in this section for the assessment of additional tax or the filing of a claim for refund, the director is hereby authorized to enter into an agreement in writing with the taxpayer consenting to the extension of the periods of limitations for the assessment of tax or for the filing of a claim for refund, at any time prior to the expiration of the periods of limitations. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Sec. 3. On and after June 1, 2002, K.S.A. 79-41a02 and K.S.A. 2001 Supp. 79-41a03 are hereby repealed.”;

Also, on page 4, in line 13, by striking “statute book” and inserting “Kansas register”;

By renumbering existing section 3 as section 4;

In the title, in line 12, by striking all after “of”; by striking all in lines 13 and 14 and inserting “liquor by the drink; increasing the rate thereof; amending K.S.A. 79-41a02 and K.S.A. 2001 Supp. 79-41a03 and repealing the existing sections.”;

On roll call, the vote was: Yeas 28; Nays 87; Present but not voting: 1; Absent or not voting: 9.

Yeas: Benlon, Bethell, Campbell, Dahl, Dillmore, Dreher, Feuerborn, Glasscock, Horst, Hutchins, Lane, Lightner, Loyd, Judy Morrison, Newton, O'Neal, Owens, Patterson, Pauls, Powers, Ray, Sloan, Stone, Storm, Tanner, Tomlinson, Wilk, D. Williams.

Nays: Aday, Aurand, Ballou, Barnes, Beggs, Boston, Compton, Cook, Cox, Crow, De-Castro, DiVita, Edmonds, Faber, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Goering, Gordon, Hayzlett, Henderson, Henry, Hermes, Holmes, Howell, Huebert, Huff, Humerickhouse, Huy, Johnson, Kauffman, Kirk, Klein, Kuether, Landwehr, Larkin, Levinson, Lloyd, M. Long, P. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Myers, Neufeld, Nichols, Novascone, Osborne, Ostmeyer, Palmer, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell,

Pyle, Reardon, Rehorn, Ruff, Schwartz, Showalter, Shriver, Shultz, Swenson, Tafanelli, Thimesch, R. Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, J. Williams, Wilson, Winn.

Present but not voting: Grant.

Absent or not voting: Ballard, Burroughs, Krehbiel, Light, Loganbill, O'Brien, E. Peterson, Sharp, Spangler.

The motion of Rep. Newton did not prevail.

Also, on motion to recommend **HB 2560** favorably for passage, the motion did not prevail.

Committee report to **HB 2681** be adopted; and the bill be passed as amended.

Pursuant to House Rule 1903, **HB 2764** be passed over and retain a place on the calendar.

Committee report to **HB 2612** be adopted; also, on motion of Rep. McKinney be amended, on page 1, following line 14, by inserting new material to read as follows:

“New Section 1. (a) In any calendar year in which the sum of the amount by which the actual amount of state general fund receipts for the fiscal year ending in such calendar year exceeds the original joint estimate of revenue to the state general fund for that fiscal year prepared pursuant to K.S.A. 75-6701, and amendments thereto, as adjusted for laws enacted by the legislature during the regular legislative session in such calendar year, by more than \$50,000,000, 20% of such amount shall be transferred from the state general fund to the state debt reduction fund established by section 2, and amendments thereto, and 40% of such amount shall be transferred from the state general fund to the Kansas tax rebate fund established by section 3, and amendments thereto.

(b) On or before July 1 of each calendar year, the director of the budget and the director of the legislative research department shall prepare a joint estimate of the amount, if any, by which the actual amount of state general fund receipts for the state fiscal year ending in such calendar year exceeds the original joint estimate of revenue to the state general fund for that state fiscal year pursuant to K.S.A. 75-6701 and amendments thereto, adjusted for laws enacted by the legislature during the regular legislative session in such calendar year, by more than \$50,000,000 and, if such revenues exceed such estimate by more than \$50,000,000, shall prepare a joint certification to the director of accounts and reports of the amount to be transferred from the state general fund to the state debt reduction fund and the amount to be transferred from the state general fund to the Kansas tax rebate fund pursuant to this section.

(c) If the director of accounts and reports receives a certification under this section in any calendar year, the director of accounts and reports shall transfer the amounts specified in such certification from the state general fund in the amounts specified to the state debt reduction fund and the Kansas tax rebate fund in accordance with the certification on July 1 of such calendar year.

