

Journal of the Senate

THIRTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, February 26, 2002—2:30 p.m.

The Senate was called to order by President Dave Kerr.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I need to confess my tendency to turn to You only after I've made my own plans.

I work through the day
And do my own thing,
And then expect You to bless it.
I know I was wrong
Not consulting You first,
But I'm too proud to confess it.

I file legislation
And push it real hard. . .
As for God, I couldn't care less.
Then the whole thing collapses,
And I'm down on my knees
Asking You to clean up the mess.

Please help me to learn
To START with a prayer
and not wait till my plans fall apart.
For up until now
I've specialized in
Hitching the horse in back of the cart!

I pray in the Name of Jesus,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 634, An act concerning the Kansas parole board; relating to hearings conducted thereby; amending K.S.A. 2001 Supp. 22-3717 and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **HB 2676**.

Natural Resources: **Sub HB 2686**.

Judiciary: **SB 633; HB 2767**.

CHANGE OF REFERENCE

The President withdrew **SB 483** from the calendar under the heading of General Orders, and referred the bill to the Committee on Ways and Means.

The President withdrew **SB 533** from the Committee on Education, and referred the bill to the Committee on Ways and Means.

REFERRAL OF APPOINTMENTS

The following appointments made by the Governor and submitted to the senate for confirmation, were referred to Committees as indicated:

Member, Employment Security Board of Review, Dan C. McClenny, effective upon the date of confirmation by the Senate to serve a four-year term ending March 15, 2006.
(Commerce)

Member, Kansas Export Loan Guarantee Board of Review, LaVon G. Wenger, effective upon the date of confirmation by the Senate to serve a four-year term ending January 15, 2006.

(Commerce)

Member, Kansas Corporation Commission, Brian J. Moline, effective upon the date of confirmation by the Senate to serve a four-year term ending March 15, 2006.

(Utilities)

COMMUNICATIONS FROM STATE OFFICERS

KANSAS STATE TREASURER'S OFFICE

January 2002

Tim Shallenburger, State Treasurer, submitted the Annual Report of the Kansas State Treasurer's Office for Fiscal Year 2001.

KANSAS STATE HISTORICAL SOCIETY

February 21, 2002

Patricia A. Michaelis, Director, Library and Archives Division, Kansas State Historical Society; and Secretary, State Records Board, submitted a copy of the State Records Board Annual Report for fiscal year 2001.

The President announced the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2611, HB 2661; Substitute HB 2673; HB 2723, HB 2746, HB 2769, HB 2771, HB 2772, HB 2773, HB 2809, HB 2812, HB 2813, HB 2817, HB 2896.**

Also, passage of **Substitute SB 379.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2611, HB 2661; Substitute HB 2673; HB 2723, HB 2746, HB 2769, HB 2771, HB 2772, HB 2773, HB 2809, HB 2812, HB 2813, HB 2817, HB 2896 were thereupon introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SCR 1622** be adopted.

Committee on **Commerce** recommends **SB 467** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 467," as follows:

"Substitute for SENATE BILL No. 467

By Committee on Commerce

"AN ACT concerning information technology; providing protection from deceptive and unwanted electronic mail messages; establishing certain acts a violation of the Kansas consumer protection act; allowing for either a cause of action or civil penalty for a violation.";

and the substitute bill be passed.

Also, **SB 501** be amended on page 1, in line 34, by striking “investment”; in line 35, by striking “company.”;

On page 2, after line 2, by inserting the following:

“(g) “Original return” means the first return filed to report the income of a taxpayer for a taxable year or period, irrespective of whether such return is filed on a single entity basis or a combined basis.”;

By relettering subsections accordingly;

Also on page 2, in line 22, by striking “, but are not limited to.”; in line 26, by striking “, but are not limited to.”;

On page 3, in line 1, by striking “directly or”; in line 2, by striking “indirectly”; in line 22, by striking all after “is”; by striking all in lines 23 and 24; in line 25, by striking “knowledge that”; in line 26, by striking all after “business”; by striking all in lines 27 through 30; in line 31, by striking “residence”;

On page 4, in line 10, by striking “percentage” and inserting “fraction”;

