

Journal of the House

FIFTY-EIGHTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Friday, April 5, 2002, 9:30 a.m.

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

The roll was called with 122 members present.

Rep. O'Brien was excused on verified illness.

Reps. Bethell and Johnson were excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Nancy Brooks, pastor, St. Peter's United Church of Christ, Inman, and guest of Rep. Krehbiel:

God of all Creation, slow our steps that we might truly see all that you have created for us. This day and every day, help us to walk on wisdom feet. When our steps are tempered to slowing us down, we are able to open our eyes and our ears and senses and to pay attention to that which we need to discern. As we feel the wind upon our faces may we be reminded of the Holy Spirit sweeping across the waters on the first day of Creation. As we see the birds fly, may we thank God for our freedom. May we see this day as an opportunity to genuinely praise God, to give thanks for our abundance and to serve others wherever the need is the greatest. When we stumble in our walk with you, straighten our steps and show us the way for it is through you Creator God where we derive our strength and our hope for this day and for the future. Use us as your instruments to make a difference in this place and in our world. Amen.

The Pledge of Allegiance was led by Rep. Mays.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill appearing on the calendar of April 4 as "To Be Referred," was referred to committee as indicated:

Ethics and Elections: **HB 3036**.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **Sub. SB 603**.

Higher Education: **SB 647**.

Insurance: **SB 654**.

Taxation: **HB 3037**.

MESSAGES FROM THE GOVERNOR

HB 2698, HB 2813, HB 2820 approved on April 4, 2002.

MESSAGE FROM THE GOVERNOR

April 2, 2002

Message to the House of Representatives of the State of Kansas:

Enclosed herewith is Executive Directive No. 02-322 for your information.

EXECUTIVE DIRECTIVE NO. 02-322

Authorizing Expenditures and Authorizing a Personnel Transaction

BILL GRAVES

Governor

The above Executive Directive is on file and open for inspection in the office of the Chief Clerk.

MESSAGE FROM THE SENATE

Announcing passage of **SB 438, SB 648, SB 651.**

Announcing passage of **HB 2091**, as amended; **HB 2613**, as amended; **HB 2703**, as amended.

The Senate accedes to the request of the House for a conference on **Sub. HB 2469** and has appointed Senators Vratil, Adkins and Goodwin as conferees on the part of the Senate.

The President announced the appointment of Senator Schmidt as a member of the conference committee on **Sub. SB 467** to replace Senator Jordan.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

SB 438, SB 648, SB 651.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6014—

By Representatives Johnson, Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson and Winn

A RESOLUTION commemorating the life and accomplishments
of Kansan George Washington Carver.

WHEREAS, George Washington Carver was born around the start of the Civil War, in Diamond, Missouri, the son of slaves; and

WHEREAS, George Washington Carver lived with the Moses and Susan Carver family who had given freedom to Carver and his mother; and

WHEREAS, In order to continue his education, thirteen-year old George moved to Fort Scott, Kansas, without the support of family or friends. He supported himself while working as a cook, laundry worker and railroad construction worker where he developed a fascination with the great outdoors; and

WHEREAS, Carver next lived in Olathe with the Seymour family where he attended school and worked in a barbershop and the Seymour family laundry business; and

WHEREAS, Carver moved with the Seymour family to Minneapolis and graduated from high school there in 1885; and

WHEREAS, After graduation Carver homesteaded in Ness County, where his interest in plants caused friends to call him the "Plant Doctor"; and

WHEREAS, In 1888, Carver attended Simpson College and eventually the State Agricultural College in Ames, Iowa, and graduated in 1894; and

WHEREAS, Carver became the first African-American on the faculty at Iowa State University in the botany department while earning his master's degree in 1896; and

WHEREAS, Carver accepted the offer of Booker T. Washington to become the head of the agriculture department at Tuskegee Institute in Alabama; and

WHEREAS, Carver is well known not only for his teaching but his extensive work in helping poor southern farmers, plant research, restoration of mineral content of soil, crop diversification techniques, and inventing new uses for existing crops; and

WHEREAS, Carver is famous for inventing over 300 by-products from peanuts and sweet potatoes which the commercial possibilities virtually changed the economy of the south; and

WHEREAS, Carver turned down numerous lucrative offers to leave Tuskegee, never accepted a raise and donated almost all of his life savings to the Carver Research Foundation at Tuskegee Institute; and

WHEREAS, Carver published articles in over 40 publications and received numerous awards, including the Spingarn Medal, Roosevelt Medal, Thomas A. Edison Foundation Award and Hall of Fame for Great Americans Award; and

WHEREAS, The Ottawa County Historical Society has established and maintains an outstanding display honoring George Washington Carver and commemorating the time that he lived in Minneapolis; and

WHEREAS, George Washington Carver was one of this country's greatest scientists and educators and made significant contributions throughout his career in agriculture: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we commemorate the life and accomplishments of George Washington Carver who spent many critical, formative years in the State of Kansas; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to send an enrolled copy of this resolution to William N. Jackson, Superintendent of the George Washington Carver National Monument.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Weber, **SCR 1626**, A concurrent resolution relating to the 2002 regular session of the legislature; extending such session beyond 90 calendar days; and providing for adjournment thereof, was adopted by a two-thirds constitutional majority.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2706, An act relating to taxation; enacting the Taxpayer Fairness Act of 2002; amending K.S.A. 79-3226 and 79-3650 and K.S.A. 2001 Supp. 74-2438 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 117; Nays 4; Present but not voting: 0; Absent or not voting: 4.

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

Nays: Burroughs, Hermes, Spangler, Winn.

Present but not voting: None.

Absent or not voting: Bethell, DiVita, Johnson, O'Brien.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: I vote no on **HB 2706**. The concept of this bill is excellent. In good conscience, I cannot support a bill that cannot be adequately implemented. To effectively complete the requirements, Revenue would need 43 NEW FTE's at a cost of \$1.413 million for manual review and processing of resolution letters and review assessment letters over \$750 to an individual and \$2,000 to a business. The implementation cost: computer program changes, forms, postage and personnel - \$3.6 million.