New Sec. 2. (a) There is hereby established in the state treasury the state debt reduction fund which shall be administered by the state treasurer. All expenditures from the state debt reduction fund shall be for the purpose of providing funding for retirement or defeasement of bonds issued for programs and capital improvement projects for state agencies which bonds become defeasible or callable during the fiscal year for which the fund is appropriated or to otherwise offset outstanding state debt to be retired from payments from the state general fund. Such expenditures shall be made by the state treasurer in consultation with the Kansas development finance authority upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the treasurer's designee.

(b) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the state debt reduction fund interest earnings based on: (1) The average daily balance of moneys in the state debt reduction fund for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

New Sec. 3. There is hereby established in the state treasury the Kansas tax rebate fund which shall be administered by the secretary of revenue. All expenditures from the Kansas tax rebate fund shall be made in accordance with the provisions of appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of revenue or by the secretary's designee. All expenditures from the Kansas tax rebate fund shall be for tax refunds, rebates, reimbursements or other payments to

taxpayers as provided by laws enacted by the legislature for such purposes after the effective date of this act.”;

Also on page 1, in line 15, by striking “Section 1.” and inserting “Sec. 4. On July 1, 2003,”; And by renumbering sections accordingly;

On page 3, in line 10, preceding “K.S.A.,” by inserting “On July 1, 2003,”; in line 11, by striking “July”; in line 12, by striking “1, 2003, and”;

On page 1, in the title, in line 10, by striking “concerning” and inserting “relating to revenues credited to the state general fund and budgets of state agencies; establishing the state debt reduction fund and the Kansas tax rebate fund; providing for transfers of moneys to such funds;”; and **HB 2612** be passed as amended.

Committee report to **HB 2613** be adopted; and the bill be passed as amended.

Committee report to **HB 2372** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Insurance** recommends **SB 388** be amended on page 1, after line 13 by inserting sections 1 and 2 as follows:

“Section 1. K.S.A. 40-428a is hereby amended to read as follows: 40-428a. (a) This section shall be known as the standard nonforfeiture law for individual deferred annuities.

(b) This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

(c) In the case of contracts issued on or after the operative date of this section as defined in ~~subsection (1) paragraph (1) of this subsection~~, no contract of annuity, except as stated in subsection (b), shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract.

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsection (e), (f), (g), (h), and (j).

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (e), (f), (h), and (j). The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six ~~(6)~~ months after demand therefor with surrender of the contract.

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract. Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two ~~(2)~~ full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than ~~twenty dollars (\$20)~~ \$20 monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table,

if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(d) The minimum values as specified in subsections (e), (f), (g), (h) and (j) of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this subsection.

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of ~~three percent (3%)~~ 3% per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:

(i) (A) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of ~~three percent (3%)~~ 3% per annum; and

(ii) (B) the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of ~~thirty dollars (\$30)~~ \$30 and less a collection charge of ~~one dollar and twenty-five cents (\$1.25)~~ \$1.25 per consideration credited to the contract during that contract year. The percentages of net considerations shall be ~~sixty-five percent (65%)~~ 65% of the net consideration for the first contract year and ~~eighty-seven and one-half percent (87.5%)~~ 87.5% of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be ~~sixty-five percent (65%)~~ 65% of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was ~~sixty-five percent (65%)~~ 65%. *Notwithstanding any other provision of this paragraph, for any contract issued on or after July 1, 2002, and before July 1, 2005, the interest rate at which net considerations, prior withdrawals and partial surrenders shall be accumulated, for the purpose of determining nonforfeiture amounts, shall be 1.5% per annum.*

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(i) (A) The portion of the net consideration for the first contract year to be accumulated shall be the sum of ~~sixty-five percent (65%)~~ 65% of the net consideration for the first contract year plus ~~twenty-two and one-half percent (22.5%)~~ 22.5% of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(ii) (B) The annual contract charge shall be the lesser of (i) ~~thirty dollars (\$30)~~ \$30 or (ii) ~~ten percent (10%)~~ 10% of the gross annual consideration.

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ~~ninety percent (90%)~~ 90% and the net consideration shall be the gross consideration less a contract charge of ~~seventy-five dollars (\$75)~~ \$75.

