

# Journal of the Senate

FIFTY-FIRST DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, March 27, 2002—2:30 p.m.

The Senate was called to order by Vice-President Sandy Praeger.

The roll was called with forty senators present.

Vice-President Praeger introduced as guest chaplain Rev. Ed Mease, Senior Pastor, St. Paul Lutheran Church and School, Leavenworth, who delivered the invocation:

Almighty God, our heavenly Father, we find instruction in Your holy Word to “give to Caesar what is Caesar’s, and to God what is God’s.” (Matthew 22:21, NIV) As these men and women gather this afternoon to carry out the affairs of government, a process we would normally render to Caesar, we come before You fully realizing that even this process belongs to You as the creator of this world and all who live in it. Since the debate and resulting actions that occur in this Chamber will affect the lives and futures of Your people in Kansas, we ask for the counsel and guidance of Your Holy Spirit to be given to all who serve—seeking Your divine blessing over all that they do in serving their constituents.

And, dear Lord, we must pause during this time of national conflict, praying not just for ourselves, but also for the men and women who serve in Operation Enduring Freedom: grant them safety as they serve in honor, and success as they seek freedom from terrorism for the people of Afghanistan, the United States, and the world. Give our President, his advisors and allies the direction they need as they lead us to a restored peace in this world.

Finally, for all these things—as well as for all the prayers that remain unspoken upon our hearts—we come seeking Your blessings; in the name of Jesus, Your Son and the Savior of all. Amen!

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Assessment and Taxation: **HB 2785, HB 2828, HB 3011.**

Commerce: **HB 3021.**

Federal and State Affairs: **HB 2736, HB 2737.**

Judiciary: **HB 2643.**

Ways and Means: **SCR 1625.**

## CHANGE OF REFERENCE

The Vice-President withdrew **SB 256** from the Committee on Elections and Local Government, and referred the bill to the Committee on Reapportionment.

## MESSAGE FROM THE GOVERNOR

March 25, 2002

*Message to the Senate of the State of Kansas:*

Enclosed herewith is Executive Directive No. 02-321 for your information.

Sincerely,  
BILL GRAVES  
*Governor*

The Vice-President announced Executive Directive No. 02-321, Authorizing Certain Expenditures, is on file in the office of the Secretary of the Senate and is available for review at any time.

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2743**.

The House nonconcur in Senate amendments to **HB 2642** and requests a conference and has appointed Representatives Benlon, Krehbiel and Storm as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 504** and has appointed Representatives Freeborn, Myers and Flora as conferees on the part of the House.

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2743** was thereupon introduced and read by title.

#### CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Schmidt moved the Senate concur in house amendments to **SB 548**.

**SB 548**, An act concerning agriculture; relating to control and eradication of sericea lespedeza; powers of secretary of agriculture; expenditures by conservation districts; amending K.S.A. 2-1315, 2-1908 and 2-1915 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Senate concurred.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 392** and requested a conference committee be appointed.

The Vice-President appointed Senators Vratil, Pugh and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Harrington the Senate nonconcurred in the House amendments to **SB 439** and requested a conference committee be appointed.

The Vice-President appointed Senators Harrington, O'Connor and Gooch as a conference committee on the part of the Senate.

#### ORIGINAL MOTION

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **HB 2642**.

The Vice-President appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

#### CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointment, submitted by the Governor to the senate for confirmation, was considered.

Senator Oleen moved the following appointment be confirmed as recommended by the Standing Senate Committee:

*By the Governor:*

On the appointment to the:

*State Corporation Commission:*

Brian J. Moline, term expires March 15, 2006

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The appointment was confirmed.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**Sub SB 584**, An act concerning institutional licenses; relating to the granting of a license; amending K.S.A. 65-2873a and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 1, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barnett.

The substitute bill passed.

**SB 622**, An act concerning fire safety and prevention; relating to construction standards of school buildings; amending K.S.A. 2001 Supp. 31-150 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 29, Nays 11, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Clark, Corbin, Donovan, Emler, Harrington, Jackson, Jenkins, Jordan, Kerr, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barone, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Huelskamp, Lee, Steineger.

The bill passed, as amended.

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

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Goodwin, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Gooch, Haley, O'Connor.

The bill passed, as amended.

**S Sub HB 2621**, An act concerning retirement; relating to the Kansas public employees retirement system and systems thereunder; benefits; eligibility; purchase of participating service; rollover of distributions; retirement plans and accounts, contribution; amending K.S.A. 72-8603 and 75-5524 and K.S.A. 2001 Supp. 74-4902, 74-4919m, 74-4966 and 74-49,123 and repealing the existing sections; also repealing K.S. A 2001 Supp.74-4919t, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Tyson, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Pugh, Teichman.

The substitute bill passed.

**HB 2624**, An act concerning water; concerning groundwater management districts; concerning rural water districts and public wholesale water supply districts; relating to the

powers and duties thereof; amending K.S.A. 82a-619 and K.S.A. 2001 Supp. 19-3552 and 82a-1030 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**Sub HB 2673**, An act concerning children in need of care; amending K.S.A. 2001 Supp. 38-1502 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The substitute bill passed.

**HB 2676**, An act relating to credit cards and debit cards; providing certain restrictions on electronically printed receipts, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**HB 2772**, An act concerning court costs; relating to a laboratory analysis fee; amending K.S.A. 28-176 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 5, Present and Passing 2, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Clark, Corbin, Donovan, Emler, Gilstrap, Gooch, Goodwin, Harrington, Hensley, Jackson, Jenkins, Jordan, Kerr, Lyon, Morris, O'Connor, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barone, Feleciano, Haley, Huelskamp, Pugh.

Present and Passing: Downey, Lee.

The bill passed, as amended.

**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, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 1, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Huelskamp.

The bill passed, as amended.

**HB 2812**, An act amending the uniform consumer credit code; relating to balloon payments; concerning payday loans; amending K.S.A. 16a-3-308 and K.S.A. 2001 Supp. 16a-2-404 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**HB 2813**, An act concerning real estate sales validation questionnaires; concerning use of contents; amending K.S.A. 2001 Supp. 79-1437f and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**HB 2820**, An act concerning vocational education; relating to determining credit hour equivalencies; amending K.S.A. 2001 Supp. 72-4412 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**HCR 5014**, A concurrent resolution urging the United States Congress to allow interstate marketing of state inspected meat, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The resolution was adopted, as amended.

## REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2123** as amended by House Committee be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2123," as follows:

"SENATE Substitute for HOUSE BILL No. 2123

By Committee on Agriculture

"AN ACT concerning cockfighting; amending K.S.A. 21-4313 and K.S.A. 2001 Supp. 21-4310 and repealing the existing sections."; and the substitute bill be passed.

Also **SB 436** be amended on page 1, in line 43, by striking "greater" and inserting "construction in progress"; also in line 43, after "fee" by inserting "shall be applicable";

On page 2, in line 1, by striking "is applicable" and inserting ". Such fee shall be";

On page 3, after line 10, by inserting the following:

"Sec. 2. K.S.A. 82a-301 is hereby amended to read as follows: 82a-301. (a) Without the prior written consent or permit of the chief engineer of the division of water resources of

the ~~state board~~ Kansas department of agriculture, it shall be unlawful for any person, partnership, association, corporation or agency or political subdivision of the state government to: ~~(a)~~ (1) Construct any dam or other water obstruction; ~~(b)~~ (2) make, construct or permit to be made or constructed any change in any dam or other water obstruction; ~~(c)~~ (3) make or permit to be made any change in or addition to any existing water obstruction; or ~~(d)~~ (4) change or diminish the course, current, or cross section of any stream within this state. Any application for any permit or consent shall be made in writing in such form as specified by the chief engineer. Jetties or revetments for the purpose of stabilizing a caving bank which are properly placed shall not be construed as obstructions for the purposes of this section.

(b) As used in K.S.A. 82a-301 et seq., and amendments thereto, "dam" means any artificial barrier including appurtenant works with the ability to impound water, waste water or other liquids that has a height of 25 feet or more; or has a height of six feet or greater and also has the capacity to impound 50 or more acre feet. The height of a dam or barrier shall be determined as follows: (1) A barrier or dam that extends across the natural bed of a stream or watercourse shall be measured from the down stream toe of the barrier or dam to the top of the barrier or dam; or (2) a barrier or dam that does not extend across a stream or watercourse shall be measured from the lowest elevation of the outside limit of the barrier or dam to the top of the barrier or dam.";

And by renumbering sections accordingly;

Also on page 3, in line 18, after the period by inserting "Notwithstanding any law to the contrary, an applicant for the consent or permit required by K.S.A. 82a-301, and amendments thereto, may have the application reviewed by a licensed professional engineer approved by the chief engineer and if such licensed professional engineer finds that such dam or other water obstruction meets established standards for the construction, modification, operation and maintenance of dams and other water obstructions, such findings shall be submitted to the chief engineer. Upon such submittance, the chief engineer shall grant such consent or permit. Such applicant shall pay all costs associated with the review by the licensed professional engineer."; in line 19, by striking all after "fee"; by striking all in lines 20 through 42 and inserting the following: "shall be based upon the stage of construction at the time that a complete application has been submitted. The construction in progress fee shall be applicable for construction begun prior to approval by the chief engineer. Such fee shall be in addition to any other penalty for an unpermitted structure. Such fees shall be as follows:

Fees for new dam or dam modification applications

Pre-Construction	Construction in Progress
\$200	\$500";

On page 4, in line 2, by striking "classification of the stream" and inserting "drainage area category"; in line 4, by striking "Stream classification" and inserting "Drainage Area Category"; also in line 4, by striking "In Progress" and inserting "Construction In Progress"; in line 7, by striking "Drainage" and inserting "(Drainage)"; in line 27, after the period by inserting "The class and size of a dam provided for by the provisions of this act shall be defined by rules and regulations adopted by the chief engineer pursuant to K.S.A. 82a-303a, and amendments thereto."; in line 28, by striking "(As Defined by Regulation)"; in lines 33 and 38, by striking ", as defined by rule and regulation,."; in line 43, before "a" by inserting a comma;

On page 5, in line 17, after "required" by inserting "by the provisions of this act"; after line 43, by inserting the following:

"New Sec. 6. On or before January 1, 2003, the secretary of agriculture shall submit and present a report to the committee on agriculture of the senate and house of representatives of the state of Kansas summarizing the department's efforts to affect changes in the water structures program, review of the structure of the water resources programs and actions related to the recommendations of the performance audit report of the legislative division of post audit submitted in March of 2002.";

And by renumbering sections accordingly;

On page 6, in line 1, after "24-126," by inserting "82a-301,,"; also in line 1, by striking "and" and inserting a comma; also in line 1, after "82a-303b" by inserting "and 82a-304";

On page 1, in the title, in line 10, after "24-126," by inserting "82a-301,,"; in line 11, after "sections" by inserting ";"; also repealing K.S.A. 82a-304"; and the bill be passed as amended.

**SCR 1615** be amended on page 1, in line 17, by striking "may" and inserting "shall"; in line 38, by striking "county" and inserting "country"; in line 40, by striking "President" and inserting "Majority Leader"; and the concurrent resolution be adopted as amended.

**HB 2602** be amended on page 1, in line 16, by striking "shall" and inserting "may adopt a resolution to"; in line 19, by striking all after "(b)"; in line 20, by striking "(d)" and inserting "If such program is authorized"; in line 30, by striking all after "(c)"; in line 31, by striking "(d)" and inserting "If such program is authorized"; by striking all in lines 40 through 43;

On page 2, in line 1, by striking "(e) (1)" and inserting "(d) (1)"; also in line 1, by striking "adopts a resolution to elim-"; in line 2, by striking "inate the program" and inserting "does not issue discount certificates"; also in line 2, by striking "(d)" and inserting "(b)"; in line 3, by striking "reinstate" and inserting "establish"; in line 12, by striking "re-"; in line 13, by striking "instated" and inserting "established"; in line 17, by striking "reinstating" and inserting "establishing"; in line 20, by striking "reinstated" and inserting "established"; in line 26, by striking "reinstated" and inserting "established"; also in line 26, after "county" by inserting "within 18 months"; and the bill be passed as amended.

Committee on **Assessment and Taxation** recommends **HB 2785** be passed.

Committee on **Commerce** recommends **SB 649** be amended on page 1, by striking all of lines 27 to 34, inclusive, and inserting in lieu thereof:

"(3) The site upon development must generate at least \$10,000,000 in revenue annually.;" and the bill be passed as amended.

Committee on **Education** recommends **HB 2094**, as amended by House Committee, be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL No. 2094," as follows:

"SENATE Substitute for HOUSE BILL No. 2094  
By Committee on Education

"AN ACT concerning schools and school finance; relating to juvenile detention facilities; amending K.S.A. 2001 Supp. 72-6407, 72-6430 and 72-8187 and repealing the existing sections.;"  
and the substitute bill be passed.