On page 5, in line 2, by striking all before “in” and inserting “or is a branch facility that employs at least 100 individuals”; in line 18, after “each” by inserting “fund of each”; in line 19, by striking “for” and inserting “from”; also in line 19, by striking “respective”; in line 20, by striking “percentage of each fund, as” and inserting “fraction”; also in line 20, before the period, by inserting “for each fund of such investment company”; in line 21, after “(C)” by inserting “The qualifying portion of total business income of an investment funds service corporation shall be determined by multiplying such total business income by a fraction, the numerator of which is the gross receipts from the provision of management, distribution and administration services to or on behalf of an investment company, and the denominator of which is the gross receipts of the investment funds service company.”; in line 23, by striking “without regard to this subsection” and inserting “pursuant to subsection (b)(1)”; in line 24, by striking “amount of”; in line 25, by striking “company resulting from the apportionment of” and inserting “corporation that has elected to apportion its”; in line 28, by striking “without regard to paragraph (5)” and inserting “pursuant to subsection (b)(1)”; after line 29, by inserting the following:

“(E) When an investment funds service corporation is part of a unitary group, the business income of the unitary group attributable to the investment funds service corporation shall be determined by multiplying the business income of the unitary group by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three. The property factor is a fraction, the numerator of which is the average value of the investment funds service corporation’s real and tangible personal property owned or rented and used during the tax period and the denominator of which is the average value of the unitary group’s real and tangible personal property owned or rented and used during the tax period. The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the investment funds service corporation for compensation, and the denominator of which is the total compensation paid by the unitary group during the tax period. The sales factor is a fraction, the numerator of which is the total sales of the investment funds service corporation during the tax period, and the denominator of which is the total sales of the unitary group during the tax period.”; and the bill be passed as amended.

SB 565 be amended on page 1, after line 41, by inserting the following:

“Sec. 2. K.S.A. 2001 Supp. 74-50,106 is hereby amended to read as follows: 74-50,106.

(a) The secretary of commerce and housing shall review applications for proposed agreements submitted by employers in accordance with the standards and guidelines prescribed by this act and by rules and regulations adopted under K.S.A. 74-50,104, and amendments thereto. Each application for approval of a proposed agreement shall be accompanied by information about the number and wages of the new or retained jobs created by the employer, documentation of existing training activities of the employer and such other information as may be required by the secretary of commerce and housing.

(b) The secretary of commerce and housing may pool the funding requirements of projects which are the subject of proposed agreements to determine the funding requirements of the SKILL projects under consideration to facilitate the issuance of bonds by the Kansas development finance authority.

(c) The secretary of commerce and housing is hereby authorized to expend funds raised pursuant to this act on major project investments. The secretary shall adopt guidelines consistent with this act concerning firm eligibility for major project investments and shall otherwise administer the major project investment portion of the IMPACT act.

(d) In order for an employer to be eligible for a major project investment, the employer must:

(1) Annually make an investment in training and education of the employer's employees that exceeds 2% of the employer's total annual payroll costs; or

(2) agree that a portion of any funds available under the agreement be spent directly on employee education and training.

(e) An employer not creating new jobs shall not be eligible for participation in an IMPACT program unless the employer meets the following criteria: (1) Maintains a minimum of ~~1,000~~ 250 retained jobs; (2) makes a capital investment of at least ~~\$250,000,000~~ \$50,000,000; and (3) the secretary of commerce and housing finds that the program or project will be a major factor in the Kansas basic enterprise remaining in Kansas.

(f) Prior to obtaining financing from the Kansas development finance authority for any project, group of projects or major project investment for one or more employers, the secretary of commerce and housing shall present each such project to the governor's council on work force training and investment for review and approval. No agreement shall be approved by the secretary of commerce and housing unless each project under the agreement has been reviewed and finally approved by the governor's council on work force training and investment.”;

By renumbering sections accordingly;

In line 42, after “Supp.” by inserting “74-50,106 and”; also in line 42 by striking “is” and inserting “are”;

In the title, in line 9, following the semicolon the second time it appears, by inserting “concerning Kansas investments in major projects”; in line 10, following “Supp.” by inserting “74-50,106 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Education** recommends **SB 401** be amended on page 3, following line 43, by inserting:

“Sec. 3. K.S.A. 72-5413 is hereby amended to read as follows: 72-5413. As used in this act and in acts amendatory thereof or supplemental thereto:

(a) The term “persons” includes one or more individuals, organizations, associations, corporations, boards, committees, commissions, agencies, or their representatives.