(e) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(f) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial

surrenders of the contract, such present value being calculated on the basis of an interest rate not more than ~~one percent (1%)~~ 1% higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(g) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(h) For the purpose of determining the benefits calculated under subsections (f) and (g), in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(i) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(j) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(k) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (e), (f), (g), (h) and (j), additional benefits payable (1) in the event of total and permanent disability, (2) as reversionary annuity or deferred reversionary annuity benefits, or (3) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(l) After July 1, 1978, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before July 1, 1980. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with

respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be July 1, 1980.

Sec. 2. K.S.A. 2001 Supp. 40-4909 is hereby amended to read as follows: 40-4909. (a) The commissioner may *deny*, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has:

(1) Provided incorrect, misleading, incomplete or untrue information in the license application.

(2) Violated:

(A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder;

(B) any subpoena or order of the commissioner;

(C) any insurance law or regulation of another state; or

(D) any subpoena or order issued by the regulatory official for insurance in another state.

(3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud.

(4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business.

(5) Intentionally misrepresented the provisions, terms and conditions of an actual or proposed insurance contract or application for insurance.

(6) Been convicted of a misdemeanor or felony.

(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404 and amendments thereto.

(8) Used any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

(9) Had an insurance agent license, or its equivalent, denied, suspended or revoked in any other state, district or territory.

(10) Forged another person's name to an application for insurance or to any document related to an insurance transaction.

(11) Improperly used notes or any other reference material to complete an examination for an insurance license issued under this act.

(12) Knowingly accepted insurance business from an individual who is not licensed.

(13) Failed to comply with any administrative or court order imposing a child support obligation upon the applicant or license holder.

(14) Failed to pay any state income tax or comply with any administrative or court order directing payment of state income tax.

(15) Rebated the whole or any part of any insurance premium or offered in connection with the presentation of any contract of insurance any other inducement not contained in the contract of insurance.

(16) Made any misleading representation or incomplete comparison of policies to any person for the purposes of inducing or tending to induce such person to lapse, forfeit or surrender such person's insurance then in force.

(b) In addition, the commissioner may suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license.

(c) Any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedures act.

(d) The license of any business entity may be suspended, revoked or refused renewal if the insurance commissioner finds that any violation committed by an individual licensee employed by or acting on behalf of such business entity was known by or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and:

(1) Such violation was not reported to the insurance commissioner by such business entity; or

(2) such business entity failed to take any corrective action.

(e) None of the following actions shall deprive the commissioner of any jurisdiction or right to institute or proceed with any disciplinary proceeding against such license, to render a decision suspending, revoking or refusing to renew such license, or to establish and make a record of the facts of any violation of law for any lawful purpose:

- (1) The imposition of an administrative penalty under this section;
- (2) the lapse or suspension of any license issued under this act by operation of law;
- (3) the licensee's failure to renew any license issued under this act; or
- (4) the licensee's voluntary surrender of any license issued under this act. No such disciplinary proceeding shall be instituted against any licensee after the expiration of two years from the termination of the license.

(f) Whenever the commissioner imposes any administrative penalty or denies, suspends, revokes or refuses renewal of any license pursuant to subsection (a), any costs incurred as a result of conducting an administrative hearing authorized under the provisions of this section shall be assessed against the person who is the subject of the hearing or any business entity represented by such person who is the party to the matters giving rise to the hearing. As used in this subsection, "costs" shall include witness fees, mileage allowances, any costs associated with the reproduction of documents which become a part of the hearing record and the expense of making a record of the hearing.

(g) No person whose license as an agent or broker had been suspended or revoked shall be employed by any insurance company doing business in this state either directly, indirectly, as an independent contractor or otherwise to negotiate or effect contracts of insurance, suretyship or indemnity or perform any act toward the solicitation of or transaction of any business of insurance during the period of such suspension or revocation.

(h) In lieu of taking any action under subsection (a), the commissioner may:

- (1) Censure the person; or
- (2) issue an order imposing an administrative penalty up to a maximum of \$500 for each violation but not to exceed \$2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by subsection (a), the commissioner may impose a penalty up to a maximum of \$1,000 for each violation but not to exceed \$5,000 for the same violation occurring within any six consecutive calendar months from the date of the imposition of the original administrative penalty.";

And by renumbering the remaining sections accordingly;

On page 2, in line 26, after "K.S.A." by inserting "40-428a and K.S.A."; also in line 26, by striking "is" and inserting "and 40-4909 are";