Over eight years, the state has spent more than \$50 million to computerize the tax processing system in the Dept. Of Revenue - why are we returning to the old manual system?—
CINDY HERMES

HB 2714, An act relating to taxation; concerning property tax exemptions for and income tax credits for property tax paid upon certain machinery and equipment; amending K.S.A. 79-301 and K.S.A. 2001 Supp. 79-201w and 79-32,206 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 91; Nays 30; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Ballard, Barnes, Beggs, Boston, Campbell, Compton, Cook, Crow, Dahl, DeCastro, Dillmore, Edmonds, Feuerborn, Findley, Flora, Freeborn, Garner, Gatewood, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Larkin, Levinson, Light, Loganbill, P. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Patterson, Pauls, E. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Rehorn, Ruff, Schwartz, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Wilk, J. Williams, Wilson.

Nays: Aurand, Ballou, Benlon, Burroughs, Cox, Dreher, Faber, Flaharty, Gilbert, Goering, Henderson, Klein, Lane, Lightner, Lloyd, M. Long, Loyd, Minor, Myers, Owens, Palmer, J. Peterson, Reardon, Sharp, Spangler, Weber, Wells, Welshimer, D. Williams, Winn.

Present but not voting: None.

Absent or not voting: Bethell, DiVita, Johnson, O'Brien.

The bill passed, as amended.

SB 481, An Act concerning electronic procedures, records, transactions and signatures; relating to electronic and digital signatures; electronic procurement procedures for certain governmental entities; amending K.S.A. 2001 Supp. 16-605, 72-6760 and 75-3739a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 119; Nays 2; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: McKinney, Spangler.

Present but not voting: None.

Absent or not voting: Bethell, DiVita, Johnson, O'Brien.

The bill passed, as amended.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. T. Powell, the House concurred in Senate amendments to **HB 2677**, An act concerning public improvements and buildings; relating to public works bonds; amending K.S.A. 2001 Supp. 60-1111 and repealing the existing section.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 120; Nays 2; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: L. Powell, Spangler.

Present but not voting: None.

Absent or not voting: Bethell, Johnson, O'Brien.

On motion of Rep. Ray, the House concurred in Senate amendments to **HB 2781**, An act concerning libraries; relating to library funds and law library fees; establishing the Independence area library district; amending K.S.A. 12-1226 and 20-3126 and repealing the existing sections.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 78; Nays 44; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Ballard, Ballou, Barnes, Beggs, Benlon, Burroughs, Campbell, Compton, Cox, Crow, DeCastro, Dillmore, Dreher, Feuerborn, Findley, Flaharty, Flora, Garner, Gilbert, Glasscock, Goering, Gordon, Henderson, Hermes, Horst, Huebert, Huff, Humerickhouse, Kirk, Klein, Krehbiel, Kuether, Lane, Light, Lloyd, Loganbill, M. Long, Loyd, McClure, McCreary, McKinney, Merrick, Minor, Judy Morrison, Myers, Newton, Nichols, O'Neal, Owens, Palmer, Pauls, E. Peterson, Phelps, Pottorff, L. Powell, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Thimesch, R. Toelkes, Tomlinson, Toplikar, Wells, Welshimer, Wilk, Winn.

Nays: Aurand, Boston, Cook, Dahl, DiVita, Edmonds, Faber, Freeborn, Gatewood, Grant, Hayzlett, Henry, Holmes, Howell, Hutchins, Huy, Kauffman, Landwehr, Larkin, Levinson, Lightner, P. Long, Mason, Mayans, Mays, McLeland, Miller, Jim Morrison, Neufeld, Novascone, Osborne, Ostmeyer, Patterson, J. Peterson, T. Powell, Powers, Spangler, Tafanelli, Tanner, Vickrey, Weber, D. Williams, J. Williams, Wilson.

Present but not voting: None.

Absent or not voting: Bethell, Johnson, O'Brien.

On motion of Rep. Wilk, the House nonconcurred in Senate amendments to **HB 2690** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Wilk, Neufeld and Nichols as conferees on the part of the House.

On motion of Rep. Lane, the House nonconcurred in Senate amendments to **HB 2729** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Lane, P. Long and Ruff as conferees on the part of the House.

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

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2991** be passed.

Committee report to **HB 2770** be adopted; and the bill be passed as amended.

Committee report to **HB 3010** be adopted; and the bill be passed as amended.

Committee report to **Sub. SB 508** be adopted; also, on motion of Rep. Campbell be amended on page 36, in line 27, after "2004," by inserting "and";

Also, on motion of Rep. Tafanelli **Sub. SB 508** be amended on page 38, after line 42, by inserting the following:

"Sec. 56. K.S.A. 76-327 is hereby amended to read as follows: 76-327. The university of Kansas shall, through its ~~extension division~~ *fire service training program*, provide for a traveling instruction service to train ~~firemen firefighters~~ in the ~~municipalities~~ *jurisdictions* of this state ~~requiring requesting~~ such instruction. This ~~extension service~~ *fire service training program* shall include training in ~~firemanship, fire inspection, fire protection, fire prevention~~ *appropriate subject matter related to fire service professional responsibilities* and such other instruction as will provide the municipalities with better trained ~~firemen firefighters~~. Traveling instructors shall be employed who shall visit and instruct in such places as the ~~head of the extension division~~ *director of fire service training* of the Kansas university shall determine. The instructors shall be allowed actual and necessary traveling and hotel expenses incurred in the performance of their duties and shall receive such salary as the university may deem appropriate. The university shall conduct an annual fire school. *The university of Kansas shall have the authority to contract with existing training entities to deliver regional fire training.* The university of Kansas is hereby authorized and empowered to accept any grants in aid that may be available from any federal agency. *The university of Kansas shall have the authority to award certifications for fire and related emergency response personnel in fire service profession areas as prescribed by the national fire protection association and other applicable professional standards.*

New Sec. 57. (a) There is hereby created within the university of Kansas a Kansas fire service training commission which shall consist of 12 members which shall include:

(1) A member representing the Kansas state firefighters association, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas state firefighters association;

(2) a member representing the Kansas state association of fire chiefs, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas state association of fire chiefs;

(3) a member representing the Kansas state association of professional fire chiefs, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas state association of professional fire chiefs;

(4) a member representing the international association of arson investigators, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the international association of arson investigators;

(5) a member representing the Kansas fire marshal's association, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas fire marshal's association;

(6) a member representing the Kansas fire educators association, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas fire educators association;

(7) a member representing the Kansas state council of firefighters, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas state council of firefighters

(8) a member representing the Kansas community college fire training, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas community college fire training;

(9) a member representing the Kansas state fire marshal, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas state fire marshal;

(10) a member representing the Kansas forest service, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas forest service;

(11) a member representing the Kansas university fire service training, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas university fire service training; and

(12) a member representing the emergency medical services board, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the emergency medical services board.