(b) “Board of education” means the board of education of any school district, the board of control of any area vocational-technical school, and the board of trustees of any community college.

(c) “Professional employee” means any person employed by a board of education in a position which requires a certificate issued by the state board of education or employed by a board of education in a professional, educational or instructional capacity, but shall not mean any such person who is an administrative employee.

(d) “Administrative employee” means, in the case of a school district, any person who is employed by a board of education in an administrative capacity and who is fulfilling duties for which an administrator's certificate is required under K.S.A. 72-7513, and amendments thereto; and, in the case of an area vocational-technical school or community college, any person who is employed by the board of control or the board of trustees in an administrative capacity and who is acting in that capacity and who has authority, in the interest of the board of control or the board of trustees, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them or to adjust their grievances, or effectively to recommend a preponderance of such actions, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(e) “Professional employees' organizations” means any one or more organizations, agencies, committees, councils or groups of any kind in which professional employees participate, and which exist for the purpose, in whole or part, of engaging in professional negotiation with boards of education with respect to the terms and conditions of professional service.

(f) "Representative" means any professional employees' organization or any person it authorizes or designates to act in its behalf or any person a board of education authorizes or designates to act in its behalf.

(g) "Professional negotiation" means meeting, conferring, consulting and discussing in a good faith effort by both parties to reach agreement with respect to the terms and conditions of professional service.

(h) "Mediation" means the effort through interpretation and advice by an impartial third party to assist in reconciling a dispute concerning terms and conditions of professional service which arose in the course of professional negotiation between a board of education or its representatives and representatives of the recognized professional employees' organization.

(i) "Fact-finding" means the investigation by an individual or board of a dispute concerning terms and conditions of professional service which arose in the course of professional negotiation, and the submission of a report by such individual or board to the parties to such dispute which includes a determination of the issues involved, findings of fact regarding such issues, and the recommendation of the fact-finding individual or board for resolution of the dispute.

(j) "Strike" means an action taken for the purpose of coercing a change in the terms and conditions of professional service or the rights, privileges or obligations thereof, through any failure by concerted action with others to report for duty including, but not limited to, any work stoppage, slowdown, or refusal to work.

(k) "Lockout" means action taken by a board of education to provoke interruptions of or prevent the continuity of work normally and usually performed by the professional employees for the purpose of coercing professional employees into relinquishing rights guaranteed by this act and the act of which this section is amendatory.

(l) (1) "Terms and conditions of professional service" means ~~(A)~~ (A) salaries and wages, including pay for duties under supplemental contracts; hours and amounts of work; vacation allowance, holiday, sick, extended, sabbatical, and other leave, and number of holidays; retirement; insurance benefits; wearing apparel; pay for overtime; jury duty; grievance procedure; including binding arbitration of grievances; disciplinary procedure; resignations; termination and nonrenewal of contracts; reemployment of professional employees; terms and form of the individual professional employee contract; probationary period; professional employee appraisal procedures; each of the foregoing being a term and condition of professional service, regardless of its impact on the employee or on the operation of the educational system; ~~and (2) (B)~~ matters which relate to privileges to be granted the recognized professional employees' organization including, but not limited to, voluntary payroll deductions; use of school or college facilities for meetings; dissemination of information regarding the professional negotiation process and related matters to members of the bargaining unit on school or college premises through direct contact with members of the bargaining unit, the use of bulletin boards on or about the facility, and the use of the school or college mail system to the extent permitted by law; reasonable leaves of absence for members of the bargaining unit for organizational purposes such as engaging in professional negotiation and partaking of instructional programs properly related to the representation of the bargaining unit; any of the foregoing privileges which are granted the recognized professional employees' organization through the professional negotiation process shall not be granted to any other professional employees' organization; and ~~(3) (C)~~ (C) such other matters as the parties mutually agree upon as properly related to professional service *including, but not limited to, employment incentive or retention bonuses authorized under section 2, and amendments thereto.*

(2) Nothing in this act, ~~or acts amendatory thereof or supplemental and amendments thereto,~~ shall authorize the diminution of any right, duty or obligation of either the professional employee or the board of education which have been fixed by statute or by the constitution of this state. Except as otherwise expressly provided in this subsection (1), the fact that any matter may be the subject of a statute or the constitution of this state does not preclude negotiation thereon so long as the negotiation proposal would not prevent the fulfillment of the statutory or constitutional objective.