On page 1, in the title, in line 10, before the semicolon by inserting "; relating to licensure of insurance agents; relating to standard nonforfeiture provisions for annuities"; also in line 10, after "K.S.A." by inserting "40-428a and K.S.A."; also in line 10, before "and" by inserting "and 40-4909" in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

The Committee on **Kansas Futures** recommends **HB 2905** be amended on page 1, in line 18, by striking "with" and inserting the following: ". The commission shall make a determination of what should be the appropriate levels and delivery of services in Kansas, transcending the scope of practice of all providers of health care. A focus on both mental and physical health is to be included. The underserved areas of Kansas and the total aspect of the delivery of health care in Kansas, including telemedicine shall also be reviewed. Finally, the commission shall place"; in line 20, by striking "16" and inserting "19"; in line 27, by striking "12" and inserting "15"; in line 29, by striking "Two members" and inserting "One member"; in line 30, before "large" by inserting "a"; also in line 30, by striking "employers, two members" and inserting "employer, one member representing an employer who is insured with a privately purchased group health insurance policy, one member who is a mental health care provider, one member who is a health care provider who is not licensed to practice medicine and surgery or a licensed dentist, one member"; in line 31, before the comma by inserting "who is licensed to practice medicine and surgery, one member representing the medical community who is a licensed dentist"; in line 34, after

the comma, by inserting "one member representing AARP Kansas,"; in line 38, after "aging" by inserting "or such secretaries' designees"; in line 39, after the period by inserting the following: "Since every state agency of Kansas has a stake in the health of all Kansans, the commission may call upon, request and recover information from any state agency.";

On page 2, in line 21 by striking "All officers" and inserting "Officers"; in line 27, after the period by inserting the following: "Interactive electronic meetings may also be used by the commission to expand involvement throughout the state." in line 30, by striking "an"; also in line 30, by striking "plan"; in line 39, after the period by inserting the following: "The executive secretary and the commission may use office space provided by the state of Kansas or any philanthropic organization. The commission shall make the final decision as to where the commission's office will be located.";

On page 3, in line 4, by striking "shall"; also in line 4, by striking "submit" and inserting "shall prepare and publish"; in line 5, by striking "to" and inserting "of its activities and recommendations for"; also in line 5, by striking "and" and inserting ", insurance commissioner, all health related committees of the legislature and any member of"; in line 6, after the period by inserting "This report is also available to the public, upon request. The report shall be available at the Kansas commission on health and by publishing such report on the internet and by notifying the legislature that the report is available and providing, as part of such notice, the uniform resource locator (URL) at which such report is available."; and the bill be passed as amended.

The Committee on **Transportation** recommends **SB 506**, be amended on page 1, following line 14, by inserting the following:

"New Section 1. (a) On and after January 1, 2003, any owner or lessee of one or more passenger vehicles or trucks of a gross weight of 20,000 pounds or less, who is a resident of the state of Kansas, upon compliance with the provisions of this section, may be issued one distinctive "United We Stand" license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto.

(b) Any person may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles. Application for the registration of a passenger vehicle or truck and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto.

(e) The division of vehicles shall design the license plate to be issued under the provisions of this section.

New Sec. 2. (a) On and after January 1, 2003, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one masonic lodge license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The masonic grande lodge of Kansas may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be paid to the masonic grande lodge of Kansas and shall be used to support the grande lodge of Kansas endowment fund. Any motor vehicle owner or lessee annually may apply to the masonic grande lodge of Kansas for the use of such logo. Upon annual application and payment to the masonic grande lodge of Kansas in an amount of \$10 as a logo use royalty payment for each license plate to be issued, the masonic grande lodge of

Kansas shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall provide the annual logo use authorization statement provided for in subsection (b). Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides the annual logo use authorization statement provided for in subsection (b). If such logo use authorization statement is not presented at the time of registration, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(f) The masonic grande lodge of Kansas shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and
(2) provide to all county treasurers a toll-free telephone number where applicants can call the masonic grande lodge of Kansas for information concerning the application process or the status of their license plate application.