(b) Six members initially appointed to a position described in subsection (a) shall serve for a two-year term and thereafter the term of members appointed to such positions shall be four years. The members who shall serve two-year terms shall be chosen by lottery at the first commission meeting. The initial two-year terms shall expire on July 1, 2004, and four-year terms shall expire on July 1, 2006. Vacancies in any position shall be filled in the same manner as original appointments.

(c) The chairperson and vice-chairperson shall be selected by the members of the commission at the first meeting of the commission and shall serve for a term of two years. No chairperson shall serve more than two consecutive terms. In the absence or disability of the chairperson, the vice-chairperson shall exercise all the powers of the chairperson.

(d) The Kansas fire service training commission shall meet at least quarterly in each year on dates fixed by the commission. Special meetings may be held upon call of the chairperson of the commission or upon petition to the chairperson by not less than seven commission members. The date and place of all special meetings shall be designated in the call.

(e) Members of the commission shall receive mileage, tolls and parking as provided in K.S.A. 75-3223, and amendments thereto, for attendance at any meeting of the commission or any subcommittee meeting authorized by the commission.

New Sec. 58. The Kansas fire service training program is authorized to receive any grants, gifts, contributions or bequests made for the purpose of supporting the fire service training and to expend the same.

New Sec. 59. (a) There is hereby created in the state treasury the fire service training program fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose and in the manner prescribed by law, including the expenditures for the operation of the Kansas fire service training program to carry out duties as mandated by law.

(b) All moneys received 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 fire service training program fund.

New Sec. 60. The Kansas fire service training commission shall:

(a) Consult with the director of University of Kansas fire service training program and adopt rules of procedure for commission meetings;

(b) consult with the director of University of Kansas fire service training program and adopt rules and regulations necessary for the fire service training operations;

(c) approve and monitor a means to assure fire service training provided pursuant to the fire service training program is of high quality and delivered in a consistent manner;

(d) recommend and approve fire service training program curriculum;

(e) approve selection of the director of fire service training, who shall be appointed by the dean of the division of continuing education of the university of Kansas;

(f) participate and consult with the director of fire services training of the university of Kansas in the preparation and approval of the Kansas fire service training program budget; and

(g) publish an annual report in conjunction with the university of Kansas fire service training program concerning the activities and duties of the Kansas fire service training program and commission.

New Sec. 61. (a) The university of Kansas shall have the following duties regarding the Kansas fire service training commission:

- (1) Report semi-annually on the financial status of the program;
- (2) consult with such commission on long range planning issues;
- (3) prepare appropriate activity and financial reports as to keep such commission advised of program activity and to provide adequate information from which the commission's annual report concerning fire service can be created;
- (4) provide administrative support for official commission activities;
- (5) pay reasonable travel and expenses to commission members for expenses related to attending scheduled commission meetings; and
- (6) shall maintain an appropriate system of training records related to individual participation in this training system.

New Sec. 62. On July 1, 2002, and July 1, 2003, or as soon after each such date as moneys are available, not withstanding any other provision of law to the contrary, the director of accounts and reports shall transfer \$750,000 from the fire marshal fee fund of the state fire marshal to the fire service training program fund.”;

And by renumbering the remaining sections accordingly;

On page 39, in line 8, before “and” by inserting “, 76-327”;

In the title, on page 1, in line 14, after the semicolon, by inserting “establishing the fire services training program fund; concerning certain transfers to such fund; providing financial support for the Kansas fire service training commission;” in line 22, after “75-3170a” by inserting “, 76-327”; and **Sub. SB 508** be passed as amended.

Committee report to **HB 2575** be adopted; and the bill be passed as amended.

Committee report to **SB 553** be adopted; and the bill be passed as amended.

Committee report to **SB 129** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Appropriations** recommends **SB 618**, **SB 627** be passed.

The Committee on **Appropriations** recommends **HB 3034** be amended on page 1, following line 25, by inserting the following:

“Sec. 2. Subject to the provisions of appropriation acts, each representative shall be provided a postage allotment per calendar year and each senator shall be provided a postage allotment per calendar year in amounts prescribed by the legislative coordinating council, except that, in a calendar year during which a general election is to be held to elect the members of any such legislator's house of the legislature, no postage allotment shall be used by any such legislator after the 20th day after the day that the regular session of the legislature adjourns sine die or May 31st, whichever is later.”;

And by renumbering sections accordingly; and the bill be passed as amended.

The Committee on **Appropriations** recommends **SB 364** be amended by substituting a new bill to be designated as “House Substitute for SENATE BILL No. 364,” as follows:

“HOUSE Substitute for SENATE BILL No. 364

By Committee on Appropriations

“AN ACT concerning certificate of title fees; amending K.S.A. 8-135, 8-135a, 8-139, 8-145, 8-170, 8-171 and 8-198 and K.S.A. 2001 Supp. 74-2013 and repealing the existing sections.”; and the substitute bill be passed.

(**H. Sub. for SB 364** was thereupon introduced and read by title.)

The Committee on **Appropriations** recommends **SB 509** be amended on page 1, in line 17, preceding “K.S.A.”, by inserting “On July 1, 2002,”;

On page 2, in line 41, following “services”, by inserting a comma; also in line 41, preceding “nothing”, by inserting “in the case of registered nurse positions at social and rehabilitation services facilities designated by the secretary of social and rehabilitation services on or after the effective date of this act, any such registered nurse position shall be in the classified service or unclassified service as provided by and in accordance with the provisions of subsection (5) and, in any case,”;

On page 4, following line 31, by inserting new material to read as follows:

“(5) Each person appointed to a registered nurse position at a social and rehabilitation services facility designated by the secretary of social and rehabilitation services on or after the effective date of this act shall be in the unclassified service upon appointment and for

a period of six months thereafter. After such six-month period, the position of the employee in such registered nurse position shall be placed in an existing or new registered nurse job class and shall be assigned to the biweekly pay rate under the pay plan for the classified service that is equal to or higher than the biweekly pay rate of the employee during such six-month period.