(3) Matters which relate to the duration of the school term, and specifically to consideration and determination by a board of education of the question of the development and adoption of a policy to provide for a school term consisting of school hours, are not included within the meaning of terms and conditions of professional service and are not subject to professional negotiation.

(m) "Secretary" means the secretary of human resources or a designee thereof.

(n) "Statutory declaration of impasse date" means June 1 in the current school year.

(o) "Supplemental contracts" means contracts for employment duties other than those services covered in the principal or primary contract of employment of the professional employee and shall include, but not be limited to, such services as coaching, supervising, directing and assisting extracurricular activities, chaperoning, ticket-taking, lunchroom supervision, and other similar and related activities.";

And by renumbering sections accordingly;

On page 4, in line 1, by striking "is" and inserting "and 72-5413 are"; in line 3, by striking "statute book" and inserting "Kansas register";

In the title, in line 11, following "and" by inserting "72-5413 and"; also in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **SB 527** be passed.

Committee on **Financial Institutions and Insurance** recommends **SB 586** be amended on page 1, in line 25, by striking "100" and inserting "365"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 476**, **SB 487** be passed

Also, **SB 474** be amended on page 1, in line 16, by striking "promote the protection of" and inserting "protect"; in line 17, by striking "from harassment"; in line 21, after "means" by inserting "an"; also in line 21, after "person" by inserting "that places the other person in reasonable fear for that person's own personal safety"; in line 22, by striking "knowing and intentional"; by striking all in line 23; in line 24, by striking all before the period and inserting "which is directed at a specific person that: (1) Causes that other person to have a reasonable fear for personal safety; or (2) serves no legitimate purpose, and is intended either to seriously alarm, threaten or torment another person"; in line 25, by striking "composed of a"; in line 26, by striking "series of" and inserting "consisting of two or more separate"; in line 27, by striking "and"; in line 37, by striking "and"; in line 38, by striking "that the defendant has engaged in stalking"; and inserting "the dates on which the alleged stalking behavior occurred; and

(4) the acts committed by the defendant that are alleged to constitute stalking";

On page 2, in line line 1, by striking "supreme court" and inserting "judicial council"; in line 5, by striking "plaintiffs" and inserting "victim's"; in line 18, by striking "plaintiff or"; in line 19, by striking "minor children" and inserting "victim"; in line 20, after "parte" by inserting "on presentation of a verified petition by the victim supporting a *prima facie* case of stalking"; in line 26, by striking "plaintiff" and inserting "victim"; in line 29, by striking "plaintiff or any minor"; in line 30, by striking "children of the plaintiff" and inserting "victim"; in line 36, by striking "plaintiff or of any minor children of the"; in line 37, by striking "plaintiff" and inserting "victim"; in line 43, by striking "plaintiffs" and inserting "victim's";

On page 3, in line 1, by striking "household" and inserting "the immediate vicinity thereof"; in line 8, by striking "plaintiff or the plaintiff's minor children" and inserting "victim"; in line 11, by striking all after "year"; in line 12, by striking all before the period; also in line 12, after the period, by inserting "Before the expiration of an order for protection from stalking, a victim, or a parent on behalf of the victim, may request an extension of the protection from stalking order for up to one additional year on showing of continuing threat of stalking."; in line 32, by striking "plaintiff" and inserting "victim"; in line 33, by striking "plaintiff" both times it appears and inserting "victim" both times; and the bill be passed as amended.

SB 475 be amended on page 5, in line 27, after "(b)" by inserting "All emergency and temporary orders which have been entered into the national criminal information center file shall be canceled upon the expiration of the time period set out in the court order, or,

if no time period is set, no later than one year from the entry date.”; also in line 27, after “All” by inserting “other”; and the bill be passed as amended.

SB 524 be amended on page 8, in line 1, by striking “location, listed by section, range, town-”; in line 2, by striking “ship and”;

On page 9, in line 22, by striking “location, listed by section, range, town-”; in line 23, by striking “ship and”; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 411** be amended on page 2, in line 14, by striking “Thirty” and inserting “Fifty”; and the bill be passed as amended.