(g) The masonic grande lodge of Kansas, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

New Sec. 3. (a) On and after January 1, 2003, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one drive for the cure license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The secretary of health and environment may authorize the use of the logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section 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 breast and cervical cancer program and detection fund. Any motor vehicle owner or lessee annually may apply to the secretary for the use of such logo. Upon annual application and payment to the secretary in an amount of \$50 as a logo use royalty payment for each license plate to be issued, the secretary shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall provide the annual logo use authorization statement provided for in subsection (b). Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides the annual logo use authorization statement provided for in subsection (b). If such logo use authorization statement is not presented at the time of registration, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(f) The secretary of health and environment shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and
 (2) provide to all county treasurers a toll-free telephone number where applicants can call the secretary of health and environment for information concerning the application process or the status of their license plate application.

(g) The secretary of health and environment, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.”;

Also on page 1, in line 15, by striking “Section 1.” and inserting “Sec. 4.”;

On page 2, following line 31, by inserting:

“Sec. 5. On and after January 1, 2003, K.S.A. 8-1,140 is hereby amended to read as follows: 8-1,140. (a) Any owner or lessee of one or more passenger vehicles ~~or~~, trucks of a gross weight of 20,000 pounds or less *or motorcycles*, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person was awarded a purple heart medal by the United States government for wounds received in military or naval combat against an armed enemy of the United States, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle ~~or~~, truck *or motorcycle* designating such person as a recipient of the purple heart medal. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto.

(b) Any recipient of the purple heart medal may make application for the distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with such proof as the director shall require that the applicant was a recipient of the purple heart medal. Application for the registration of a passenger vehicle ~~or~~, truck *or motorcycle* and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

Sec. 6. On and after January 1, 2003, K.S.A. 8-1,141 is hereby amended to read as follows: 8-1,141. (a) Any new distinctive license plate authorized for issuance on and after July 1, 1994, shall be subject to the personalized license plate fee prescribed by subsection (c) of K.S.A. 8-132, and amendments thereto. This section shall not apply to any distinctive license plate authorized prior to July 1, 1994.

(b) The director of vehicles shall not issue any new distinctive license plate authorized for issuance on and after July 1, 1995, unless there is a guarantee of an initial issuance of at least 500 license plates.

(c) The provisions of this section shall not apply to distinctive license plates issued under the provisions of K.S.A. 8-1,145, and amendments thereto.

(d) The provisions of subsection (a), shall not apply to distinctive license plates issued under the provisions of K.S.A. 8-1,146 *or 8-1,148*, and amendments thereto, ~~or K.S.A. 8-1,148.~~

(e) *The provisions of subsection (b) shall not apply to distinctive license plates issued under the provisions of section 1, and amendments thereto.*;

By renumbering sections 2 and 3 as sections 7 and 8 respectively;

On page 4, following line 25, by inserting:

“Sec. 9. On and after January 1, 2003, K.S.A. 8-1,140 and 8-1,141 are hereby repealed.”;

By renumbering section 4 as section 10;

In the title, in line 11, following “8-147” by inserting “, 8-1,140, 8-1,141”; and the bill be passed as amended.

The Committee on **Utilities** recommends **SB 397** be passed.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was introduced and read by title:

HOUSE CONCURRENT RESOLUTION NO. 5053—

By Committee on Utilities

A CONCURRENT RESOLUTION urging the Federal Trade Commission to adopt and implement a national “do not call” registry.

WHEREAS, Most consumers agree that telephone solicitations are a great annoyance and an invasion of privacy; and

WHEREAS, A number of states have enacted legislation to prohibit telephone solicitors from calling consumers who have registered their telephone numbers with a “do not call” registry; and

WHEREAS, The Federal Trade Commission (FTC) in January proposed a national “do not call” registry to allow consumers nationwide to remove their telephone numbers from lists that telephone solicitors use in making consumer calls; and

WHEREAS, A national registry would benefit both consumers and telephone solicitors by creating a single uniform nationwide registry, enabling consumers, with a single action, to remove their telephone numbers from telephone solicitors’ lists and establishing a single national set of rules for telephone solicitors’ conduct; and

WHEREAS, The FTC has requested public comments by March 29, 2002, on the establishment of the national registry: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature of the state of Kansas supports the establishment of a national “do not call” registry and urges the FTC to act in a timely manner to adopt and implement such a registry; and

Be it further resolved: That the Secretary of State be directed to send six enrolled copies of this resolution to the Office of the Secretary, Room 159, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580.

On motion of Rep. Weber, the House adjourned until 10:00 a.m., Friday, March 15, 2002.

CHARLENE SWANSON, *Journal Clerk.*

JANET E. JONES, *Chief Clerk.*