Sec. 2. K.S.A. 74-49,115 is hereby amended to read as follows: 74-49,115. (a) When the ~~rate of~~ compensation for any officer or employee of the state, *who retires, becomes disabled or dies during the period commencing on the effective date of this act and ending June 30, 2007*, is reduced pursuant to law ~~or~~, when such officer or employee voluntarily agrees to reduce such officer or employee's ~~rate of~~ compensation ~~for the period commencing on January 1, 1987, and ending on June 30, 1987, or when any officer or employee of the state is placed on a furlough without pay~~, the amount of ~~salary which~~ compensation that would have been paid if the rate of compensation had not been reduced *or if the officer or employee had not been placed on the furlough* shall continue to be included as compensation for all purposes of computing retirement and pension benefits and death and disability benefits as provided in article 26 of chapter 20 and article 49 of chapter 74 of the Kansas Statutes Annotated earned by such ~~salaried~~ officer or employee as provided by the Kansas public employees retirement system, the Kansas police and firemen's retirement system and the retirement system for judges. Subject to the approval of the secretary of administration, the director of accounts and reports shall prescribe procedures for the payment and remittance of employer and employee contributions by the state agency employing such employees. *The board shall administer the provisions of this section, with the cooperation of the director of personnel services.*

(b) The provisions of subsection (a) shall not be applicable to ~~salary~~ compensation reductions attributable to: (1) Voluntary demotions of employees in the classified service; (2) deferred compensation pursuant to the plan authorized by K.S.A. 75-5523 and amendments thereto; or (3) to ~~salary~~ compensation reductions attributable to the cafeteria plan authorized by K.S.A. 75-6512 and amendments thereto.

(c) For the purposes of this section, "officer" and "employee" means any officer or employee of the state, any member of the legislature or any employee of an institution under the supervision of the board of regents.

Sec. 3. K.S.A. 74-49,115 is hereby repealed.;

And by renumbering sections accordingly;

Also on page 4, in line 32, preceding "K.S.A.", by inserting "On July 1, 2002,," in line 34, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 10, by striking "public" and inserting "state"; in line 11, following "ice", by inserting "and compensation"; in line 12, preceding "other", by inserting "certain"; also in line 12, by striking "con-"; in line 13, by striking "sidered as"; also in line 13, by striking "amending" and inserting "relating to retirement benefits and periods of reduced or suspended compensation; amending K.S.A. 74-49,115 and"; in line 14, by striking "section" and inserting "sections"; and the bill be passed as amended.

The Committee on **Appropriations** recommends **Sub. for SB 513** be amended on page 1, in line 17, by striking "a medicaid"; in line 18, by striking "recipient, or any other" and inserting "any"; and the substitute bill be passed as amended.

The Committee on **Federal and State Affairs** recommends **HR 6013** be adopted.

The Committee on **Federal and State Affairs** recommends **HB 2945** be amended on page 3, in line 41, following the semicolon, by inserting "and";

On page 4, in line 1, by striking "; and"; by striking all in line 2; in line 3, by striking all preceding the period; in line 22, by striking all following "only"; by striking all in lines 23 through 36; in line 37, by striking all before the period; in line 38, by striking "(c)" and inserting "(b)";

On page 5, in line 11, by striking "(d)" and inserting "(c)"; in line 15, by striking "(e)" and inserting "(d)"; in line 21, by striking "or jury"; in line 28, by striking "or jury";

On page 7, in line 1, following the period, by inserting "The department of social and rehabilitation services shall establish by rules and regulations the types of services that shall be available for family preservation. Such services shall include family mediation and the department assisting the abilities of families and children to resolve problems within the

family. Funds for these services shall be derived from the family services and community intervention fund established in K.S.A. 38-1599, and amendments thereto.”;

On page 8, in line 4, by striking “observed by a” and inserting “diagnosed by an independent, court-appointed”; in line 8, by striking “observed by a” and inserting “diagnosed by an independent, court-appointed”; in line 12, by striking all following “accident”; in line 13, by striking all preceding the semicolon;

On page 11, in line 3, by striking all following “Neglect”; in line 4, by striking “to” and inserting “shall include”; in line 6, following “child” by inserting “. The mere presence of an unclean house shall not constitute neglect”; by striking all in lines 29 through 34; in line 35, by striking “(ii)” and inserting “(gg)”; in line 36, by striking all following the first comma; by striking all in lines 37 through 39 and inserting “torturing, cruelly beating, shaking which results in great bodily harm or inflicting cruel and inhuman corporal punishment. Substantial harm does not include parents’ using reasonable force to discipline their children, including spanking.”; in line 40, by striking “(jj)” and inserting “(hh)”;

On page 20, in line 31, preceding “family” by inserting “reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child’s home by utilizing”; also in line 31, by striking “have been utilized”; in line 32, by striking all preceding the period;

On page 24, in line 2, preceding “family” by inserting “reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child’s home by utilizing”; also in line 2, by striking all following “services”; in line 3, by striking all preceding the period;

On page 28, in line 34, preceding “family” by inserting “reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child’s home by utilizing”; in line 35, by striking all following “services”; in line 36, by striking all preceding the period;

On page 33, after line 28, by inserting the following sections:

“New Sec. 26. The secretary of social and rehabilitation services shall review all rules and regulations and adopt new or amend current rules and regulations to conform with the provisions of this act.

Sec. 27. K.S.A. 22a-243 is hereby amended to read as follows: 22a-243. (a) There is hereby established a state child death review board, which shall be composed of:

(1) One member appointed by each of the following officers to represent the officer’s agency: The attorney general, the director of the Kansas bureau of investigation, the secretary of social and rehabilitation services, the secretary of health and environment and the commissioner of education;

(2) three members appointed by the state board of healing arts, one of whom shall be a district coroner and two of whom shall be physicians licensed to practice medicine and surgery, one specializing in pathology and the other specializing in pediatrics;

(3) one person appointed by the attorney general to represent advocacy groups which focus attention on child abuse awareness and prevention; and

(4) one county or district attorney appointed by the Kansas county and district attorneys association.

(b) The chairperson of the state review board shall be the member appointed by the attorney general to represent the office of the attorney general.

(c) The state child death review board shall be within the office of the attorney general as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the attorney general. All vouchers for expenditures and all payrolls of the board shall be approved by the chairperson of the board and by the attorney general. The state review board shall establish and maintain an office in Topeka.