Also, **SB 624** be amended on page 2, after line 24, by inserting the following:

“New Sec. 2. (a) 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 Autism Society of Johnson County Kansas 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 Autism Society of Johnson County 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 Autism Society of Johnson County Kansas and shall be used to provide scholarships. Any motor vehicle owner or lessee annually may apply to the Autism Society of Johnson County Kansas for the use of such logo. Upon annual application and payment to the Autism Society of Johnson County Kansas in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each license plate to be issued, the Autism Society of Johnson County 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 Autism Society of Johnson County 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 Autism Society of Johnson County Kansas for information concerning the application process or the status of their license plate application.

(g) The Autism Society of Johnson County 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.”;

By renumbering sections accordingly;

On page 1, in the title, in line 9, by striking “the” where it appears for the last time; in line 10, by striking all preceding the semicolon and inserting “certain distinctive license plates”; and the bill be passed as amended.

Committee on **Utilities** recommends **SB 545** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 545,” as follows:

“Substitute for SENATE BILL No. 545

By Committee on Utilities

“AN ACT relating to public utilities; concerning public right-of-way; fees.”;
and the substitute bill be passed.

Also, **SB 490** be amended on page 1, in line 37, by striking “located on unplatted land or outside” and inserting “not located on platted land or inside”;

On page 2, in line 2, by striking “resolutions”; by striking all in line 3; in line 4, by striking all preceding the period and inserting “rules and regulations promulgated by the state corporation commission in the administration and enforcement of this act”; following line 37, by inserting the following:

“(n) “Production petroleum lead line” means an underground facility used for production, gathering or processing on the lease or unit, or for delivery of hydrocarbon gas and/or liquids to an associated tank battery, separator or sales facility. Production petroleum lead lines shall include underground lines associated with lease fuel and saltwater disposal and injection.

(o) “Platted land” means a tract or parcel of land which has been subdivided into lots of less than five acres for the purpose of building developments, including housing developments, and for which a surveyor’s plat has been filed of record in the office of the register of deeds in the county where the land is located.”;

Also on page 2, in line 38, by striking “(n)” and inserting “(p)”; in line 40, by striking “(o)” and inserting “(q)” in line 43, by striking “(p)” and inserting “(r)”;

On page 3, in line 3, by striking “(q)” and inserting “(s)”; in line 25, by striking all following “excavation”; by striking all in line 26; in line 27, by striking all preceding the period; in line 28, following “shall” by inserting “, at the request of the operator,”; in line 29, by striking “description of the”; in line 31, by striking “precise tract or parcel involved” and inserting “location of the proposed excavation”;

On page 4, in line 13, following “the” by inserting “later of the”; in line 14, following “excavate” by inserting “or the first day after the excavator has whitelined the excavation site”; in line 34, following “liable” by inserting “to the operator”; in line 36, following “liability” by inserting “to the operator”; following line 37, by inserting:

“(e) For economic damages in any civil court of this state, failure of an operator to inform the excavator within two working days of the tolerance zone of the underground facilities of the operator in the manner required by subsection (a) of K.S.A. 2001 Supp. 66-1806, and amendments thereto, shall not give rise to a cause of action on the part of the excavator against an operator, except that nothing in this act shall be construed to hold any operator harmless from liability in those cases of inaccurate marking of the tolerance zone, gross negligence or willful and wanton conduct. Such failure may subject an operator to civil penalties as determined by the state corporation commission.

(f) Any person claiming that an operator has failed to inform the excavator within two working days of the tolerance zone of the underground facilities of the operator shall file a complaint with the state corporation commission requesting enforcement of subsection (a) within one year of becoming aware of the violation.”;

Also on page 4, in line 38, by striking “(e)” and inserting “(g)”;

On page 5, in line 37, preceding “occurred” by inserting “, including damage to any underground facilities,”; by striking all in lines 40 through 42; in line 43, by striking “(c)” and inserting “(b)”;

On page 6, in line 4, by striking “(d)” and inserting “(c)”;

in line 17, following “after” by inserting “January 1, 2003, and”; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

On motion of Senator Oleen, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Emler in the chair.