Also **SB 638** be amended on page 2, in line 14, preceding the period by inserting: "to whom the provisions of subsection (5) of K.S.A. 74-4914, and amendments thereto, do not apply"; by striking all in lines 32 through 38 and inserting:

"(c) for the purposes of subsection (5) of K.S.A. 74-4919, and amendments thereto, determine and make available a list of hard-to-fill teaching disciplines in which there is a critical shortage of teachers. Each year, the board shall review and, if necessary, revise such list. Upon request of a school district, the board may designate a vacant position for a teacher in such district which is not listed as a hard-to-fill discipline as a position in a hard-to-fill teaching discipline for such district. After review of the school district's request and any supporting documentation required by the board, the board may designate such position as a hard-to-fill teaching discipline for such school district. The board shall promulgate rules and regulations, if necessary, to implement the provisions of this subsection and subsection (5) of K.S.A. 74-4914, and amendments thereto, relating to the employment after retirement of teachers in a hard-to-fill teaching discipline.;"

On page 4, in line 5, by striking all after "as"; in line 6, by striking all preceding "substitute"; in line 7, following the period, by inserting "Commencing July 1, 2002, and ending June 30, 2006, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if such retirant retired under the provisions of subsection (4) were retired more than 30 days prior to July 1, 2002, and who were employed as teachers in a hard-to-fill teaching discipline during such period pursuant to the provisions of this act, except that the provisions of this act may continue to apply after June 30, 2006, to any such retirant still determined by such retirant's participating employer to be teaching in a hard-to-fill teaching discipline.;" also in line 7, by striking "(a)"; in line 10,

by striking all following "education"; by striking all in line 11; in line 12, by striking all preceding the period; in line 13, by striking "or in"; in line 14, by striking all preceding "shall", and inserting "and whether the provisions of this act shall not apply to such individual teacher"; in line 16, preceding the period, by inserting "and nothing contained in this act provides a continuing contractual right beyond the term of the contract pursuant to this subsection or a vested right in any retirement benefit or other benefit provided in this subsection"; following line 41, by inserting:

"Sec. 4. K.S.A. 2001 Supp. 72-5437 is hereby amended to read as follows: 72-5437. (a) All contracts of employment of teachers, as defined in K.S.A. 72-5436, and amendments thereto, except contracts entered into under the provisions of K.S.A. 72-5412a, and amendments thereto, *and contracts with retirants to whom the provisions of subsection (5) of K.S.A. 74-4914, and amendments thereto, do not apply* shall be deemed to continue for the next succeeding school year unless written notice of termination or nonrenewal is served as provided in this subsection. *Except as provided by subsection (c)*, written notice to terminate a contract may be served by a board upon any teacher prior to the time the contract has been completed, and written notice of intention to nonrenew a contract shall be served by a board upon any teacher on or before May 1. A teacher shall give written notice to a board that the teacher does not desire continuation of a contract on or before May 15 or, if applicable, not later than 15 days after final action is taken by the board upon termination of professional negotiation absent a binding agreement under article 54 of chapter 72 of Kansas Statutes Annotated, whichever is the later date.

(b) Terms of a contract may be changed at any time by mutual consent of both a teacher and a board.

(c) *During school year 2001-2002, written notice to terminate a contract may be served by a board upon any teacher prior to the time the contract has been completed, and written notice of intention to nonrenew a contract shall be served by a board upon any teacher on or before May 15. A teacher shall give written notice to a board that the teacher does not desire continuation of a contract on or before May 30 or, if applicable, not later than 15 days after final action is taken by the board upon termination of professional negotiation absent a binding agreement under article 54 of chapter 72 of Kansas Statutes Annotated, whichever is the later date.*

Sec. 5. K.S.A. 2001 Supp. 46-1208a is hereby amended to read as follows: 46-1208a. (a) The legislative educational planning committee is hereby established and shall be composed of 13 members, seven of whom shall be members of the house of representatives and six of whom shall be senators. Members of the legislative educational planning committee shall be appointed by the legislative coordinating council. The legislative coordinating council shall determine the number of members of the committee who shall be members of the majority party and the number of members of the committee who shall be members of the minority party. The committee shall be permanent with membership changing from time to time as the legislative coordinating council shall determine.

(b) The legislative educational planning committee shall plan for public and private postsecondary education in Kansas, including vocational and technical education; explore, study and make recommendations concerning preschool and K-12 education in Kansas; review implementation of legislation relating to educational matters; and consider such other matters as the legislative coordinating council may assign. The committee shall annually make a report and recommendations to the legislature and the governor and may cause the same to be published separately from other documents which are required by law to be submitted to the legislative coordinating council. The reports and recommendations of the committee shall include a developmental schedule for implementation of educational goals established by the committee. The committee shall from time to time update such schedule as new or additional information is developed or refined. *During the 2005 summer interim, the committee shall conduct a review of the utilization of retirants employed as teachers in hard-to-fill teaching disciplines pursuant to the provisions of subsection (5) of K.S.A. 74-4914, and amendments thereto, and submit as a part of the committee's annual report and recommendations to the legislature, such findings and recommendations as to the continued utilization of such retirants as teachers not subject to the provisions of subsection (5) of K.S.A. 74-4914, and amendments thereto.*



(c) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the legislative educational planning committee to the extent that the same do not conflict with the specific provisions of this act applicable to the committee.

(d) Upon request of the legislative educational planning committee, the state board of regents and the state board of education shall provide consultants from the faculties and staffs of institutions and agencies under the respective control and jurisdiction thereof.

(e) The legislative educational planning committee shall meet upon call of its chairperson and may introduce such legislation as it deems necessary in performing its functions.”;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 42, following “Supp.”, by inserting “46-1208a, 72-5437.”;

On page 5, in line 2, by striking “statute book” and inserting “Kansas register”;

On page 1, in line 11, preceding the semicolon, by inserting “and legislative educational planning committee”; also in line 11, following “Supp.”, by inserting “46-1208a, 72-5437.”; and the bill be passed as amended.

**HB 2953**, as amended by House Committee of the Whole, be amended on page 1, in line 27, following “education” by inserting “at least once each week”; by striking all in lines 35 through 43;

On page 2, by striking all in lines 1 through 10; following line 10, by inserting:

“(1) Whether the proposed transfer is justified by a material change in circumstances from those extant when the school district boundaries were previously established, including school district consolidation, a school closing or construction of a school in the petitioning district in close proximity to the proposed transfer territory;

(2) if the petition is granted, would there be a positive long-term effect on children living in the territory proposed to be transferred and in the petitioning school district;

(3) if the petition is granted, would there be a substantial detrimental effect on the school district from which the territory is to be transferred;

(4) distances of travel for students to attend school and parents to attend school activities;

(5) the community ties of residents in the territory proposed to be transferred, including school district of choice, location of employment, regular shopping areas, meeting places, and community and youth activities;

(6) whether the proposed transfer is motivated to achieve lower taxes or private economic gain, including making property more marketable or valuable; and

(7) such other factors as deemed relevant to the state board of education.”;

Also on page 2, by striking all in lines 20 through 43;

By striking all on pages 3 and 4;

On page 5, by striking all in lines 1 through 28 and inserting:

“Sec. 2. K.S.A. 2001 Supp. 72-6445 is hereby amended to read as follows: 72-6445. (a)

For the purposes of the school district finance and quality performance act, and notwithstanding any provision of the act to the contrary, state financial aid for any district formed by consolidation in accordance with the statutory provisions contained in article 87 of chapter 72 of Kansas Statutes Annotated shall be computed by the state board of education as follows:

~~(a)~~ (1) Determine the amount in the school year preceding the school year in which the consolidation is effectuated of the state financial aid of each of the former districts of which the consolidated district is composed;

~~(b)~~ (2) add the amounts determined under ~~(a)~~ subsection (a)(1). The sum is the state financial aid of the consolidated district for the school year in which the consolidation is effectuated ~~and for the next succeeding school year. For the next succeeding three school years, the state financial aid shall be the greater of: (1) The amount received in the preceding school year; or (2) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.~~

(b) The provisions of this subsection shall apply only if a school district is disorganized in accordance with article 73 of chapter 72 of the Kansas Statutes Annotated, and

amendments thereto, and if all the territory which comprised such disorganized district is attached to a single school district.

For the purposes of the school district finance and quality performance act, and notwithstanding any provision of the act to the contrary, state financial aid for any school district to which this subsection applies, shall be computed by the state board of education as follows:

(1) Determine the amount in the school year preceding the school year in which the attachment of territory is effectuated of the state financial aid of each of the former districts of which the enlarged district is composed;

(2) add the amounts determined under subsection (b)(1). The sum is the state financial aid of the district for the school year in which the attachment is effectuated. For the next succeeding three school years, the state financial aid shall be the greater of: (1) The amount received in the preceding school year; or (2) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.

The provisions of this subsection shall apply to any school district to which all of the territory of a disorganized district has been attached pursuant to an order issued by the state board of education during school year 2001-2002, or any time thereafter, under article 73 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 3. K.S.A. 2001 Supp. 72-6445 and 72-7108 are hereby repealed.”;

By renumbering section 10 as section 4;

In the title, by striking all in lines 10 through 13 and inserting:

“AN ACT concerning schools and school districts; relating to the transfer of territory and the consolidation or disorganization thereof; amending K.S.A. 2001 Supp. 72-6445 and 72-7108 and repealing the existing sections.”; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

State Banking Board: K.S.A. 2001 Supp. 74-3004

Nancy Taylor, term expires March 15, 2005

Also **HB 2247** be amended on page 1, following line 18 by inserting the following:

Sec. 2. K.S.A. 40-4701 is hereby amended to read as follows: 40-4701. As used in K.S.A. 40-4701 through 40-4707 and amendments thereto:

(a) “Carrier” means any insurance company, nonprofit medical and hospital service corporation, nonprofit optometric, dental, or pharmacy service corporation, municipal group-funded pool, fraternal benefit society or health maintenance organization, as these terms are defined by chapter 40 of the Kansas Statutes Annotated, and amendments thereto, that offers health benefit plans covering eligible employees of one or more small employers in the state.

(b) “Health committee” means the Kansas business health policy committee as specified in K.S.A. 40-4702, and amendments thereto.

(c) “Dependent” means the spouse or any child of an eligible employee.

(d) “Eligible employee” shall have the meaning ascribed to it in K.S.A. 40-2209d and amendments thereto.

(e) “Health benefit plan” means any hospital or medical expense policy, health, hospital or medical services corporation contract, and a plan provided by a municipal group-funded pool, or a health maintenance organization contract offered by any employer or any certificate issued under any such policy, contract or plan.

(f) “Kansas business health partnership” or “health partnership” means a nonrisk bearing nonprofit corporation that has responded to a request for a proposal by the health committee and has been selected by the health committee to provide health insurance through multiple unaffiliated participating carriers to small employers and their *eligible* employees.

(g) “Low wage or modest wage employee” means any *eligible* employee whose family income does not exceed 200% of the poverty level.

(h) "Small employer" shall have the meaning ascribed to it in K.S.A. 40-2209d and amendments thereto.

Sec. 3. K.S.A. 40-4702 is hereby amended to read as follows: 40-4702. (a) The governor of the state of Kansas shall appoint a cabinet level committee which shall be known as the Kansas business health policy committee.

(b) The Kansas business health policy committee, hereinafter referred to as the health committee, shall consist of:

(1) The secretary of the department of commerce and housing or the secretary's designee;

(2) the secretary of the department of social and rehabilitation services or the secretary's designee;

(3) the commissioner of insurance or the commissioner's designee;

(4) one member appointed by the president of the senate;

(5) one member appointed by the speaker of the house of representatives;

(6) one member appointed by the minority leader of the senate;

(7) one member appointed by the minority leader of the house of representatives; and

(8) three members at large from the private sector appointed by the governor.

The secretary of each state agency represented on this committee shall provide such staff and other resources as the health committee may require.

(c) (1) The initial meeting of the health committee shall be convened within 60 days after the effective date of this act by the governor at a time and place designated by the governor.

(2) Meetings of the health committee subsequent to its initial meeting shall be held and conducted in accordance with policies and procedures established by the health committee.

(3) Commencing at the time of the initial meeting of the health committee, the powers, authorities, duties and responsibilities conferred and imposed upon the health committee by this act shall be operative and effective.

(d) The health committee shall develop and approve a request for proposals for a qualified entity to serve as the Kansas business health partnership, hereinafter referred to as health partnership, which shall provide a mechanism to combine federal and state subsidies with contributions from *small* employers and *eligible* employees to purchase health insurance in accordance with guidelines developed by the health committee.

(e) The health committee shall evaluate responses to the request for proposals and select the qualified entity to serve as the health partnership.

(f) The health committee shall:

(1) Develop and approve subsidy eligibility criteria provided that:

(A) Low wage and modest wage employees of small employers shall be eligible for subsidies if:

(1) The small employer has not previously offered health insurance coverage; or

(2) the small employer has previously offered health insurance coverage and a majority of such small employer's employees ~~are low wage or modest wage employees as defined in K.S.A. 40-4701~~ *are paid an hourly wage which does not exceed an amount specified by the health committee;*

(B) any small employer's *eligible* employee with a child who is eligible for coverage under the state childrens' health insurance program established by K.S.A. 38-2001 *et seq.*, and amendments thereto, or in the state medical assistance program shall be eligible automatically for a subsidy and shall be included in the determination of eligibility for the small employer and its low-and-modest wage employees; and

(C) at least 70% of the small employer's *eligible* employees *without health insurance coverage from another source* are insured through the partnership; and

(2) determine and arrange for eligibility determination for subsidies of low wage or modest wage employees; and

(3) develop subsidy schedules based upon *eligible* employee wage levels.

(g) The health committee shall oversee and monitor the ongoing operation of any subsidy program and the financial accountability of all subsidy funds. *If, in the judgment of the health committee, the entity selected to serve as the health partnership fails to perform as intended, the health committee may terminate its selection and designation of that entity*

as the health partnership and may issue a new request for proposal and select a different qualified entity to serve as the health partnership.

(h) The health committee is hereby authorized to accept funds from the federal government, or its agencies, or any other source whatsoever for research studies, investigation, planning and other purposes related to implementation of the objectives of this act. Any funds so received shall be deposited in the state treasury and shall be credited to a special revenue fund which is hereby created and shall be known as the health committee insurance fund and used in accordance with or direction of the contributing federal agencies. Expenditures from such fund may be made for any purpose in keeping with the responsibilities, functions and authority of the department. Warrants on such fund shall be drawn in the same manner as required of other state agencies upon vouchers signed by the secretary of the department of social and rehabilitation services upon receiving prior approval of the health committee.

(i) The health committee is authorized to develop policies for the administration of the subsidy program and for the use of additional federal or private funds to subsidize health insurance coverage for low-and-modest wage employees of predominantly low-wage small employers. The health committee also may revise the subsidy eligibility criteria and subsidy schedules developed pursuant to subsection (f) from time to time.