(d) The state review board shall meet at least annually to review all reports submitted to the board. The chairperson of the state review board may call a special meeting of the board at any time to review any report of a child death.

(e) Within the limits of appropriations therefor, the state review board shall appoint an executive director who shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the state review board.

(f) Within the limits of appropriations therefor, the state review board may employ other persons who shall be in the classified service of the Kansas civil service act.

(g) Members of the state review board shall not receive compensation, subsistence allowances, mileage and expenses as provided by K.S.A. 75-3223 and amendments thereto for attending meetings or subcommittee meetings of the board.

(h) The state review board shall develop a protocol to be used by the state review board. The protocol shall include written guidelines for coroners to use in identifying any suspicious deaths, procedures to be used by the board in investigating child deaths, methods to ensure coordination and cooperation among all agencies involved in child deaths and procedures for facilitating prosecution of perpetrators when it appears the cause of a child's death was from abuse or neglect. The protocol shall be adopted by the state review board by rules and regulations.

(i) The state review board shall submit an annual report to the governor and the legislature on or before October 1 of each year, ~~commencing October 1993~~. Such report shall include the findings of the board regarding reports of child deaths, *including specifically the statistics concerning the deaths of children in state or court custody and at state institutions*, the board's analysis and the board's recommendations for improving child protection, including recommendations for modifying statutes, rules and regulations, policies and procedures.

(j) Information acquired by, and records of, the state review board shall be confidential, shall not be disclosed and shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding, except that such information and records may be disclosed to any member of the legislature or any legislative committee which has legislative responsibility of the enabling or appropriating legislation, carrying out such member's or committee's official functions. The legislative committee, in accordance with K.S.A. 75-4319 and amendments thereto, shall recess for a closed or executive meeting to receive and discuss information received by the committee pursuant to this subsection.

(k) The state review board may adopt rules and regulations as necessary to carry out the provisions of K.S.A. 22a-241 through 22a-244 and amendments thereto.

Sec. 28. K.S.A. 38-1507 is hereby amended to read as follows: 38-1507. (a) Except as otherwise provided, in order to protect the privacy of children who are the subject of a child in need of care record or report, all records and reports concerning children in need of care, including the juvenile intake and assessment report, received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker shall be kept confidential except: (1) To those persons or entities with a need for information that is directly related to achieving the purposes of this code, or (2) upon an order of a court of competent jurisdiction pursuant to a determination by the court that disclosure of the reports and records is in the best interests of the child or are necessary for the proceedings before the court, or both, and are otherwise admissible in evidence. Such access shall be limited to in camera inspection unless the court otherwise issues an order specifying the terms of disclosure.

(b) The provisions of subsection (a) shall not prevent disclosure of information to an educational institution or to individual educators about a pupil specified in subsection (a) of K.S.A. 2000 Supp. 72-89b03 and amendments thereto.

(c) When a report is received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker which indicates a child may be in need of care, the following persons and entities shall have a free exchange of information between and among them:

- (1) The department of social and rehabilitation services;
- (2) the commissioner of juvenile justice;
- (3) the law enforcement agency receiving such report;
- (4) members of a court appointed multidisciplinary team;
- (5) an entity mandated by federal law or an agency of any state authorized to receive and investigate reports of a child known or suspected to be in need of care;
- (6) a military enclave or Indian tribal organization authorized to receive and investigate reports of a child known or suspected to be in need of care;
- (7) a county or district attorney;

(8) a court services officer who has taken a child into custody pursuant to K.S.A. 38-1527, and amendments thereto;

(9) a guardian ad litem appointed for a child alleged to be in need of care;

(10) an intake and assessment worker;

(11) any community corrections program which has the child under court ordered supervision;

(12) the department of health and environment or persons authorized by the department of health and environment pursuant to K.S.A. ~~59-512~~ 65-512, and amendments thereto, for the purpose of carrying out responsibilities relating to licensure or registration of child care providers as required by chapter 65 of article 5 of the Kansas Statutes Annotated, and amendments thereto; and

(13) members of a duly appointed community services team.

(d) The following persons or entities shall have access to information, records or reports received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker. Access shall be limited to information reasonably necessary to carry out their lawful responsibilities to maintain their personal safety and the personal safety of individuals in their care or to diagnose, treat, care for or protect a child alleged to be in need of care.

(1) A child named in the report or records.

(2) A parent or other person responsible for the welfare of a child, or such person's legal representative.

(3) A court-appointed special advocate for a child, a citizen review board or other advocate which reports to the court.

(4) A person licensed to practice the healing arts or mental health profession in order to diagnose, care for, treat or supervise: (A) A child whom such service provider reasonably suspects may be in need of care; (B) a member of the child's family; or (C) a person who allegedly abused or neglected the child.

(5) A person or entity licensed or registered by the secretary of health and environment or approved by the secretary of social and rehabilitation services to care for, treat or supervise a child in need of care. In order to assist a child placed for care by the secretary of social and rehabilitation services in a foster home or child care facility, the secretary shall provide relevant information to the foster parents or child care facility prior to placement and as such information becomes available to the secretary.

(6) A coroner or medical examiner when such person is determining the cause of death of a child.

(7) The state child death review board established under K.S.A. 22a-243, and amendments thereto.

(8) A prospective adoptive parent prior to placing a child in their care.

(9) The department of health and environment or person authorized by the department of health and environment pursuant to K.S.A. ~~59-512~~ 65-512, and amendments thereto, for the purpose of carrying out responsibilities relating to licensure or registration of child care providers as required by chapter 65 of article 5 of the Kansas Statutes Annotated, and amendments thereto.

(10) The state protection and advocacy agency as provided by subsection (a)(10) of K.S.A. 65-5603 or subsection (a)(2)(A) and (B) of K.S.A. 74-5515, and amendments thereto.

(11) Any educational institution to the extent necessary to enable the educational institution to provide the safest possible environment for its pupils and employees.

(12) Any educator to the extent necessary to enable the educator to protect the personal safety of the educator and the educator's pupils.

(13) The secretary of social and rehabilitation services.

(14) A law enforcement agency.

(15) A juvenile intake and assessment worker.

(16) The commissioner of juvenile justice.