On motion of Senator Emler the following report was adopted:

Recommended **SB 417**, **SB 435**, **SB 446**, **SB 507**, **SB 540**, **SB 604** be passed.

The committee recommended **SB 486** be passed.

A motion by Senator Barone to amend **SB 486** failed and the following amendment was rejected:

On page 1, in line 14, after "state" by inserting "by a person under the age of 18 years"
The committee recommended **SB 492** be passed.

A motion by Senator Haley to amend **SB 492** failed and the following amendment was rejected:

On page 4, following line 33, by inserting:

"New Sec. 2. (a) When the appraised value of real property owned by a decedent is not greater than \$15,000 according to the most recent tax appraisal, and the decedent's estate is not subject to homestead or allowances pursuant to K.S.A. 59-401 *et seq.*, and amendments thereto, or such homestead or allowances are waived, any heir, devisee or legatee of the decedent may file a notification of interest in title in the office of the register of deeds in the county where such real property is located. Such notification of interest in title shall be in substantially the form set out in subsection (f) and shall state:

- (1) The decedent's name and the date of death;
- (2) the address and legal description of such real property owned by the decedent;
- (3) the name and current address of the heir, devisee or legatee filing the notification;
- (4) the relationship between the decedent and the heir, devisee or legatee filing the notification;

(5) that the taxes on such real property are current and not delinquent;

(6) that such real property is free of liens and encumbrances; and

(7) that the heir, devisee or legatee filing the notification of interest in title is filing a claim to be the vested owner of such real property.

(b) A certified copy of the decedent's death certificate shall be attached to such form.

(c) If after three years from the date of the filing of the notification of interest in title, no other heir, devisee or legatee has petitioned the court in a probate proceeding pursuant to the Kansas probate code, the heir, devisee or legatee who filed the notification of interest in title shall be the legal owner of such real property.

(d) If at any time during the three-year period, another heir, devisee or legatee petitions the court to establish a probate proceeding, and if during the probate proceeding the court establishes a determination of descent that allows another party to receive a share of such real property, such other party shall be liable to the heir, devisee or legatee filing the notification of interest in title for any taxes paid on such real property and reasonable maintenance and upkeep costs documented and paid by such heir, devisee or legatee.

(e) The provisions of this section shall apply only to real property located in Wyandotte county.

(f) The notification of interest in title shall be in substantially the following form:

STATE OF KANSAS)
) ss:
COUNTY OF WYANDOTTE)

NOTIFICATION OF INTEREST IN TITLE

I, _____, of lawful age, being first duly sworn state:

(heir, devisee or legatee)

(1) I have attached hereto a certified copy of the decedent's death certificate which states the decedent's name and date of death as:

(Name of Decedent)

(Date of Death)

(2) The address and legal description of real property owned by decedent for which this notification is filed:

(3) The name and current address of the heir, devisee or legatee filing the notification:

(4) The relationship between the decedent and the heir, devisee or legatee filing notification:

(5) The taxes on such real property are not delinquent and are currently being paid by the heir, devisee or legatee.

(6) I am filing notification of interest in title and am filing a claim to be the vested owner of such real property.

(heir, devisee or legatee)

STATE OF KANSAS)
) ss:
COUNTY OF WYANDOTTE)

The foregoing instrument was acknowledged before me this _____ day of _____, year ____ by _____
SUBSCRIBED AND SWORN to before me on _____.

(Notary Public)

My Appointment Expires:

_____”;

By renumbering sections accordingly;

In the title, by striking all in line 10; in line 11, by striking all before the semicolon and inserting:

“AN ACT concerning real property; relating to the transfer upon the death of the owner thereof”

The committee report on **SB 465** recommending a **Sub SB 465** be adopted, and the substitute bill be passed.

SB 265, SB 382, SB 413, SB 414, SB 459, SB 463, SB 464, SB 499, SB 502, SB 511, SB 531, SB 543, SB 605 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 480 be amended by motion of Senator Clark on page 4, after line 26, by inserting the following:

“Sec. 3. K.S.A. 66-104d is hereby amended to read as follows: 66-104d. (a) As used in this section, “cooperative” means any cooperative, as defined by K.S.A. 17-4603, and amendments thereto, which has fewer than 15,000 customers and which provides power principally at retail.