(j) The health committee is hereby authorized to organize, or cause to be organized, one or more advisory committees. No member of any advisory committee established under this subsection shall have previously received or currently receive any payment or other compensation from the health partnership. The membership of each advisory committee established under this subsection shall contain at least one representative who is a small employer and one representative who is an eligible employee as defined in K.S.A. 40-4701, and amendments thereto, and one representative of the insurance industry.

Sec. 4. K.S.A. 40-4704 is hereby amended to read as follows: 40-4704. The health partnership shall develop and offer two or more health benefit plans to small employers. In any health benefit plan developed under this act, any carrier may contract for coverage within the scope of this act notwithstanding any mandated coverages otherwise required by state law. Except for preventative and health screening services, the provisions of K.S.A. 40-2,100 to 40-2,105, inclusive, 40-2114 and subsection (i) of 40-2209 and 40-2229 and 40-2230, and 40-2,163, 40-2,164, 40-2,165 and 40-2,166, and amendments thereto, shall not be mandatory with respect to any health benefit plan developed under this act. In performing these duties, the health partnership shall:

(a) Develop and offer two or more lower-cost benefit plans such that:

(1) Each health benefit plan is consistent with any criteria established by the health partnership;

(2) each health benefit plan shall be offered by all participating carriers except that no participating carrier shall be required to offer any health benefit plan, or portion thereof, which such participating carrier is not licensed or authorized to offer in this state;

(3) no participating carrier shall offer any health benefit plan developed under this act to any small employer unless such small employer is covered through the health partnership.

(b) Develop and make available one or more supplemental health benefit plans or one or more other benefit options so that the total package of health benefits available to all children eligible children who receive health benefits through the health partnership for the state children's health insurance program established pursuant to K.S.A. 68-2001 et seq., and amendments thereto, meets, at a minimum, standards established by the federal health insurance program.

(c) Offer coverage to any qualifying small employer.

(d) Offer eligible employees of participating small employers a choice of participating carriers where feasible.

(e) (1) Include centralized and consolidated enrollment, billing and customer service functions;

(2) use one standard enrollment form for all participating carriers; and

(3) submit one consolidated bill to the small employer.

(f) Issue or cause to be issued a request for proposals and contract with a qualified vendor for any administrative or other service not performed by the health committee or

provided to the health committee under subsection (b) of K.S.A. 40-4702, *and amendments thereto*.

- (g) Issue a request for proposals and selectively contract with carriers.
- (h) Establish conditions of participation for small employers that conform with K.S.A. 40-2209b *et seq.*, and amendments thereto, and the health insurance portability and accountability act of 1996 (Public Law 104-191).
- (i) Enroll small employers and their eligible employees and dependents in health benefit plans developed under this act.
- (j) Bill and collect premiums from participating small employers including any share of the premium paid by such small employer's enrolled employees.
- (k) Remit funds collected under subsection (h) to the appropriate contracted carriers.
- (l) Provide that each ~~eligible~~ low-or-modest wage employee shall be permitted to enroll in such employee's choice of participating carrier *where available*.
- (m) Develop premium rating policies for small employers.
  - (1) In consultation with the health committee, the health partnership shall ensure, to the maximum extent possible, that the combined effect of the premium rating and subsidy policies is that subsidized ~~workers~~ *eligible employees* and the dependents of such subsidized ~~workers~~ *eligible employees* can afford coverage.
  - (2) Any rating policy developed under this subsection may vary with respect to subsidy status of ~~workers~~ *eligible employees* and the dependents of such ~~workers~~ *eligible employees*.
- (n) Be authorized to contract for additional group vision, dental and life insurance plans, and other limited insurance products.
- (o) Take whatever action is necessary to assure that any ~~adult or child~~ *eligible employee or dependent of such eligible employee* who receives health benefit coverage through the health ~~benefit~~ partnership and who is eligible for the state medical assistance program shall remain eligible to participate in the state health insurance premium payment program.
- (p) Coordinate with the department of social and rehabilitation services to assure that any funds available for the coverage of infants and pregnant women under the state medical assistance program are also available for the benefit of eligible infants and pregnant women who receive health benefit coverage through the health partnership *as an eligible employee or dependent of such eligible employee*.

Sec. 5. K.S.A. 40-4706 is hereby amended to read as follows: 40-4706. The department of social and rehabilitation services shall investigate and pursue all possible policy options to bring into this partnership title XIX and the title XXI eligible families of any *eligible* employees employed by a small employer. Further, the department of social and rehabilitation services shall develop and seek federal approval of any appropriate variance or state plan amendment for the state children's health insurance program established by K.S.A. 38-2001 *et seq.*, and amendments thereto, and the state medical assistance program required to accomplish the purposes of this act.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 19, by striking “40-4707 is” and inserting “40-4701, 40-4702, 40-4704, 40-4706 and 40-4707 are”;

Also on page 1, in the title, in line 10, after “provision”, by inserting “and making other clarifications of the act”; also in line 10, after “K.S.A.”, by inserting “40-4701, 40-4702, 40-4704, 40-4706 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

**HB 2640**, as amended by House Committee, be amended on page 30, following line 39, by inserting new material to read as follows:

“Sec. 18. K.S.A. 40-2240 is hereby amended to read as follows: 40-2240. (a) Any small employer as defined in subsection (4) of K.S.A. 40-2209d, and amendments thereto, may establish a small employer health benefit plan for the purpose of providing a health benefit plan as described in subsection (u) of K.S.A. 40-2209d, and amendments thereto, covering such employers' eligible employees and such employees' family members. If an association or trust is used for such purposes, the association or trust may not condition eligibility or membership on the health status of members or employees.

(b) Employers desiring to offer a small employer health benefit plan shall notify the commissioner and provide the commissioner with information on the number of employees

and family members to be covered by the insurance described in K.S.A. 40-2209d, and amendments thereto. The commissioner shall provide assistance to employers desiring to organize and maintain any such benefit plan and may aid in the acquisition of the health care insurance by the small employer health benefit plan. The commissioner shall issue a certificate to every employer participating in any such small employer health benefit plan entitling such employer to claim the tax credit authorized by K.S.A. 40-2246 and amendments thereto subject to the following limitation: No certificate shall be issued to any employer seeking the same after certificates have already been issued under this act to employers offering health benefits described in K.S.A. 40-2209d, and amendments thereto, to employees and family members entitling such employers to claim the credits for taxable years which commence after December 31, 1999, and before January 1, 2002.

Sec. 19. K.S.A. 40-2258 is hereby amended to read as follows: 40-2258. (a) An accident and sickness insurer which offers coverage through a group policy providing hospital, medical or surgical expense benefits pursuant to K.S.A. 40-2209 and amendments thereto which includes mental health benefits shall be subject to the following requirements:

(1) If the policy does not include an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits, the policy may not impose any aggregate lifetime limit on mental health benefits;

(2) if the policy includes an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits the plan shall either: (A) Apply the applicable lifetime limit both to the hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health benefits and not distinguished in the application of such limit between such hospital, medical and surgical expense benefits and mental health benefits; or (B) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit on hospital, medical and surgical expense benefits;

(3) if the policy does not include an annual limit on substantially all hospital, medical and surgical expense benefits, the plan or coverage may not impose any annual limit on mental health benefits; and

(4) if the policy includes an annual limit on substantially all hospital, medical and surgical expense benefits the policy shall either: (A) Apply the applicable annual limit both to hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such hospital, medical and surgical expense benefits and mental health benefits; or (B) not include any annual limit on mental health benefits that is less than the applicable annual limit.

(b) If the group policy providing hospital, medical or surgical expense benefits is not otherwise covered by subsection (a) and either does not apply a lifetime or annual benefit or applies different lifetime or annual benefits to different categories of hospital, medical and surgical expense benefits, the commissioner may adopt rules and regulations under which subsections (a)(2) and (a)(4) are applied to such policies with respect to mental health benefits by substituting for the applicable lifetime or annual limits an average limit that is computed taking into account the weighted average of the lifetime or annual limits applicable to such categories.

(c) Nothing in this section shall be construed as either:

(1) Requiring an accident and sickness policy to offer mental health benefits except as otherwise required by K.S.A. 40-2,105 and amendments thereto; or

(2) affecting any terms and conditions of a policy which does include mental health benefits including provisions regarding cost sharing, limits on the number of visits or days of coverage, requirements relating to medical necessity, requirements relating to the amount, duration or scope of mental health benefits under the plan or coverage, except as specifically provided in subsection (a).

(d) This section shall not apply to any group accident and health insurance policy which is sold to a small employer as defined in K.S.A. 40-2209 and amendments thereto.

(e) This section shall not apply with respect to a group policy providing hospital, medical or surgical expense benefits if the application of this section will result in an increase in the cost under the plan of at least 1%.

(f) In the case of a group policy providing hospital, medical or surgical expense benefits that offers an eligible employee, member or dependent two or more benefit package options

under the policy, subsections (a) and (b) shall be applied separately with respect to each such option.

(g) As used in this section:

(1) "Aggregate lifetime limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount that may be paid with respect to such benefits under the policy with respect to an eligible employee, member or dependent;

(2) "annual limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the policy with respect to an eligible employee, member or dependent;

(3) "hospital, medical or surgical expense benefits" means benefits with respect to hospital, medical or surgical services, as defined under the terms of the policy, but does not include mental health benefits;

(4) "mental health benefits" means benefits with respect to mental health services, as defined under the terms of the policy, but does not include benefits with respect to treatment of substance abuse or chemical dependency.

(h) This section shall be effective for group policies providing hospital, medical or surgical expense benefits which are entered into or renewed after January 1, 1998. This section shall not apply to benefits for services furnished on or after ~~September 30, 2001~~ *December 31, 2002*.

(i) The commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this section.;

And by renumbering the remaining sections accordingly;

Also on page 30, in line 41, by striking "and" and inserting a comma; in line 42, following "2,183", by inserting ", 40-2240 and 40-2258";

On page 1, in the title, in line 10, by striking "companies"; in line 11, after the semicolon by inserting "relating to small employer benefit plans; relating to group policies,;" also in line 11, preceding "K.S.A.", by inserting "K.S.A. 40-2240 and 40-2258 and"; in line 12, by striking "section and inserting "sections"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2399**, as amended by House Committee, be passed.

Also **HB 2752**, as amended by House Committee of the Whole, be amended on page 1, in line 18, before "Section" by inserting "New"; also in line 18, after "(a)" by inserting "Tampering with a pipeline is the intentional and unauthorized alteration of or interference with any part of a pipeline.

(b);

Also on page 1, in line 18, after "section" by inserting "and section 2, and amendments thereto"; in line 26, by striking all after ""Tampering""; in line 27, by striking all before the second comma and inserting "includes"; also in line 27, after "but" by inserting "is"; by striking all in lines 30 and 31; in line 32, by striking "(b)" and inserting "(c)"; also in line 32, by striking "5" and inserting "7"; after line 33, by inserting the following:

"(d) The provisions of this section shall be part of and supplemental to the Kansas criminal code.

New Sec. 2. (a) Theft from a pipeline is theft, as defined in K.S.A. 21-3701, and amendments thereto, of any natural gas, crude oil, petroleum products or anhydrous ammonia from a pipeline.;

Also on page 1, in line 34, by striking "(c)" and inserting "(b)"; also in line 34, by striking all after "Theft"; in line 35, by striking "drous ammonia"; after line 35, by inserting the following:

"(c) The provisions of this section shall be part of and supplemental to the Kansas criminal code.;"

Also in line 36, by striking "2" and inserting "3";

On page 2, in line 21, by striking "3" and inserting "4"; in line 22, by striking "4" and inserting "5";

On page 1, in the title, in line 12, after "crimes" by inserting " , criminal procedure"; also in line 12, before "relating" by inserting "creating certain crimes relating to pipelines;"; by striking all in line 13; and the bill be passed as amended.

**HB 2802**, as amended by House Committee of the Whole, be amended on page 1, after line 16, by inserting the following:

"Section 1. K.S.A. 8-2107 is hereby amended to read as follows: 8-2107. (a) (1) Notwithstanding any other provisions of the uniform act regulating traffic on highways, when a person is stopped by a police officer for any of the offenses described in subsection (d) and such person is not immediately taken before a judge of the district court, the police officer may require the person stopped, subject to the provisions of subsection (c), to deposit with the officer a valid Kansas driver's license in exchange for a receipt therefor issued by such police officer, the form of which shall be approved by the division of vehicles. Such receipt shall be recognized as a valid temporary Kansas driver's license authorizing the operation of a motor vehicle by the person stopped until the date of the hearing stated on the receipt. The driver's license and a written copy of the notice to appear shall be delivered by the police officer to the court having jurisdiction of the offense charged as soon as reasonably possible. If the hearing on such charge is continued for any reason, the judge may note on the receipt the date to which such hearing has been continued and such receipt shall be recognized as a valid temporary Kansas driver's license until such date, but in no event shall such receipt be recognized as a valid Kansas driver's license for a period longer than 30 days from the date set for the original hearing. Any person who has deposited a driver's license with a police officer under this subsection (a) shall have such license returned upon final determination of the charge against such person.

(2) In the event the person stopped deposits a valid Kansas driver's license with the police officer and fails to appear in the district court on the date set for appearance, or any continuance thereof, and in any event within 30 days from the date set for the original hearing, the court shall forward such person's driver's license to the division of vehicles with an appropriate explanation attached thereto. Upon receipt of such person's driver's license, the division shall suspend such person's privilege to operate a motor vehicle in this state until such person appears before the court having jurisdiction of the offense charged, the court makes a final disposition thereof and notice of such disposition is given by the court to the division. No new or replacement license shall be issued to any such person until such notice of disposition has been received by the division. The provisions of K.S.A. 8-256, and amendments thereto, limiting the suspension of a license to one year, shall not apply to suspensions for failure to appear as provided in this subsection (a).