(e) Information from a record or report of a child in need of care shall be available to members of the standing house or senate committee on judiciary, house committee on appropriations, senate committee on ways and means; *and* legislative post audit committee ~~and joint committee on children and families~~, carrying out such member's or committee's

official functions in accordance with K.S.A. 75-4319 and amendments thereto, in a closed or executive meeting. Except in limited conditions established by $\frac{2}{3}$ of the members of such committee, records and reports received by the committee shall not be further disclosed. *Further, if individual members of the legislature are given written authority by the parents or guardian of the child, the department of social and rehabilitation services shall allow the legislator to review the file and records concerning the child. Such review shall take place within 10 business days of the request and shall be at a location requested by the legislator. Prior to reviewing the file and records, the legislator shall be required to sign a form stating the confidentiality laws governing the file and records and the penalties for further release of the information.* Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.

(f) Nothing in this section shall be interpreted to prohibit the secretary of social and rehabilitation services from summarizing the outcome of department actions regarding a child alleged to be a child in need of care to a person having made such report.

(g) Disclosure of information from reports or records of a child in need of care to the public shall be limited to confirmation of factual details with respect to how the case was handled that do not violate the privacy of the child, if living, or the child's siblings, parents or guardians. Further, confidential information may be released to the public only with the express written permission of the individuals involved or their representatives or upon order of the court having jurisdiction upon a finding by the court that public disclosure of information in the records or reports is necessary for the resolution of an issue before the court.

(h) Nothing in this section shall be interpreted to prohibit a court of competent jurisdiction from making an order disclosing the findings or information pursuant to a report of alleged or suspected child abuse or neglect which has resulted in a child fatality or near fatality if the court determines such disclosure is necessary to a legitimate state purpose. In making such order, the court shall give due consideration to the privacy of the child, if living, or the child's siblings, parents or guardians.

(i) Information authorized to be disclosed in subsections (d) through (g) shall not contain information which identifies a reporter of a child in need of care.

(j) Records or reports authorized to be disclosed in this section shall not be further disclosed, except that the provisions of this subsection shall not prevent disclosure of information to an educational institution or to individual educators about a pupil specified in subsection (a) of K.S.A. ~~2000~~ 2001 Supp. 72-89b03 and amendments thereto.

(k) Anyone who participates in providing or receiving information without malice under the provisions of this section shall have immunity from any civil liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from providing or receiving information.

(l) No individual, association, partnership, corporation or other entity shall willfully or knowingly disclose, permit or encourage disclosure of the contents of records or reports concerning a child in need of care received by the department of social and rehabilitation services, a law enforcement agency or a juvenile intake and assessment worker except as provided by this code. Violation of this subsection is a class B misdemeanor.

Sec. 29. K.S.A. 38-1508 is hereby amended to read as follows: 38-1508. All records and reports concerning child abuse or neglect received by law enforcement agencies shall be kept separate from all other records and shall not be disclosed to anyone except:

(a) The judge and members of the court staff designated by the judge of the court having the child before it in any proceedings;

(b) the guardian *ad litem* and the parties to the proceedings and their attorneys, subject to the restrictions imposed by subsection (a)(2)(C) of K.S.A. 38-1507 and amendments thereto;

(c) the department of social and rehabilitation services;

(d) any individual, or public or private agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect and specifically includes the following: Physicians, psychiatrists, nurses, nurse practitioners, psychologists, licensed social workers, child development specialists, physician assistants, community mental health workers, alcohol and drug abuse

counselors, and licensed or registered child care providers. Teachers, administrators and school paraprofessionals shall have access but shall not copy materials in the file;

(e) law enforcement officers or county or district attorneys or their staff when necessary for the discharge of their official duties in investigating or prosecuting a report of known or suspected child abuse or neglect;

(f) any member of the standing house or senate committee on judiciary, house committee on appropriations, senate committee on ways and means; *and* legislative post audit committee ~~and joint committee on children and families~~, carrying out such member's or committee's official functions. *Further, if individual members of the legislature are given written authority by the parents or guardian of the child, the law enforcement agency shall allow the legislator to review the records and reports concerning the child. Such review shall take place within 10 business days of the request and shall be at a location requested by the legislator. Prior to reviewing the records and reports, the legislator shall be required to sign a form stating the confidentiality laws governing the file and records and the penalties for further release of the information;* and

(g) any juvenile intake and assessment worker.

Sec. 30. K.S.A. 38-1524 is hereby amended to read as follows: 38-1524. (a) When a report to a law enforcement agency indicates that a child may be harmed, the law enforcement agency shall promptly initiate an investigation. If the law enforcement officer reasonably believes ~~the child will be~~ *there is substantial risk that the child will be* substantially harmed, the officer shall remove the child from the location where the child is found as authorized by K.S.A. 38-1527 and amendments thereto.

(b) Whenever any person furnishes information to the state department of social and rehabilitation services that a child appears to be a child in need of care, the department shall make a preliminary inquiry to determine whether the interests of the child require further action be taken. Whenever practicable, the inquiry shall include a preliminary investigation of the circumstances which were the subject of the information, including the home and environmental situation and the previous history of the child. If reasonable grounds to believe abuse or neglect exist, immediate steps shall be taken to protect the health and welfare of the abused or neglected child as well as that of any other child under the same care who may be harmed by abuse or neglect. After the inquiry, if the department determines it is not possible to provide otherwise those services necessary to protect the interests of the child, the department shall recommend to the county or district attorney that a petition be filed.

Sec. 31. K.S.A. 38-1527 is hereby amended to read as follows: 38-1527. (a) A law enforcement officer or court services officer may take a child under 18 years of age into custody when:

(1) The law enforcement officer or court services officer has a court order commanding that the child be taken into custody as a child in need of care; or

(2) the law enforcement officer or court services officer has probable cause to believe that a court order commanding that the child be taken into custody as a child in need of care has been issued in this state or in another jurisdiction.

(b) A law enforcement officer may take a child under 18 years of age into custody when the officer has probable cause to believe that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that continuing in the place or residence in which the child has been found or in the care and custody of the person who has care or custody of the child would ~~be harmful to~~ *put the child at substantial risk of substantial harm.*

(c) A law enforcement officer shall take a child under 18 years of age into custody when the officer has probable cause to believe that the child is a missing person from another state and a verified missing person entry for such child can be found in the national crime information center missing person system.