(b) Except as otherwise provided in subsection (f), a cooperative may elect to be exempt from the jurisdiction, regulation, supervision and control of the state corporation commission by complying with the provisions of subsection (c).

(c) To be exempt under subsection (b), a cooperative shall poll its members as follows:

(1) An election under this subsection may be called by the board of trustees or shall be called not less than 180 days after receipt of a valid petition signed by not less than 10% of the members of the cooperative.

(2) The proposition for deregulation shall be presented to a meeting of the members, the notice of which shall set forth the proposition for deregulation and the time and place of the meeting. Notice to the members shall be written and delivered not less than 21 nor more than 45 days before the date of the meeting.

(3) If the cooperative mails information to its members regarding the proposition for deregulation other than notice of the election and the ballot, the cooperative shall also include in such mailing any information in opposition to the proposition that is submitted by petition signed by not less than 1% of the cooperative’s members. All expenses incidental to mailing the additional information, including any additional postage required to mail such additional information, must be paid by the signatories to the petition.

(4) If the proposition for deregulation is approved by the affirmative vote of not less than a majority of the members voting on the proposition, the cooperative shall notify the

state corporation commission in writing of the results within 10 days after the date of the election.

(5) Voting on the proposition for deregulation shall be by mail ballot.

(d) A cooperative exempt under this section may elect to terminate its exemption in the same manner as prescribed in subsection (c).

(e) An election under subsection (c) or (d) may be held not more often than once every two years.

(f) Nothing in this section shall be construed to affect the single certified service territory of a cooperative or the authority of the state corporation commission, as otherwise provided by law, over a cooperative with regard to service territory, charges for transmission services, sales of power for resale, wire stringing and transmission line siting, pursuant to K.S.A. 66-131, 66-183, 66-1,170 *et seq.* or 66-1,177 *et seq.*, and amendments thereto.

(g) (1) Notwithstanding a cooperative's election to be exempt under this section, the commission shall investigate all rates, joint rates, tolls, charges and exactions, classifications and schedules of rates of such cooperative if there is filed with the commission, not more than one year after a change in such cooperative's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates, a petition signed by not less than 5% of all the cooperative's customers or 3% of the cooperative's customers from any one rate class. If, after investigation, the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, joint rates, tolls, charges and exactions, classifications or schedules of rates as are just and reasonable.

(2) The cooperative's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates complained of shall remain in effect subject to change or refund pending the state corporation commission's investigation and final order.

(3) Any customer of a cooperative wishing to petition the commission pursuant to subsection (g)(1) may request from the cooperative the names, addresses and rate classifications of all the cooperative's customers or of the cooperative's customers from any one or more rate classes. The cooperative, within 21 days after receipt of the request, shall furnish to the customer the requested names, addresses and rate classifications and may require the customer to pay the reasonable costs thereof.

(h) (1) If a cooperative is exempt under this section, not less than 10 days' notice of the time and place of any meeting of the board of trustees at which rate changes are to be discussed and voted on shall be given to all members of the cooperative and such meeting shall be open to all members.

(2) Violations of subsection (h)(1) shall be subject to civil penalties and enforcement in the same manner as provided by K.S.A. 75-4320 and 75-4320a, and amendments thereto, for violations of K.S.A. 75-4317 *et seq.* and amendments thereto.

(i) (1) *Any cooperative exempt under this section shall maintain a schedule of rates and charges at the cooperative headquarters and shall make copies of such schedule of rates and charges available to the general public during regular business hours.*

(2) *Any cooperative which fails, neglects or refuses to maintain such copies of schedule of rates and charges under this subsection shall be subject to a civil penalty of not more than \$500.*;

By renumbering sections accordingly;

Also on page 4, in line 27, following "K.S.A." by inserting "66-104d,";

In the title, in line 9, following "K.S.A." by inserting "66-104d," and **SB 480** be passed as amended.

SB 439 be amended by adoption of the committee amendments, be further amended by motion of Senator Vratil on page 6, line 16, by inserting after the word "subsection" the notation "(a)(4) or" and on line 19 after the word "subsection" inserting the notation "(a)(4) or", and **SB 439** be passed as further amended.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Wednesday, February 27, 2002.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