(b) No person shall apply for a replacement or new driver's license prior to the return of such person's original license which has been deposited in lieu of bond under this section. Violation of this subsection (b) is a class C misdemeanor. The division may suspend such person's driver's license for a period of not to exceed one year from the date the division receives notice of the disposition of the person's charge as provided in subsection (a).

(c) (1) In lieu of depositing a valid Kansas driver's license with the stopping police officer as provided in subsection (a), the person stopped may elect to give bond in the amount specified in subsection (d) for the offense for which the person was stopped. When such person does not have a valid Kansas driver's license, such person shall give such bond. Such bond shall be subject to forfeiture if the person stopped does not appear at the court and at the time specified in the written notice provided for in K.S.A. 8-2106, and amendments thereto.

(2) Such bond may be a cash bond, a bank card draft from any valid and unexpired credit card approved by the division of vehicles or superintendent of the Kansas highway patrol or a guaranteed arrest bond certificate issued by either a surety company authorized to transact such business in this state or an automobile club authorized to transact business in this state by the commissioner of insurance. If any of the approved bank card issuers redeem the bank card draft at a discounted rate, such discount shall be charged against the amount designated as the fine for the offense. If such bond is not forfeited, the amount of the bond less the discount rate shall be reimbursed to the person providing the bond by the use of a bank card draft. Any such guaranteed arrest bond certificate shall be signed by the person to whom it is issued and shall contain a printed statement that such surety company



or automobile club guarantees the appearance of such person and will, in the event of failure of such person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person not to exceed an amount to be stated on such certificate.

(3) Such cash bond shall be taken in the following manner: The police officer shall furnish the person stopped a stamped envelope addressed to the judge or clerk of the court named in the written notice to appear and the person shall place in such envelope the amount of the bond, and in the presence of the police officer shall deposit the same in the United States mail. After such cash payment, the person stopped need not sign the written notice to appear, but the police officer shall note the amount of the bond mailed on the notice to appear form and shall give a copy of such form to the person. If the person stopped furnishes the police officer with a guaranteed arrest bond certificate or bank card draft, the police officer shall give such person a receipt therefor and shall note the amount of the bond on the notice to appear form and give a copy of such form to the person stopped. Such person need not sign the written notice to appear, and the police officer shall present the notice to appear and the guaranteed arrest bond certificate or bank card draft to the court having jurisdiction of the offense charged as soon as reasonably possible.

(d) The offenses for which appearance bonds may be required as provided in subsection (c) and the amounts thereof shall be as follows:

On and after July 1, 1996:

Reckless driving.....	\$82
Driving when privilege is canceled, suspended or revoked.....	82
Failure to comply with lawful order of officer.....	57
Registration violation (registered for 12,000 pounds or less).....	52
Registration violation (registered for more than 12,000 pounds).....	92
No driver's license for the class of vehicle operated or violation of restrictions.....	52
Spilling load on highway.....	52
Overload:	
Gross weight of vehicle or combination of vehicles.....	an amount equal to the fine plus docket fee to be imposed if convicted
Gross weight upon any axle or tandem, triple or quad axles.....	an amount equal to the fine plus docket fee to be imposed if convicted
Failure to obtain proper registration, clearance or to have current certification as required by K.S.A. 66-1324, and amendments thereto.....	272
Insufficient liability insurance for motor carriers pursuant to K.S.A. 66-1,128 or 66-1314, and amendments thereto.....	122
Failure to obtain interstate motor fuel tax authorization pursuant to K.S.A. 79-34,122, and amendments thereto.....	122
Improper equipment (glass or fire extinguishers).....	52
No authority as private, contract or common carrier.....	122
No current driver's daily log.....	52
Invalid or no physical examination card.....	52
Transporting open container of alcoholic liquor or cereal malt beverage accessible while vehicle in motion.....	223

(e) In the event of forfeiture of any bond under this section, ~~\$54~~ \$54.50 of the amount forfeited shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(f) None of the provisions of this section shall be construed to conflict with the provisions of the nonresident violator compact.

(g) When a person is stopped by a police officer for any traffic infraction and the person is a resident of a state which is not a member of the nonresident violator compact, K.S.A. 8-1219 *et seq.*, and amendments thereto, or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection

(c). The bond shall be in the amount specified in the uniform fine schedule in subsection (c) of K.S.A. 8-2118, and amendments thereto, plus ~~\$54~~ \$54.50 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(h) When a person is stopped by a police officer for failure to provide proof of financial security pursuant to K.S.A. 40-3104, and amendments thereto, and the person is a resident of another state or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount of ~~\$54~~ \$54.50, plus ~~\$54~~ \$54.40 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.”;

And by renumbering sections accordingly;

On page 4, after line 16, by inserting the following:

“Sec. 6. K.S.A. 2001 Supp. 20-367 is hereby amended to read as follows: 20-367. Of the remittance of the balance of docket fees received by the state treasurer from clerks of the district court pursuant to subsection (f) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit to the access to justice fund, a sum equal to ~~6.05%~~ 5.96% of the remittances of docket fees; to the juvenile detention facilities fund, a sum equal to ~~3.36%~~ 3.31% of the remittances of docket fees; to the judicial branch education fund, the state treasurer shall deposit and credit a sum equal to ~~2.58%~~ 2.54% of the remittances of docket fees; to the crime victims assistance fund, the state treasurer shall deposit and credit a sum equal to ~~.69%~~ .68% of the remittances of the docket fees; to the protection from abuse fund, the state treasurer shall deposit and credit a sum equal to ~~2.07%~~ 2.04% of the remittances of the docket fees; to the judiciary technology fund, the state treasurer shall deposit and credit a sum equal to ~~5.23%~~ 5.15% of the remittances of docket fees; to the dispute resolution fund, the state treasurer shall deposit and credit a sum equal to ~~.43%~~ .42% of the remittances of docket fees; to the Kansas juvenile delinquency prevention trust fund, the state treasurer shall deposit and credit a sum equal to ~~1.53%~~ 1.51% of the remittances of docket fees; to the permanent families account in the family and children investment fund, the state treasurer shall deposit and credit a sum equal to .25% of the remittances of docket fees; to the trauma fund, a sum equal to ~~1.81%~~ 1.78% of the remittance of docket fees; to the judicial council fund, a sum equal to 1.54% of the remittances of docket fees; and to the judicial branch nonjudicial salary initiative fund, the state treasurer shall deposit and credit a sum equal to ~~21.97%~~ 21.63% of the remittance of docket fees. The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.

Sec. 7. K.S.A. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

On and after July 1, 1998:

Murder or manslaughter.....	<del>\$164.50</del> \$165.50
Other felony.....	<del>146.00</del> 147.00
Misdemeanor.....	<del>111.00</del> 112.00
Forfeited recognizance .....	<del>62.50</del> 63.50
Appeals from other courts.....	<del>62.50</del> 63.50

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways (including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto), a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and amendments thereto or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, a docket fee of ~~\$54~~ \$55 shall be charged. When an action is disposed of under subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, whether by mail or in person, the docket fee to be paid as court costs shall be ~~\$54~~ \$55.

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, a docket fee of ~~\$54~~ \$55 shall be charged. When an action is disposed of under subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or in person, the docket fee to be paid as court costs shall be ~~\$54~~ \$55.

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund, the emergency medical services operating fund and the judiciary technology fund shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for detention facility processing pursuant to K.S.A. ~~2000~~ 2001 Supp. 12-16,119, and amendments thereto, fees for the sexual assault evidence collection kit, fees for conducting an examination of a sexual assault victim, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

Sec. 8. K.S.A. 2001 Supp. 59-104 is hereby amended to read as follows: 59-104. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated without payment of an appropriate docket fee as follows:

Treatment of mentally ill .....	<del>\$24.50</del>	\$25.50
Treatment of alcoholism or drug abuse.....	<del>24.50</del>	25.50
Determination of descent of property .....	<del>39.50</del>	40.50
Termination of life estate.....	<del>39.50</del>	40.50
Termination of joint tenancy .....	<del>39.50</del>	40.50
Refusal to grant letters of administration .....	<del>39.50</del>	40.50
Adoption.....	<del>39.50</del>	40.50
Filing a will and affidavit under K.S.A. 59-618a.....	<del>39.50</del>	40.50
Guardianship .....	<del>59.50</del>	60.50
Conservatorship .....	<del>59.50</del>	60.50
Trusteeship.....	<del>59.50</del>	60.50
Combined guardianship and conservatorship.....	<del>59.50</del>	60.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto.....	<del>14.50</del>	15.50
Decrees in probate from another state .....	<del>99.50</del>	100.50
Probate of an estate or of a will .....	<del>99.50</del>	100.50
Civil commitment under K.S.A. 59-29a01 et seq.....	<del>24.50</del>	25.50

(b) *Poverty affidavit in lieu of docket fee and exemptions.* The provisions of subsection

(b) of K.S.A. 60-2001 and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.

(c) *Disposition of docket fee.* Statutory charges for the law library and for the prosecuting attorneys' training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer in accordance with K.S.A. 20-362, and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 9. K.S.A. 2001 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of ~~\$101~~ \$102 to the clerk of the district court.

(b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in (A) the six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) *Form of affidavit.* The affidavit provided for in this subsection shall be in the following form and attached to the petition:

State of Kansas, \_\_\_\_\_ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) *Disposition of docket fee.* The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with K.S.A. 20-362 and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 10. K.S.A. 2001 Supp. 61-2704 is hereby amended to read as follows: 61-2704. (a) An action seeking the recovery of a small claim shall be considered to have been commenced at the time a person files a written statement of the person's small claim with the clerk of the court if, within 90 days after the small claim is filed, service of process is obtained or the first publication is made for service by publication. Otherwise, the action is deemed

commenced at the time of service of process or first publication. An entry of appearance shall have the same effect as service.

(b) Upon the filing of a plaintiff's small claim, the clerk of the court shall require from the plaintiff a docket fee of ~~\$26~~ \$27, if the claim does not exceed \$500; or ~~\$46~~ \$47, if the claim exceeds \$500; unless for good cause shown the judge waives the fee. The docket fee shall be the only costs required in an action seeking recovery of a small claim. No person may file more than 10 small claims under this act in the same court during any calendar year.

Sec. 11. K.S.A. 2001 Supp. 61-4001 is hereby amended to read as follows: 61-4001. (a) Docket fee. No case shall be filed or docketed pursuant to the code of civil procedure for limited actions without the payment of a docket fee in the amount of ~~\$26~~ \$27, if the amount in controversy or claimed does not exceed \$500; ~~\$46~~ \$47, if the amount in controversy or claimed exceeds \$500 but does not exceed \$5,000; or ~~\$76~~ \$77, if the amount in controversy or claimed exceeds \$5,000. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff.

(b) Poverty affidavit; additional court costs. The provisions of subsections (b), (c) and (d) of K.S.A. 60-2001, and amendments thereto, shall be applicable to lawsuits brought under the code of civil procedure for limited actions.

New Sec. 12. There is hereby established in the state treasury the judicial council fund. All expenditures from the judicial council fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the chairperson of the Kansas judicial council or by a person or persons designated by the chairperson of the Kansas judicial council.”;

And by renumbering sections accordingly;

Also on page 4, in line 17, before “12-4117” by inserting “8-2107,”; also in line 17, after “and” by inserting “28-172a and”; in line 18, by striking “and” and inserting a comma; also in line 18, after “20-362” by inserting “, 20-367, 59-104, 60-2001, 61-2704 and 61-4001”;

On page 1, in the title, in line 12, after the second semicolon, by inserting “; increasing docket fees; creating the judicial council fund;”; in line 13, before “12-4117” by inserting “8-2107,”; also in line 13, after “and” by inserting “28-172a and”; in line 14, by striking “and” the first time it appears and inserting a comma; also in line 14, after “20-362” by inserting “, 20-367, 59-104, 60-2001, 61-2704 and 61-4001”; and the bill be passed as amended.

**Substitute for HB 2979**, as amended by House Committee of the Whole, be amended on page 1, in line 16, by striking “remain”; in line 17, by striking “unpaid” and inserting “have accumulated”; in line 27, by striking all after “required”; in line 28, by striking all before “prior” and inserting “to be given to an owner or to a lienholder of record who has”; also in line 28, by striking “by agreement”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2808**, as amended by House Committee, be passed.

Also **HB 2665** be amended by striking section 1 from the bill and inserting in lieu thereof the following:

“Section 1. K.S.A. 2001 Supp. 65-6129 is hereby amended to read as follows: 65-6129.

(a) Application for an attendant's certificate shall be made to the board upon forms provided by the administrator. The board may grant an attendant's certificate if the applicant meets the following requirements:

(1) (A) Has made application within one year from the date of the last class of ~~an~~ ~~appropriate~~ a course of instruction *approved by the board* for the classification of attendant's certificate for which application has been made; and

(B) has completed successfully such course of instruction, passed an examination prescribed by the board and paid a fee prescribed by the board; or

(2) has completed successfully a course of instruction or training accredited by the commission on accreditation of allied health education programs, a program of instruction or training offered by the armed forces of the United States or a program of instruction completed in another state that is equivalent to a program approved by the board for the class of attendant's certificate applied for, passed an examination prescribed by the board and paid a fee prescribed by the board.