(d) A law enforcement officer may temporarily detain and assume temporary custody of any child subject to compulsory school attendance, pursuant to K.S.A. 72-1111, and amendments thereto, during the hours school is actually in session who is found away from home or school without a valid excuse.”;

By renumbering the remaining sections;

Also on page 33, in line 29, following “K.S.A.” by inserting “22a-243, 38-1507, 38-1508,”; also in line 29, preceding “38-1525” by inserting “38-1524,”; in line 30, preceding “38-1542” by inserting “38-1527,”; in line 34, by striking “statute book” and inserting “Kansas register”; In the title, in line 17, preceding “38-1513” by inserting “22a-243, 38-1507, 38-1508,”; in line 18, preceding “38-1525” by inserting “38-1524,”; also in line 18, following “38-1526,” by inserting “38-1527,”; and the bill be passed as amended.

The Committee on **Federal and State Affairs** recommends **SB 643** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 643,” as follows:

“HOUSE Substitute for SENATE BILL No. 643

By Committee on Federal and State Affairs

“AN ACT concerning regulation of certain professions; relating to cosmetology, permanent color technology, tattooing and body piercing; amending K.S.A. 65-1927 and K.S.A. 2001 Supp. 65-1901, 65-1902, 65-1903, 65-1904, 65-1904a, 65-1904b, 65-1905, 65-1908, 65-1909, 65-1912, 65-1940, 65-1941, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1951, 65-1954, 65-1955 and 74-2701 and repealing the existing sections; also repealing K.S.A. 2000 Supp. 65-1940, as amended by section 6 of chapter 193 of the 2001 Session Laws of Kansas, 65-1941, as amended by section 7 of chapter 193 of the 2001 Session Laws of Kansas, 65-1943, as amended by section 8 of chapter 193 of the 2001 Session Laws of Kansas, 65-1944, as amended by section 9 of chapter 193 of the 2001 Session Laws of Kansas, 65-1945, as amended by section 10 of chapter 193 of the 2001 Session Laws of Kansas, 65-1946, as amended by section 11 of chapter 193 of the 2001 Session Laws of Kansas, 65-1947, as amended by section 12 of chapter 193 of the 2001 Session Laws of Kansas, 65-1948, as amended by section 13 of chapter 193 of the 2001 Session Laws of Kansas, 65-1949, as amended by section 14 of chapter 193 of the 2001 Session Laws of Kansas, 65-1950, as amended by section 15 of chapter 193 of the 2001 Session Laws of Kansas, 65-1951, as amended by section 16 of chapter 193 of the 2001 Session Laws of Kansas, 65-1954, as amended by section 17 of chapter 193 of the 2001 Session Laws of Kansas, 74-2701, as amended by section 19 of chapter 193 of the 2001 Session Laws of Kansas and section 21 of chapter 193 of the 2001 Session Laws of Kansas.”; and the substitute bill be passed.

(H. Sub. for SB 643 was thereupon introduced and read by title.

The Committee on **Insurance** recommends **SB 654** be passed.

The Committee on **Insurance** recommends **SCR 1623** be amended on page 1, in line 39, by striking “11” and inserting “14”;

On page 2, in line 6, by striking all following “company”; in line 7, by striking “casualty insurance company”; in line 14, following the semicolon, by inserting “one person representing a property and casualty insurance company appointed by the insurance commissioner from a list submitted by the Alliance of American Insurers; one person representing a property and casualty insurance company appointed by the insurance commissioner from a list submitted by the National Association of Mutual Insurance Companies;”; and the concurrent resolution be adopted as amended.

The Committee on **Taxation** recommends **HB 3032** be amended on page 1, by striking all in lines 13 through 43;

On page 2, by striking all in lines 1 through 24 and inserting the following:

“Section 1. (a) A compensating use tax for the privilege of using or storing within a city or county any vehicle which is required to be registered under the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, and which is purchased within this state but without the local retailers’ sales taxing jurisdiction of such city or county, is hereby imposed by every city or county imposing a retailers’ sales tax. The rate of any such tax shall be equal to the difference between the aggregate rate of all local retailers’ sales tax rates imposed by all local retailers sales taxing jurisdictions of the situs of such vehicle less the aggregate rate of all local retailers’ sales tax rates imposed by all local retailers’ sales taxing jurisdictions of the situs of the purchase of such vehicle. Except as otherwise provided in this section, any city or county imposing a compensating use tax is prohibited from administering such tax locally, but shall utilize the services of the state

department of revenue to administer and enforce such tax. All laws and rules and regulations of the state department of revenue relating to the Kansas compensating tax shall apply to such local compensating use tax insofar as the same may be made applicable. Such tax shall be collected by the county treasurer at the time the vehicle is registered in this state following a sale occurring within this state. Registration of such vehicle within a taxing jurisdiction shall be deemed to constitute use or storage thereof for compensating tax purposes and the residence or place of business of the applicant shall be deemed to be the situs of such use or storage for purposes of the collection and distribution thereof.

(b) The secretary of revenue is authorized to administer and enforce a city's or county's compensating use tax and to adopt such rules and regulations necessary for the efficient and effective administration, enforcement and collection thereof.

(c) All revenue received by any county treasurer from a countywide compensating use tax shall be apportioned among the county and each city located in such county in the same manner as provided in K.S.A. 12-192, and amendments thereto, for the apportionment of revenue received from a countywide retailers' sales tax, and all revenue received from a city compensating use tax shall be remitted at least quarterly to the treasurer of such city.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, in line 9, after “upon” by inserting “the intrastate sale of”; also, in line 9, by striking the semicolon; in line 10, by striking all before the period; and the bill be passed as amended.

The Committee on **Taxation** recommends **SB 575** be amended on page 3, after line 10, by inserting the following:

“Sec. 3. K.S.A. 79-32,109 is hereby amended to read as follows: 79-32,109. As used in this act, unless the context otherwise requires:

(a) Any term used in this act shall have the same meaning as when used in a comparable context in the federal internal revenue code. Any reference in this act to the “federal internal revenue code” shall mean the provisions of the federal internal revenue code of 1986, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time, or from time to time, for the taxable year.

(b) “Resident individual” means a natural person who is domiciled in this state. A natural person who spends in the aggregate more than six months of the taxable year within this state shall be presumed to be a resident for purposes of this act in absence of proof to the contrary. A nonresident individual means an individual other than a resident individual.