~~(b) An attendant applying for an emergency medical technician's certificate shall have completed successfully a course of training, approved by the board, in preliminary emergency medical care. An attendant applying for a mobile intensive care technician's certificate shall have completed successfully a course of training, approved by the board, which shall include, but not be limited to, didactic and clinical experience in a hospital and in an emergency vehicle unit. An attendant applying for an emergency medical technician-intermediate certificate shall be certified as an emergency medical technician and shall have completed successfully a course of training, approved by the board, which shall include training in veni-puncture for blood sampling and administration of intravenous fluids and advanced patient assessment. An attendant applying for an emergency medical technician-defibrillator certificate shall be certified as an emergency medical technician and shall have completed successfully a training program approved by the board. The board shall not grant an initial emergency medical technician-intermediate certificate, an initial emergency medical technician-defibrillator certificate or an initial mobile intensive care technician certificate unless the applicant for such an initial certificate is certified as an emergency medical technician.~~

~~(c) An attendant's certificate shall expire on December 31, 2000, and may be renewed as provided in this section. On and after January 1, 2001, an attendant's certificate shall expire on the date prescribed by the board. An attendant's certificate may be renewed for a period of two years upon payment of a fee as prescribed by rule and regulation of the board and upon presentation of satisfactory proof that the attendant has successfully completed continuing education as prescribed by the board. The board may prorate to the nearest whole month the fee fixed under this subsection as necessary to implement the provisions of this subsection.~~

(d) (1) The emergency medical services board may issue a temporary certificate to any person who has not qualified for an attendant's certificate under paragraph (1) or (2) of subsection (a) when:

~~(A)~~ (A) The operator for whom such person serves as an attendant requests a temporary certificate for that person; and

~~(B)~~ (B) such person meets or exceeds certain minimum requirements prescribed by the board by rules and regulations.

(2) A temporary certificate shall be effective for one year from the date of its issuance or until the person has qualified as an attendant under paragraph (1) or (2) of subsection (a), whichever comes first. A temporary certificate shall not be renewed and shall be valid only while an attendant works for the operator requesting the temporary certificate. A person holding a temporary certificate as an emergency medical technician shall not be eligible to apply for certification as an emergency medical technician-intermediate, emergency medical technician-defibrillator or a mobile intensive care technician.

(e) (1) Upon request by an operator to the board and upon approval by the board of such request, an applicant for certification may perform activities that are within the authorized activities of the certification level applied for, provided that the applicant:

(A) Has successfully completed the appropriate course of instruction for the level applied for;

(B) serves with the ambulance service identified in this subsection (e); and

(C) is practicing under the direct supervision of a physician, physician assistant, professional nurse or an attendant who is at or above the certification level for which the applicant has applied.

(2) The authority to perform activities under this subsection (e) shall terminate 120 days from the date of the last class or until the results of the first examination are received by the board, whichever comes first. Such authority to practice shall not be renewed and shall be valid only while the applicant serves with the ambulance service identified in this subsection (e).

~~(f)~~ (f) All fees received pursuant to the provisions of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

~~(f)~~ (g) If a person who was previously certified as an attendant applies for an attendant's certificate within two years of the date of ~~its~~ *the certificate's* expiration, the board may grant a certificate without the person completing a course of instruction or passing an examination if the person has completed continuing education requirements and has paid a fee prescribed by rules and regulations.

Sec. 2. K.S.A. 2001 Supp. 65-6121 is hereby amended to read as follows: 65-6121. Notwithstanding any other provision of law to the contrary, an emergency medical technician may perform any of the following activities:

- (a) Patient assessment and vital signs;
- (b) airway maintenance including the use of:
  - (1) Oropharyngeal and nasopharyngeal airways;
  - (2) esophageal obturator airways with or without gastric suction device;
  - (3) multi-lumen airway; and
  - (4) oxygen demand valves.
- (c) Oxygen therapy;
- (d) oropharyngeal suctioning;
- (e) cardiopulmonary resuscitation procedures;
- (f) control accessible bleeding;
- (g) apply pneumatic anti-shock garment;
- (h) manage outpatient medical emergencies;
- (i) extricate patients and utilize lifting and moving techniques;
- (j) manage musculoskeletal and soft tissue injuries including dressing and bandaging wounds or the splinting of fractures, dislocations, sprains or strains;
- (k) use of backboards to immobilize the spine;
- (l) administer syrup of ipecac, activated charcoal and glucose;
- (m) monitor peripheral intravenous line delivering intravenous fluids during interfacility transport with the following restrictions:
  - (1) The physician approves the transfer by an emergency medical technician;
  - (2) no medications or nutrients have been added to the intravenous fluids; and
  - (3) the emergency medical technician may monitor, maintain and shut off the flow of intravenous fluid;
- (n) use automated external defibrillators;
- (o) *administer epinephrine auto-injectors provided that:*
  - (1) *The emergency medical technician successfully completes a course of instruction approved by the board in the administration of epinephrine; and*
  - (2) *the emergency medical technician serves with an ambulance service or a first response organization that provides emergency medical services; and*
  - (3) *the emergency medical technician is acting pursuant to medical protocols;*
- (p) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols; or
- ~~(p)~~(q) when authorized by medical protocol, assist the patient in the administration of the following medications which have been prescribed for that patient: Auto-injection epinephrine, sublingual nitroglycerin and inhalers for asthma and emphysema.”

And by renumbering sections accordingly;

On page 3, in line 17, following “Supp.” by inserting “65-6121 and”;

On page 1, in the title, in line 10, following the semicolon, by inserting “relating to the administration of auto-injection epinephrine;”; also in line 10, following “Supp.”, by inserting “65-6121 and”; in line 11, by striking “section” and inserting “sections” and the bill be passed as amended.

**HB 2666**, as further amended by House Committee, be amended on page 2, in line 43, before “shall” by inserting “certificate”;

On page 3, in line 1, before “requested” by inserting “certificate”; and the bill be passed as amended.

**HB 2718** be amended on page 1, in line 24, before “and” by inserting “, 65-2422d”; in line 25, after “2423” by inserting “and amendments thereto”; in line 30, before “and” by inserting “, 65-2422d”; in line 37, after “certificate” by inserting “or abstract”; in line 39, after “certificate” by inserting “or abstract”; in line 40, by striking “or”; in line 41, by striking

“abstract”; also in line 41, after “certificate” by inserting “or abstract”; in line 42, before “or” by inserting “, abstract”;

On page 2, in line 5, after “certificate” by inserting “, abstract”; in line 18, after “certificates” by inserting “or abstracts”; in line 20, after “certificate” by inserting “or abstract”; in line 21, after “certificate” by inserting “or abstract”; in line 22, after “certificate” by inserting “or abstract”; in line 29, after “certificate” by inserting “or abstract”; in line 30, after “certificate” by inserting “or abstract”; in line 31, after “certificate” by inserting “or abstract”; in line 36, after “certificate” by inserting “or abstract”; in line 43, by striking “treasure and” and inserting “treasurer”;

On page 4, after line 21, by inserting the following:

“Sec. 5. K.S.A. 2001 Supp. 65-2423 is hereby amended to read as follows: 65-2423. (a) In cases of adoption the state registrar upon receipt of a certified decree of adoption, or a similar document or documents which evidences finalization of the adoption in the foreign country, and the report of adoption form shall prepare a supplementary certificate *or abstract* in the new name of the adopted person and seal and file the original certificate of birth with such certified copy *or abstract* attached thereto. Such sealed documents may be opened by the state registrar only upon the demand of the adopted person if of legal age or by an order of court. Upon receipt of a certified copy of a court order of annulment of adoption the state registrar shall restore the original certificate to its original place in the files.

(b) For any child born in a foreign country but adopted in Kansas or born and adopted in a foreign country and such adoption is filed and entered pursuant to K.S.A. 59-2144, and amendments thereto, the state registrar, upon request, shall complete and register a birth certificate upon receipt of a certified copy of the decree of adoption, or a similar document or documents which evidences finalization of the adoption in the foreign country, the report of adoption form and proof of the date and place of the child’s birth. The certificate shall show the new name of the child as specified in the decree of adoption, or a similar document or documents which evidences finalization of the adoption in the foreign country, and such further information concerning the adopting parents as may be necessary to complete the birth certificate. The certificate shall show the true country of birth and the date of birth of the child, and that the certificate is not evidence of United States citizenship.

Sec. 6. K.S.A. 65-2434 is hereby amended to read as follows: 65-2434. (1) Any person who willfully makes or alters any certificate ~~or~~ certified copy thereof *or abstract* provided for in this act, except in accordance with the provisions of this act, shall be ~~fin~~~~ed not more than \$1,000, or be imprisoned not exceeding six months, or both fined and imprisoned~~ *guilty of a class B misdemeanor.*

(2) Any person who knowingly transports or accepts for transportation, a dead body located in this state to a location outside the boundaries of this state without an accompanying permit issued in accordance with the provisions of K.S.A. 65-2428a, shall be ~~fin~~~~ed not more than \$500~~ *guilty of a class C misdemeanor.*

(3) Except where a different penalty is provided in this section, any person who violates any of the provisions of this act or neglects or refuses to perform any of the duties imposed upon such person by this act, shall be fined not more than ~~\$100~~ \$200.”;

And by renumbering sections accordingly;

Also on page 4, in line 22, by striking “and 65-2417” and inserting “, 65-2417 and 65-2434”; in line 23, by striking “and 65-2422d” and inserting “, 65-2422d and 65-2423”;

On page 1, in the title, in line 10, by striking “and 65-2417” and inserting “, 65-2417 and 65-2434”; in line 11, by striking “and 65-2422d” and inserting “, 65-2422d and 65-2423”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 650** be passed.

Also **HB 2763**, as amended by House Committee, be passed.

**SB 627** be amended on page 1, in line 23, by striking “during” and inserting “. During”; in line 25, after “the” by inserting “officer’s or member’s”; in line 26, by striking “their”; in line 27, after “family” by inserting “when the policy of insurance was in force prior to such officer or member being ordered to perform active state service. Such reimbursement shall not exceed the amount paid for premiums for individual or family health insurance coverage



under the state employees group health insurance plan”; by striking all in lines 38 through 43;

On page 2, by striking all in lines 1 through 4;

By renumbering the remaining sections accordingly;

Also on page 2, in line 15, after the period by inserting “If the amount of the credit allowed by subsection (a) of this section exceeds the taxpayer’s income tax liability imposed under the Kansas income tax act, such excess amount may be carried over for credit in the same manner in the succeeding taxable years until the total amount of such credit is used.”; after line 15, by inserting the following:

“(c) For taxable years commencing after December 31, 2001, on or before December 15, 2002, and each ensuing year, upon certification by the adjutant general to the director of accounts and reports of the amount that an employer, who is a political subdivision of the state, of any officer or enlisted member of the Kansas national guard paid for health insurance for such officer or member and such officer’s or member’s family during any period or consecutive periods of state active duty in excess of 30 days, if such employer is not otherwise required to pay for such insurance and upon such certification, the director of accounts and reports shall transfer from the state general fund to the general fund of such employer an amount equal to the amount paid for such health insurance. Each officer and enlisted member of the national guard requesting reimbursement under this section shall present proof of such health insurance cost on forms furnished by the adjutant general.”;

Also on page 2, in line 18, by striking “statute book” and inserting “Kansas register”; and the bill be passed as amended.

**Substitute for HB 2057** be amended on page 1, in line 38, by striking “critically medically underserved or”;

On page 9, in line 17, by striking “, child psychiatry”; and the substitute bill be passed as amended.

#### REPORT ON ENGROSSED BILLS

**SB 622** reported correctly engrossed March 27, 2002.

Also **SB 548** correctly re-engrossed March 27, 2002.

#### REPORT ON ENROLLED BILLS

**SR 1827, SR 1828, SR 1829, SR 1830** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 27, 2002.

#### 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 Umbarger in the chair.

On motion of Senator Umbarger the following report was adopted:

Recommended **HB 2372, HB 2639, HB 2708, HB 2900** be passed.

The Committee recommended **HB 2723** be passed.

A motion by Senator Steineger to amend **HB 2723** failed and the following amendment was rejected:

As amended by House Committee of the Whole, on page 2, in line 28, before “58-4204” by inserting “12-763 and”; also in line 28 by striking “is” and inserting “are”;

On page 1, in the title, in line 13, before the period by inserting “; also repealing K.S.A. 12-763”

**SB 643; Sub HB 2686; HB 2697, HB 2771** be amended by adoption of the committee amendments, and the bills be passed as amended.

**HB 2709** be amended by adoption of the committee amendments, be further amended by motion of Senator Clark as amended by Senate Committee, on page 11, in line 7, before “K.S.A.” by inserting “section 4.”;

On page 17, after line 5, by inserting the following:

“New Sec. 4. (a) Grain contained in a public warehouse, including grain owned by the public warehouseman, is subject to a first priority lien in favor of outstanding receipt holders.

The lien created pursuant to this section shall be preferred to any lien or security interest in favor of any creditor of the public warehouseman regardless of the time when the creditor's lien or security interest attached to the grain. Notice of the lien created under this section need not be filed in order to perfect the lien. The lien created by this section is discharged as to grain sold by the public warehouseman to a buyer in the ordinary course of business. Such sale does not discharge the lien in favor of an individual receipt holder in the remaining grain in the public warehouse.

(b) As used in this section:

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

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

(3) "Receipt holder" means a person who:

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

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

Sec. 5. K.S.A. 2001 Supp. 84-9-201 is hereby amended to read as follows: 84-9-201. (a)

**General effectiveness.** Except as otherwise provided in the uniform commercial code, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

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

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

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

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

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

And by renumbering the remaining sections accordingly;

Also on page 17, in line 6, before “and” by inserting “, 84-9-201”;

In the title, in line 16, before “and” by inserting “, 84-9-201”;

Senator Vratil further amended **HB 2709** as amended by Senate Committee, on page 1, after line 19, by inserting the following:

“Section 1. K.S.A. 2001 Supp. 17-630 is hereby amended to read as follows: 17-630. Every mortgage or deed of trust, or satisfaction thereof, covering any real or personal property situated in this state, made to secure the payment of bonds issued or to be issued thereafter by any corporation which is an interstate gas pipeline company, or by any public utility as defined in K.S.A. 66-104 and amendments thereto except nothing herein shall apply to or affect railroad corporations, and every mortgage or deed of trust, or satisfaction thereof, covering any real or personal property situated in this state made to secure any indebtedness incurred under the rural electrification act of 1936, as amended (U.S. code, title 7, chapter 31), shall be executed and duly acknowledged and certified, as other instruments affecting real estate. Such mortgage or deed of trust, or satisfaction thereof shall be filed in the office of the secretary of state *accompanied by the form prescribed by K.S.A. 84-9-521(a), and amendments thereto, which must indicate in box 10 of the form that the instrument is filed in accordance with this section.* The secretary shall certify that the instrument has been filed in the secretary's office by endorsing upon the original signed

instrument the word "filed" and the date and hour of its filing. This endorsement is the "filing date" of the instrument and is conclusive of the date and time of its filing in the absence of actual fraud. The secretary of state shall thereupon file and index the endorsed instrument in accordance with part 5 of article 9 of the uniform commercial code, and amendments thereto. The instrument shall be effective upon the record until terminated and the secretary of state shall remove the record one year after termination. The filing of such instrument in the office of the secretary of state shall be notice to all persons of the contents thereof and to all subsequent purchasers and encumbrancers of the rights and interests of the parties thereto as to property described in the filed instrument and property acquired subsequent to the execution thereof if the instrument so provides. Notwithstanding any provision of law to the contrary, no other filing of any such instrument shall be necessary. Any such mortgage or deed of trust filed in the office of the register of deeds of any county in this state may be refiled in the office of the secretary of state in the manner provided in this section. Such refiling shall thereafter as to any property not previously released from such mortgage or deed of trust be of the same effect as if the instrument had been originally filed in the office of the secretary of state. *The secretary of state shall charge the same filing and information retrieval fees and credit the amounts in the same manner as financing statements filed under part 5 of article 9 of the uniform commercial code, and amendments thereto.*

Sec. 2. K.S.A. 58-244 is hereby amended to read as follows: 58-244. (a) To be perfected, the lien must have attached and the supplier entitled to the lien must have filed a lien-notification statement in the form provided for in K.S.A. 58-242, *and amendments thereto, accompanied by the form prescribed by K.S.A. 84-9-521(a), and amendments thereto, which must indicate in box 10 of the form that the lien is filed in accordance with this section,* with the appropriate filing office under K.S.A. ~~84-9-401~~ 84-9-501 and amendments thereto within 20 days after the last date that agricultural production input was furnished. A lien-notification statement filed pursuant to this section shall include the date which notice was mailed to the lender and a statement signed by the supplier indicating that the lender did not respond to the lien-notification statement.

(b) Subject to the provisions of subsection (d) of K.S.A. 58-242, *and amendments thereto,* a lien that is not perfected shall be entitled to the same priority as an unperfected security interest as determined by ~~K.S.A. 84-9-312~~ part 3 of article 9 of the uniform commercial code and amendments thereto.

(c) The filing officer shall file, index, amend, maintain, remove and destroy the lien-notification statement in the same manner as a financing statement filed under part ~~4~~ 5 of article 9 of the uniform commercial code *and amendments thereto.* The ~~secretary of state~~ *filing officer* shall charge the same filing and information retrieval fees and credit the amounts in the same manner as financing statements filed under part ~~4~~ 5 of article 9 of the uniform commercial code *and amendments thereto.*

Sec. 3. K.S.A. 66-1217 is hereby amended to read as follows: 66-1217. Any mortgage of real property or of both real property and personal property, including fixtures, or a security interest in fixtures alone, made by a corporation which is a railroad company as defined in K.S.A. 66-180, *and amendments thereto,* or a public utility as defined in K.S.A. 66-104, *and amendments thereto,* shall be recorded in the office of the register of deeds of the county or counties in which the real property is located, and when so recorded shall be a lien on the real property and fixtures described in the mortgage or security agreement from the time of recording ~~and~~. If the instrument so provides, *the instrument* shall be a lien on any real property and fixtures thereafter acquired subject to the mortgage or security agreement from the time of acquisition. If ~~said~~ *such* mortgage or security agreement includes personal property, a copy of ~~said~~ *such* mortgage or security agreement certified as true by the debtor or creditor, or an officer of either, shall also be filed with the secretary of state; ~~and when~~ *in accordance with part 5 of article 9 of the uniform commercial code and amendments thereto and accompanied by the form prescribed by K.S.A. 84-9-521(a), and amendments thereto, which must indicate in box 10 of the form that the lien is filed in accordance with this section.* When so filed *the mortgage or security agreement* shall be a lien on ~~said~~ *such* property described in ~~said~~ *such* mortgage or security agreement from the time of ~~said~~ *such* filing, and if the instrument so provides, shall be a lien on any property

thereafter acquired subject to the mortgage or security agreement from the time of acquisition ~~and~~. The lien thereon shall be enforceable in accordance with the laws of this state governing mortgages of real estate. No other recording or filing of any such instrument shall be necessary, notwithstanding the provisions of any other statute. *The instrument shall be effective upon the record until terminated and the filing officer shall remove the record one year after termination.*

Sec. 4. K.S.A. 66-1219 is hereby amended to read as follows: 66-1219. The secretary of state shall maintain a file for mortgages, security agreements, and releases thereof of railroads and public utilities filed pursuant to this act, ~~and he shall receive for such filing a fee of five dollars (§5).~~ *The secretary of state shall charge the same filing and information retrieval fees and credit the amounts in the same manner as financing statements filed under part 5 of article 9 of the uniform commercial code and amendments thereto.*

Sec. 5. K.S.A. 79-2616 is hereby amended to read as follows: 79-2616. (a) If a notice of federal lien, a refiling of a notice of federal lien or a notice of revocation of any certificate described in subsection (b) is presented to a filing officer who is:

(1) The secretary of state, the secretary shall cause the notice to be marked, held and indexed in accordance with ~~the provisions of subsection (4) of K.S.A. 84-9-403~~ *part 5 of article 9 of the uniform commercial code*, and amendments thereto, as if the notice were a financing statement within the meaning of the uniform commercial code, except the notice shall remain filed for 10 years from the date of filing, if the date of filing was on or after November 5, 1990, and liens filed prior to November 5, 1990, shall remain on file for a period of four years from the close of the preceding required refiling period; or

(2) any other officer described in K.S.A. 79-2614, and amendments thereto, the officer shall endorse thereon the officer's identification and the date and time of receipt and file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice; the date and time of receipt, the title and address of the official or entity certifying the lien and the total amount appearing on the notice of lien.

(b) If a certificate of release, nonattachment, discharge or subordination of any lien is presented to the secretary of state for filing, the secretary shall:

(1) Cause a certificate of release or nonattachment to be marked, held and indexed as if the certificate were a termination statement within the meaning of the uniform commercial code; and

(2) cause a certificate of discharge or subordination to be marked, held and indexed as if the certificate were a release of collateral within the meaning of the uniform commercial code.

(c) If a refiled notice of federal lien referred to in subsection (a) or any of the certificates or notices referred to in subsection (b) is presented for filing to any other filing officer specified in K.S.A. 79-2614, and amendments thereto, such officer shall enter the refiled notice or the certificate with the date of filing in any alphabetical lien index.

(d) Upon request of any person, the filing officer shall issue a certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed pursuant to this act or pursuant to the uniform federal tax lien registration act, K.S.A. 79-2608 *et seq.*, and amendments thereto, as it existed prior to the effective date of this act, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. ~~The fee for a certificate is \$5.~~ Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, ~~for a fee of \$.25 per page, unless the filing officer is the secretary of state, in which case, the fee shall be an amount fixed by the secretary of state and approved by the director of accounts and reports pursuant to K.S.A. 45-204, and amendments thereto.~~

Sec. 6. K.S.A. 79-2617 is hereby amended to read as follows: 79-2617. ~~The fee for filing and indexing each notice of lien or certificate or notice affecting the lien is:~~

~~(1) For a lien on real estate, \$5;~~

~~(2) for a lien on tangible and intangible personal property, \$5;~~

~~(3) for a certificate of discharge or subordination, \$5; and~~

~~(4) for all other notices, except for a certificate of release or nonattachment, \$2.~~ *The filing officer shall charge the same filing and information retrieval fees and credit the*

amounts in the same manner as financing statements filed under part 5 of article 9 of the uniform commercial code and amendments thereto.”;

And by renumbering sections accordingly;

On page 3, in line 12, after “include” by inserting “(i)”; in line 13, after “vessel” by inserting “or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card”;

On page 8, in line 34, before “means” by inserting “except as used in K.S.A. 2001 Supp. 84-9-310(c), and amendments thereto”;

On page 9, in line 15, after “Proceeds” by inserting “except as used in K.S.A. 2001 Supp. 84-9-609(b), and amendments thereto”;

On page 12, after line 29, by inserting the following:

“Sec. 8. K.S.A. 2001 Supp. 84-9-104 is hereby amended to read as follows: 84-9-104.

**Requirements for control.** (a) A secured party has control of a deposit account if:

(1) The secured party is the bank with which the deposit account is maintained;

(2) the debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the *deposit* account without further consent by the debtor; or

(3) the secured party becomes the bank’s customer with respect to the deposit account.

(b) **Debtor’s right to direct disposition.** A secured party that has satisfied subsection (a) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.”;

And by renumbering sections accordingly;

On page 14, after line 35, by inserting the following:

“Sec. 10. K.S.A. 2001 Supp. 84-9-306 is hereby amended to read as follows: 84-9-306.

(a) **Governing law: issuer’s issuer’s** or nominated person’s jurisdiction. Subject to subsection (c), the local law of the issuer’s jurisdiction or a nominated person’s jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer’s jurisdiction or nominated person’s jurisdiction is a state.

(b) **Issuer’s or nominated person’s jurisdiction.** For purposes of this part, an issuer’s jurisdiction or nominated person’s jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in K.S.A. 84-5-116 and amendments thereto.

(c) **When section not applicable.** This section does not apply to a security interest that is perfected only under K.S.A. 2001 Supp. 84-9-308(d) and amendments thereto.

Sec. 11. K.S.A. 2001 Supp. 84-9-311 is hereby amended to read as follows: 84-9-311.

(a) **Security interest subject to other law.** Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation, or treaty of the United States whose requirements for a security interest’s obtaining priority over the rights of a lien creditor with respect to the property preempt K.S.A. 2001 Supp. 84-9-310(a) and amendments thereto;

(2) any certificate-of-title law of this state covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on the certificate as a condition or result of perfection; or

(3) a certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the property.

(b) **Compliance with other law.** Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (d) and K.S.A. 2001 Supp. 84-9-313 and 84-9-316(d) and (e) and amendments thereto for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) **Duration and renewal of perfection.** Except as otherwise provided in subsection (d) and K.S.A. 2001 Supp. 84-9-316(d) and (e) and amendments thereto, duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(d) **Inapplicability to certain inventory.** During any period in which collateral *subject to a statute specified in subsection (a)(2)* is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling ~~or leasing~~ goods of that kind, this section does not apply to a security interest in that collateral created by that person ~~as debtor~~.

Sec. 12. K.S.A. 2001 Supp. 84-9-316 is hereby amended to read as follows: 84-9-316.

(a) **General rule: effect on perfection of change in governing law.** A security interest perfected pursuant to the law of the jurisdiction designated in K.S.A. 2001 Supp. 84-9-301(l) or 84-9-305(c) and amendments thereto remains perfected until the earliest of:

- (1) The time perfection would have ceased under the law of that jurisdiction;
- (2) the expiration of four months after a change of the debtor's location to another jurisdiction; or
- (3) the expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) **Security interest perfected or unperfected under law of new jurisdiction.** If a security interest described in subsection (a) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) **Possessory security interest in collateral moved to new jurisdiction.** A possessory security interest in collateral, other than goods covered by a certificate of title and as extracted collateral consisting of goods, remains continuously perfected if:

- (1) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;
- (2) thereafter the collateral is brought into another jurisdiction; and
- (3) upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) **Goods covered by certificate of title from this state.** Except as otherwise provided in subsection (e), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) **When subsection (d) security interests interest** becomes unperfected against purchasers. A security interest described in subsection (d) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under K.S.A. 2001 Supp. 84-9-311(b) or 84-9-313 and amendments thereto are not satisfied before the earlier of:

- (1) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or
- (2) the expiration of four months after the goods had become so covered.

(f) **Change in jurisdiction of bank, issuer, nominated person, securities intermediary, or commodity intermediary.** A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

- (1) The time the security interest would have become unperfected under the law of that jurisdiction; or

(2) the expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

(g) **Subsection (f) security interest perfected or unperfected under law of new jurisdiction.** If a security interest described in subsection (f) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Sec. 13. K.S.A. 2001 Supp. 84-9-317 is hereby amended to read as follows: 84-9-317.

(a) **Conflicting security interests and rights of lien creditors.** A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under K.S.A. 2001 Supp. 84-9-322 and amendments thereto; and

(2) except as otherwise provided in subsection (e), a person that becomes a lien creditor before the earlier of the time:

(A) The security interest or agricultural lien is perfected; or

(B) *on the conditions specified in K.S.A. 2001 Supp. 84-9-203 (b)(3) and amendments thereto, is met and a financing statement covering the collateral is filed.*

(b) **Buyers that receive delivery.** Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) **Lessees that receive delivery.** Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) **Licensees and buyers of certain collateral.** A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) **Purchase-money security interest.** Except as otherwise provided in K.S.A. 2001 Supp. 84-9-320 and 84-9-321 and amendments thereto, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

Sec. 14. K.S.A. 2001 Supp. 84-9-331 is hereby amended to read as follows: 84-9-331.

(a) **Rights under Articles 3, 7, and 8 not limited.** This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in articles 3, 7, and 8.

(b) **Protection under Article 8.** This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of ~~an~~ *adverse* a claim under article 8.

(c) **Filing not notice.** Filing under this article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (a) and (b).

Sec. 15. K.S.A. 2001 Supp. 84-9-334 is hereby amended to read as follows: 84-9-334.