(c) “Resident estate” means the estate of a deceased person whose domicile was in this state at the time of such person's death. “Nonresident estate” means an estate other than a resident estate.

(d) “Resident trust” means ~~a trust which is administered in this state. A trust shall not be deemed to be administered in this state solely because it is subject to the jurisdiction of a district court within this state.~~ (1) A trust created by will of a decedent who at the time of death was domiciled in this state; (2) a trust created by, or consisting of property of, a person domiciled in this state on the date the trust or portion of the trust became irrevocable; (3) a trust administered in this state; (4) a trust any of the property of which is located in this state; or (5) a trust any one of the beneficiaries of which is domiciled in this state. “Nonresident trust” means a trust other than a resident trust.

(e) “Resident partner” means a partner who is a resident individual, a resident estate, or a resident trust. “Nonresident partner” means a partner other than a resident partner.

(f) “Resident beneficiary” means a beneficiary of an estate or trust which beneficiary is a resident individual, a resident estate, or a resident trust. “Nonresident beneficiary” means a beneficiary other than a resident beneficiary.

(g) “Director” means the director of taxation.

(h) “Modified Kansas source income” means that part of a nonresident individual's Kansas adjusted gross income as set forth in K.S.A. 79-32,117, and amendments thereto, derived from sources in Kansas. Items of income including unemployment compensation, gain, loss or deduction reflected in Kansas adjusted gross income shall be considered derived from sources in Kansas to the extent that they are attributable to: (1) The ownership of any

interest in real or tangible personal property in this state; (2) a business, trade, profession or occupation carried on in this state; (3) a business, trade, profession or occupation carried on partly within and partly without this state as determined by the uniform division of income for tax purposes act as set forth in K.S.A. 79-3271 through K.S.A. 79-3293, and amendments thereto; (4) the distributive share of partnership income, gain, loss and deduction determined under this section as if the partnership were a nonresident individual; (5) the share of estate or trust income, gain, loss and deduction determined under K.S.A. 79-32,137, and amendments thereto; (6) prizes won from lottery games conducted by the Kansas lottery; (7) any winnings from parimutuel wagering derived from the conduct of parimutuel activities within this state; or (8) income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property to the extent that such income is from property employed in a trade, business, profession or occupation carried on in Kansas. A nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of such dealer's trade or business, shall not be deemed to carry on a business, trade, profession or occupation in Kansas solely by reason of the purchase and sale of property for such nonresident's own account.

"Modified Kansas source income" shall not include: (1) Compensation paid by the United States for service in the armed forces of the United States, performed during an induction period by an individual not domiciled in this state; or (2) such individual's share of distributed or undistributed taxable income or net operating loss of a corporation which is an electing small business corporation unless an agreement is filed as provided in K.S.A. 79-32,139, and amendments thereto, in which event, the "modified Kansas source income" of such nonresident individual shall include such individual's share of such corporation's distributed and undistributed taxable income or net operating loss as such share is determined under the internal revenue code only to the extent, however, that such income, gain or loss is at the corporate level, derived from sources within Kansas."

Also, on page 3, in line 11, after "K.S.A." by inserting "79-32,109 and K.S.A."; in line 14, by striking "statute book" and inserting "Kansas register";

By renumbering existing sections accordingly;

In the title, in line 10, after the semicolon by inserting "defining trusts;"; also, in line 10, after "K.S.A." by inserting "79-32,109 and K.S.A."; and the bill be passed as amended.

REPORT OF STANDING COMMITTEE

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

Request No. 147, by Representative Dahl, honoring John and Elda Mellott on their 65th wedding anniversary;

Request No. 148, by Representative Schwartz, congratulating Louis and Clara Biebaum on their 60th anniversary;

Request No. 149, by Representative Hermes, congratulating Virginia Ary on her retirement;

Request No. 150, by Representative Pottorff, congratulating Mark Norfleet and Julie Stilson for receiving the Barry Goldwater Scholarship Award;

Request No. 151, by Representative Wilson, congratulating Chuck Smith for being named Class 2A through 1A Coach of the Year and All-Class Coach of the Year;

Request No. 152, by Representative Johnson, congratulating Allena Williams for receiving the 2002 American Legion Charles W. And Annette Hill Scholarship;

Request No. 153, by Representative Winn, congratulating Mrs. Pamela Louis on her 38 years of unselfish service to higher education;

Request No. 154, by Representative Winn, congratulating Northeast Cooperative Council for its devoted service to the Northeast Region of Kansas City, Kansas;

Request No. 155, by Representatives Burroughs, Henderson, M. Long, Sharp, Spangler, Reardon, and Winn, congratulating Mrs. Melanie J. Scott, Dr. Charles Reitz and Dr. Ruth Heflin and The Intercultural Council of Kansas City, Kansas Community College for outstanding service;

Request No. 156, by Representative Burroughs, congratulating Marc Franklin Miller on achieving the rank of Eagle Scout;

Request No. 157, by Representative Hermes, congratulating the Kaw Valley Council on the 90th anniversary of the founding of girl scouting in the United States;

Request No. 158, by Representative Hermes, congratulating Loren Ziegler on being named Coach of the Year by the Topeka Capital Journal;

Request No. 159, by Representative Cook, congratulating Joseph Henry Pieper and Michael Dennis Pieper on achieving the rank of Eagle Scout;

Request No. 160, by Representative Phelps, congratulating Neal Flesher on achieving the rank of Eagle Scout;

be approved and the Chief Clerk of the House be directed to order the printing of said certificates and drafting of said resolutions.

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

MESSAGE FROM THE SENATE

The Senate nonconcur in House amendments to **SCR 1614**, requests a conference and has appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, the House acceded to the request of the Senate for a conference on **SCR 1614**.

Speaker pro tem Aurand thereupon appointed Reps. Wilk, Neufeld and Ballard as conferees on the part of the House.

REPORT ON ENGROSSED BILLS

HB 2635, HB 2706, HB 2714, HB 3031 reported correctly engrossed April 4, 2002.

REPORT ON ENROLLED BILLS

HB 2660, HB 2662, HB 2680, HB 2697, HB 2733, HB 2764 reported correctly enrolled, properly signed and presented to the governor on April 5, 2002.

On motion of Rep. Weber, the House adjourned until 2:30 p.m., Monday, April 8, 2002.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