(a) **Security interest in fixtures under this article.** A security interest under this article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this article in ordinary building materials incorporated into an improvement on land.

(b) **Security interest in fixtures under real-property law.** This article does not prevent creation of an encumbrance upon fixtures under real property law.

(c) **General rule: subordination of security interest in fixtures.** In cases not governed by subsections (d) through (h), a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) **Fixtures purchase-money priority.** Except as otherwise provided in subsection (h), a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

- (1) The security interest is a purchase-money security interest;
- (2) the interest of the encumbrancer or owner arises before the goods become fixtures; and
- (3) the security interest is perfected by a fixture filing before the goods become fixtures or within 20 days thereafter.

(e) **Priority of security interest in fixtures over interests in real property.** A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if: (1) The debtor has an interest of record in the real property or is in possession of the real property and the security interest:

- (A) Is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and
- (B) has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(2) before the goods become fixtures, the security interest is perfected by any method permitted by this article and the fixtures are readily removable:

- (A) Factory or office machines;
- (B) equipment that is not primarily used or leased for use in the operation of the real property; or
- (C) replacements of domestic appliances that are consumer goods;
- (3) the conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article; or

(4) the security interest is:

- (A) Created in a manufactured home in a manufactured-home transaction; and
- (B) perfected pursuant to a statute described in K.S.A. 2001 Supp. 84-9-311(a)(2) and amendments thereto.

(f) **Priority based on consent, disclaimer, or right to remove.** A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

- (1) The encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or
- (2) the debtor has a right to remove the goods as against the encumbrancer or owner.

(g) **Continuation of subsection (f) paragraph (f)(2) priority.** The priority of the security interest under ~~subsection (f) paragraph (f)(2)~~ continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) **Priority of construction mortgage.** A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (e) and (f), a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(i) **Priority of security interest in crops.** A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

(j) **Subsection (i) prevails.** Subsection (i) prevails over any inconsistent provisions of law of this state.



Sec. 16. K.S.A. 2001 Supp. 84-9-406 is hereby amended to read as follows: 84-9-406.

(a) **Discharge of account debtor; effect of notification.** Subject to subsections (b) through (i), an account debtor on an account, chattel paper, or a payment intangible may discharge the account debtor's obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge the account debtor's obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) **When notification ineffective.** Subject to subsection (h), notification is ineffective under subsection (a):

(1) If it does not reasonably identify the rights assigned;

(2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(3) at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) Only a portion of the account, chattel paper, or ~~general~~ payment intangible has been assigned to that assignee;

(B) a portion has been assigned to another assignee; or

(C) the account debtor knows that the assignment to that assignee is limited.

(c) **Proof of assignment.** Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) **Term restricting assignment generally ineffective.** Except as otherwise provided in subsection (e), K.S.A. 84-2a-303 and K.S.A. 2001 Supp. 84-9-407, and amendments thereto, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) **Inapplicability of subsection (d) to certain sales.** Subsection (d) does not apply to the sale of a payment intangible or promissory note.

(f) **Legal restrictions on assignment generally ineffective.** Except as otherwise provided in K.S.A. 84-2a-303 and K.S.A. 2001 Supp. 84-9-407 and amendments thereto, and subject to subsections (h) and (i), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) **Subsection (b)(3) not waivable.** Subject to subsection (h), an account debtor may not waive or vary its option under subsection (b)(3).

(h) **Rule for individual under other law.** This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) **Inapplicability to health-care-insurance receivable.** This section does not apply to an assignment of a health-care-insurance receivable.

(j) **Section prevails over specified inconsistent law.** This section prevails over any inconsistent provisions of any laws, rules, and regulations.

Sec. 17. K.S.A. 2001 Supp. 84-9-509 is hereby amended to read as follows: 84-9-509.

(a) **Person entitled to file record.** A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) The debtor authorizes the filing in an authenticated record *pursuant to subsection (b) or (c)*; or

(2) the person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) **Security agreement as authorization.** By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) The collateral described in the security agreement; and

(2) property that becomes collateral under K.S.A. 2001 Supp. 84-9-315(a)(2) and amendments thereto, whether or not the security agreement expressly covers proceeds.

(c) **Acquisition of collateral as authorization.** By acquiring collateral in which a security interest or agricultural lien continues under K.S.A. 2001 Supp. 84-9-315(a)(1) and amendments thereto, a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under K.S.A. 2001 Supp. 84-9-315(a)(2) and amendments thereto.

(d) **Person entitled to file certain amendments.** A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) The secured party of record authorizes the filing; or

(2) the amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by K.S.A. 2001 Supp. 84-9-513(a) or (c) and amendments thereto, the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) **Multiple secured parties of record.** If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d).

Sec. 18. K.S.A. 2001 Supp. 84-9-513 is hereby amended to read as follows: 84-9-513.

(a) **Consumer goods.** A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) the debtor did not authorize the filing of the initial financing statement.

(b) **Time for compliance with subsection (a).** To comply with subsection (a), a secured party shall cause the secured party of record to file the termination statement:

(1) Within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) if earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(c) **Other collateral.** In cases not governed by subsection (a), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(1) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) the financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) the financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) the debtor did not authorize the filing of the initial financing statement.

(d) **Effect of filing termination statement.** Except as otherwise provided in K.S.A. 2001 Supp. 84-9-510 and amendments thereto, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. *Except as otherwise provided in K.S.A. 2001 Supp. 84-9-510, and amendments thereto, for purposes of K.S.A. 2001 Supp. 84-9-519(g), K.S.A. 2001 Supp. 84-9-522(a), and K.S.A. 2001 Supp. 84-9-523(c), and amendments thereto, the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.*;

And by renumbering sections accordingly;

On page 15, after line 35, by inserting the following:

“Sec. 20. K.S.A. 2001 Supp. 84-9-525 is hereby amended to read as follows: 84-9-525.

~~(a)~~ **Initial financing statement or other record: general rule.** The fee for filing and indexing a record under this part shall be provided by the secretary of state.

Sec. 21. K.S.A. 2001 Supp. 84-9-608 is hereby amended to read as follows: 84-9-608.

(a) **Application of proceeds, surplus, and deficiency if obligation secured.** If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under ~~this section~~ *K.S.A. 2001 Supp. 84-9-607, and amendments thereto*, in the following order to:

(A) The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the secured party;

(B) the satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(C) the satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (1)(C).

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under ~~this section~~ *K.S.A. 2001 Supp. 84-9-607, and amendments thereto*, unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) **No surplus or deficiency in sales of certain rights to payment.** If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

Sec. 22. K.S.A. 2001 Supp. 84-9-613 is hereby amended to read as follows: 84-9-613.

Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) Describes the debtor and the secured party;

- (B) describes the collateral that is the subject of the intended disposition;
- (C) states the method of intended disposition;
- (D) states that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and
- (E) states the time and place of a public ~~sale~~ *disposition* or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in paragraph (1) are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in paragraph (1) are sufficient, even if the notification includes:

- (A) Information not specified by that paragraph; or
  - (B) minor errors that are not seriously misleading.
- (4) A particular phrasing of the notification is not required.
- (5) The following form of notification and the form appearing in K.S.A. 2001 Supp. 84-9-614(3) and amendments thereto, when completed, each provides sufficient information:

**NOTIFICATION OF DISPOSITION OF COLLATERAL**

To:

*Name of debtor, obligor, or other person to which the notification is sent*

From:

*Name, address, and telephone number of secured party*

Name of Debtor(s):

*Include only if debtor(s) are not an addressee*

*For a public disposition:*

We will sell [or lease or license, *as applicable*] the *describe collateral* [to the highest qualified bidder] in public as follows:

Day and Date:

Time:

Place:

*For a private disposition:*

We will sell [or lease or license, *as applicable*] the *describe collateral* privately sometime after; [*day and date*].

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell [or lease or license, *as applicable*] [for a charge of \$\_\_\_\_\_]. You may request an accounting by calling us at [*telephone number*].

Sec. 23. K.S.A. 2001 Supp. 84-9-615 is hereby amended to read as follows: 84-9-615.

(a) **Application of proceeds.** A secured party shall apply or pay over for application the cash proceeds of disposition *under K.S.A. 2001 Supp. 84-9-610, and amendments thereto*, in the following order to:

(1) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the secured party;

(2) the satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) the satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(A) The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

(B) in a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) a secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) **Proof of subordinate interest.** If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or

lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (a)(3).

(c) **Application of noncash proceeds.** A secured party need not apply or pay over for application noncash proceeds of disposition under ~~this section~~ *K.S.A. 2001 Supp. 84-9-610, and amendments thereto*, unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) **Surplus or deficiency if obligation secured.** If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) and permitted by subsection (c):

(1) Unless subsection (a)(4) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(2) the obligor is liable for any deficiency.

(e) **No surplus or deficiency in sales of certain rights to payment.** If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) The debtor is not entitled to any surplus; and

(2) the obligor is not liable for any deficiency.

(f) **Calculation of surplus or deficiency in disposition to person related to secured party.** The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(1) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(2) the amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(g) **Cash proceeds received by junior secured party.** A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(1) Takes the cash proceeds free of the security interest or other lien;

(2) is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(3) is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

Sec. 24. K.S.A. 2001 Supp. 84-9-625 is hereby amended to read as follows: 84-9-625.

(a) **Judicial orders concerning noncompliance.** If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) **Damages for noncompliance.** Subject to subsections (c), (d), and (f), a person is liable for damages in the amount of any loss caused by a failure to comply with this article. Loss caused by a failure to comply ~~with a request under K.S.A. 2001 Supp. 84-9-210 and amendments thereto~~ may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) **Persons entitled to recover damages; statutory damages in consumer-goods transaction.** Except as otherwise provided in K.S.A. 2001 Supp. 84-9-628 and amendments thereto:

(1) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) for its loss; and

(2) if the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus 10 percent of the principal amount of the obligation or the time-price differential plus 10 percent of the cash price.

(d) **Recovery when deficiency eliminated or reduced.** A debtor whose deficiency is eliminated under K.S.A. 2001 Supp. 84-9-626 and amendments thereto may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under K.S.A. 2001 Supp. 84-9-626 and amendments thereto may not otherwise recover under subsection (b) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(e) **Statutory damages: noncompliance with specified provisions.** In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover \$500 in each case from a person that:

- (1) Fails to comply with K.S.A. 2001 Supp. 84-9-208 and amendments thereto;
- (2) fails to comply with K.S.A. 2001 Supp. 84-9-209 and amendments thereto;
- (3) files a record that the person is not entitled to file under K.S.A. 2001 Supp. 84-9-509(a) and amendments thereto;
- (4) fails to cause the secured party of record to file or send a termination statement as required by K.S.A. 2001 Supp. 84-9-513(a) or (c) and amendments thereto;
- (5) fails to comply with K.S.A. 2001 Supp. 84-9-616(b)(1) and amendments thereto, and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or
- (6) fails to comply with K.S.A. 2001 Supp. 84-9-616(b)(2) and amendments thereto.

(f) **Statutory damages: noncompliance with K.S.A. 2001 Supp. 84-9-210 and amendments thereto.** A debtor or consumer obligor may recover damages under subsection (b) and, in addition, \$500 in each case from a person that, without reasonable cause, fails to comply with a request under K.S.A. 2001 Supp. 84-9-210 and amendments thereto. A recipient of a request under K.S.A. 2001 Supp. 84-9-210 and amendments thereto which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) **Limitation of security interest: noncompliance with K.S.A. 2001 Supp. 84-9-210 and amendments thereto.** If a secured party fails to comply with a request regarding a list of collateral or a statement of account under K.S.A. 2001 Supp. 84-9-210 and amendments thereto, the secured party may claim a security interest only as shown in the *list or statement* included in the request as against a person that is reasonably misled by the failure.

Sec. 25. K.S.A. 2001 Supp. 84-9-628 is hereby amended to read as follows: 84-9-628.

(a) **Limitation of liability to debtor or obligor of secured party for noncompliance with article.** Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

- (1) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this article; and
- (2) the secured party's failure to comply with this article does not affect the liability of the person for a deficiency.

(b) **Limitation of liability to debtor, obligor, another secured party, or lienholder based on status as secured party.** A secured party is not liable because of its status as secured party:

- (1) To a person that is a debtor or obligor, unless the secured party knows:
  - (A) That the person is a debtor or obligor;
  - (B) the identity of the person; and
  - (C) how to communicate with the person; or
- (2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:
  - (A) That the person is a debtor; and
  - (B) the identity of the person.

(c) **Limitation of liability if reasonable belief that transaction not a consumer-goods transaction or consumer transaction.** A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods

transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(1) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(2) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) **Limitation of liability for statutory damages.** A secured party is not liable to any person under K.S.A. 2001 Supp. 84-9-625(c)(2) and amendments thereto, for its failure to comply with K.S.A. 2001 Supp. 84-9-616 and amendments thereto.

(e) **Limitation of multiple liability for statutory damages.** A secured party is not liable under K.S.A. 2001 Supp. 84-9-625(c)(2) and amendments thereto, more than once with respect to any one secured obligation.

Sec. 26. K.S.A. 2001 Supp. 84-9-702 is hereby amended to read as follows: 84-9-702.

(a) **Pre-effective date transactions or liens.** Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act takes effect.

(b) **Continuing validity.** Except as otherwise provided in subsection (c) and K.S.A. 2001 Supp. 84-9-304 and 84-9-703 through 84-9-709 and amendments thereto:

(1) Transactions and liens that were not governed by former article 9, were validly entered into or created before this act takes effect, and would be subject to this act if they had been entered into or created after this act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this act takes effect; and

(2) the transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(c) **Pre-effective date proceedings.** This act does not affect an action, case, or proceeding commenced before this act takes effect.

Sec. 27. K.S.A. 2001 Supp. 84-9-705 is hereby amended to read as follows: 84-9-705.

(a) **Pre-effective date action; one-year perfection period unless reperfected.** If action, other than the filing of a financing statement, is taken before this act takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before this act takes effect, the action is effective to perfect a security interest that attaches under this act within one year after this act takes effect. An attached security interest becomes unperfected one year after this act takes effect unless the security interest becomes a perfected security interest under this act before the expiration of that period.

(b) **Pre-effective date filing.** The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.

(c) **Pre-effective date filing in jurisdiction formerly governing perfection.** This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in K.S.A. 84-9-103 prior to the effective date of this act. However, except as otherwise provided in subsections (d) and (e) and K.S.A. 2001 Supp. 84-9-706 and amendments thereto, the financing statement ceases to be effective at the earlier of:

(1) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(2) June 30, 2006.

(d) **Continuation statement.** The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in part 3, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(e) **Application of subsection (c)(2) to transmitting utility financing statement.** Subsection (c)(2) applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in K.S.A. 84-9-103 prior to the effective date of this act only to the extent that part 3 provides that the law of a jurisdiction other than *the* jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) **Application of Part 5.** A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of part 5 for an initial financing statement.

New Sec. 28. (a) **Pre-effective-date financing statement.** In this section, “pre-effective-date financing statement” means a financing statement filed before this act takes effect.

(b) **Applicable law.** After this act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in part 3. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) **Method of amending: general rule.** Except as otherwise provided in subsection (d), if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after this act takes effect only if:

(1) The pre-effective-date financing statement and an amendment are filed in the office specified in K.S.A. 2001 Supp. 84-9-501, and amendments thereto;

(2) an amendment is filed in the office specified in K.S.A. 2001 Supp. 84-9-501, and amendments thereto, concurrently with, or after the filing in that office of, an initial financing statement that satisfies K.S.A. 2001 Supp. 84-9-706(c), and amendments thereto;

or

(3) an initial financing statement that provides the information as amended and satisfies K.S.A. 2001 Supp. 84-9-706(c), and amendments thereto, is filed in the office specified in K.S.A. 2001 Supp. 84-9-501, and amendments thereto.

(d) **Method of amending: continuation.** If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under K.S.A. 2001 Supp. 84-9-705(d) and (f), and amendments thereto.

(e) **Method of amending: additional termination rule.** Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated after this act takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies K.S.A. 2001 Supp. 84-9-706(c), and amendments thereto, has been filed in the office specified by the law of the jurisdiction governing perfection as provided in part 3 as the office in which to file a financing statement.

Sec. 29. K.S.A. 2001 Supp. 84-1-105 is hereby amended to read as follows: 84-1-105.

(1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this act applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this act specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. K.S.A. 84-2-402 and amendments thereto.

Applicability of the article on leases. K.S.A. 84-2a-105 and 84-2a-106, and amendments thereto.

Applicability of the article on bank deposits and collections. K.S.A. 84-4-102 and amendments thereto.

Applicability of the article on investment securities. K.S.A. 84-8-110 and amendments thereto.



Governing law in the article on funds transfers. K.S.A. 84-4a-507 and amendments thereto.

Letters of credit. K.S.A. 84-5-116 and amendments thereto.

Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests *and agricultural liens*. K.S.A. 2001 Supp. 84-9-301 through 84-9-307 and amendments thereto.”;

And by renumbering sections accordingly;

On page 17, in line 6, after “4.” by inserting “K.S.A. 58-244, 66-1217, 66-1219, 79-2616 and 79-2617 and”; also in line 6, after “Supp.” by inserting “17-630, 84-1-105,”; also in line 6, after “84-9-102,” by inserting “84-9-104,”; also in line 6, by striking “and” and inserting “, 84-9-306, 84-9-311, 84-9-316, 84-9-317, 84-9-331, 84-9-334, 84-9-406, 84-9-509, 84-9-513,”; in line 7, after “84-9-515” by inserting “, 84-9-525, 84-9-608, 84-9-613, 84-9-615, 84-9-625, 84-9-628, 84-9-702 and 84-9-705”;

On page 1, in the title, in line 16, after “amending” by inserting “K.S.A. 58-244, 66-1217, 66-1219, 79-2616 and 79-2617 and”; also in line 16, after “Supp.” by inserting “17-630, 84-1-105,”; also in line 16, after “84-9-102,” by inserting “84-9-104,”; also in line 16, by striking “and” and inserting “, 84-9-306, 84-9-311, 84-9-316, 84-9-317, 84-9-331, 84-9-334, 84-9-406, 84-9-509, 84-9-513,”; in line 17, after “9-515” by inserting “, 84-9-525, 84-9-608, 84-9-613, 84-9-615, 84-9-625, 84-9-628, 84-9-702 and 84-9-705”, and **HB 2709** be passed as further amended.

**HB 2719** be amended by adoption of the committee amendments, be further amended by motion of Senator Brownlee as amended by Senate Committee, on page 8, following line 9, by inserting:

“Sec. 5. K.S.A. 2001 Supp. 72-6760 is hereby amended to read as follows: 72-6760. (a) *Except as provided by this section and section 6, and amendments thereto*, no expenditure involving an amount greater than \$10,000 for construction, reconstruction or remodeling or for the purchase of materials, goods or wares shall be made by the board of education of any school district except upon sealed proposals, and to the lowest responsible bidder.

(b) The provisions of subsection (a) do not apply to expenditures by a board of education for the purchase of:

- (1) Services;
- (2) products required to be purchased under the provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto;
- (3) educational materials directly related to curriculum and secured by copyright;
- (4) motor fuels required to provide or furnish transportation;
- (5) perishable foods and foodstuffs required for operation of a school lunch program;
- (6) articles or products that are produced, manufactured or provided by inmates under the prison-made goods act of Kansas;
- (7) natural gas that will be consumed in buildings owned or operated by the school district;
- (8) materials, goods or wares required for reconstructing, remodeling, repairing or equipping buildings when such purchase has been necessitated by the occurrence of a loss against which the board of education has purchased property or casualty insurance; and
- (9) materials, goods or wares which are purchased:
  - (A) From vendors who have entered into contracts with the state director of purchases pursuant to state purchasing statutes for purchases by state agencies; and
  - (B) under the same pricing provisions established in the state contracts, subject to agreement of the vendor to honor the state contract prices.

(c) Whenever the board of education of any school district lets bids for the purchase of materials, goods or wares and bids are submitted by bidders domiciled within the school district and by bidders domiciled outside the school district and the low bid is submitted by a bidder domiciled outside the school district, the school district domiciliary which submitted the lowest bid may be deemed the preferred bidder and awarded the bid if:

- (1) The quality, suitability and usability of the materials, goods or wares are equal;
- (2) the amount of the bid of the school district domiciliary is not more than 1% greater than the amount of the low bid; and

(3) the school district domiciliary agrees to meet the low bid by filing a written agreement to that effect within 72 hours after receiving notification of being deemed the preferred bidder.

(d) The provisions of subsection (c) do not apply to expenditures for construction, reconstruction or remodeling.

New Sec. 6. (a) Whenever the board of education of any school district is required to accept bids prior to the expenditure of money to purchase services, materials, goods or wares or whenever the board chooses to request the submission of bids prior to the expenditure of money to purchase services, materials, goods or wares, the board may utilize a reverse auctioning electronic procurement process for the purchase of such services, materials, goods or wares.

(b) Whenever the board of education of any school district is required to accept bids prior to the expenditure of money to purchase services, materials, goods or wares or whenever the board chooses to request the submission of bids prior to the expenditure of money to purchase services, materials, goods or wares, the board may utilize an on-line bidding process for the purchase of such services, materials, goods or wares.

(c) If a school district utilizes a reverse auctioning electronic process or an on-line bidding process authorized by this section, the provisions of any law requiring procedures for sealed bidding and the opening of bids shall not apply to such purchases.

(d) The provisions of this section shall not apply to expenditures in an amount greater than \$10,000 for construction, reconstruction or remodeling or to any expenditure to purchase real property.

(e) As used in this section:

(1) "Reverse auctioning" means a procurement process of where bidders are invited to bid on specific services, materials, goods or wares through real-time electronic bidding, with the award being made to the lowest responsible and responsive bidder; during the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for the bid opening; and

(2) "on-line bidding" means a procurement process in which a school district electronically receives bids for services, materials, goods or wares in a competitive bidding event.;

By renumbering sections accordingly;

Also on page 8, in line 11, following "Supp.," by inserting "72-6760,";

In the title, in line 13, following "state" by inserting "and school district"; in line 15, following "Supp.," by inserting "72-6760,"

Senator Huelskamp further amended **HB 2719** as amended by Senate Committee, on page 2, in line 31, after the period by inserting "In addition to the requirements of this section, any noncompetitive bid in excess of \$100,000 shall require the prior approval of the state finance council.", and **HB 2719** be passed as further amended.

**HB 2727** be amended by adoption of the committee amendments, be further amended by motion of Senator Feleciano as amended by Senate Committee, on page 5, by striking all of lines 7 through 43;

On page 6, by striking all of lines 1 through 5; and by renumbering sections accordingly;

On page 7, in line 38, by striking "15-123 and K.S.A.,";

On page 1, in the title, in line 12, by striking "15-123 and K.S.A."

Senator Jackson further amended **HB 2727** as amended by Senate Committee, on page 7, following line 37, by inserting new material to read as follows:

"Sec. 4. K.S.A. 24-128 is hereby amended to read as follows: 24-128. ~~The petition for transfer of territory from one drainage district to another shall be addressed to the board of county commissioners of the county in which the drainage districts affected are situated and shall describe the territory to be transferred by metes and bounds, or, if platted, by appropriate descriptions as lots or blocks or parts of lots or blocks, from what drainage district and to what drainage district such transfer is sought, that the proposed transfer has been recommended by each of the drainage districts affected by resolution duly adopted by the board of directors of each district, that the proposed transfer of territory will result in more efficient or more adequate protection of the territory described in the petition from overflow or damage and injury resulting therefrom, or will be conducive to the public health;~~

convenience and welfare. Such petition shall contain a prayer that the territory described therein be transferred from one drainage district named therein to another drainage district named therein. The petition for transfer of territory from one drainage district to another shall be addressed to the board of county commissioners of the county in which the drainage districts affected are situated. The petition shall:

(a) Describe the territory to be transferred by metes and bounds, or, if platted, by appropriate descriptions as lots or blocks or parts of lots or blocks;

(b) state from what drainage district and to what drainage district such transfer is sought;

(c) state that the proposed transfer has been recommended by at least one of the drainage districts affected by resolution duly adopted by the board of directors of such district;

(d) state that: (1) The proposed transfer of territory will result in more efficient or more adequate protection of the territory described in the petition from overflow or damage and injury resulting therefrom or will be conducive to the public health, convenience and welfare; or

(2) the district requesting the transfer of territory is obligated to operate or maintain one or more dikes, levees or other flood control works previously constructed by the United States army corps of engineers or other agencies of the United States government on the territory requested for transfer, which have been completed and turned over to the requesting drainage district for the purpose of maintaining and operating any dikes, levees or other flood control works heretofore or hereafter constructed for the purpose of protecting such drainage from floods.

(e) contain a prayer that the territory described in such petition be transferred from one drainage district named therein to another drainage district named therein; and

(f) contain any other information in support of the proposed transfer.

Sec. 5. K.S.A. 24-129 is hereby amended to read as follows: 24-129. Whenever a petition in conformity to K.S.A. 24-128, signed by the board of directors of both one or more of the affected drainage districts shall be presented to the board of county commissioners of the proper county, it shall be the duty of such board of county commissioners forthwith to fix a time for the hearing of such petition and to cause the county clerk to give notice thereof at least five (5) days before the date fixed for the hearing by one publication in some newspaper published and of general circulation in the county.

Sec. 6. K.S.A. 24-130 is hereby amended to read as follows: 24-130. At the time set for the hearing of the petition as provided in K.S.A. 24-129, it shall be the duty of the board of county commissioners to first ascertain and determine whether notice has been given of the time of hearing as required by this act, and, if it shall be determined that such notice has been given, to make a declaration and finding of that fact and cause the same to be entered upon its records, and thereupon to hear all persons in favor or opposed to granting the prayer of said petition and all other evidence that it may desire to hear for the purpose of ascertaining whether the statements in said petition are true, and if upon such hearing it shall be found that such petition is in conformity to the requirements of this act, and that the allegations thereof are true, then such board of county commissioners shall make a finding and decision to that effect, and shall thereupon declare the territories described in the petition to be detached from the one drainage district, naming it, and to be attached to the other drainage district, naming it, and shall fix the date that such transfer shall become effective, and if such board of county commissioners upon such hearing finds that such petition is not in conformity to this act or that the statements in such petition are not true or that said transfer should not be made then such board of county commissioners shall make a finding and decision to that effect and reject that petition. Such affirmative decision and order of the board of county commissioners may provide for the transfer of all or part of the territory described in the notice of hearing, but shall not include any territory not so described. (a) At the time set for the hearing of the petition as provided in K.S.A. 24-129, and amendments thereto, the board of county commissioners shall first ascertain and determine whether notice has been given of the time of hearing as required by this act. If the board of county commissioners determines that such notice has been given, the board of county commissioners shall make a written finding of that fact and commence a public hearing to determine whether the petition should be granted.

(b) At the hearing, the county commission shall take testimony from all persons interested in the proposed transfer of territory and any other evidence relevant to the issue.

(1) If the board of county commissioners, determines that the petition conforms to the requirements of this act, and that the allegations of the petition are true, then the board of county commissioners shall make a finding and decision to that effect. The decision shall declare the territories described in the petition to be detached from the one drainage district, naming it, and to be attached to the other drainage district, naming it, and fix the date that such transfer shall become effective.

(2) If the board of county commissioners finds that the petition does not conform to the requirements of this act, the statements in the petition are not true, or the proposed transfer should not be made, then the board of county commissioners shall make a finding and decision to that effect and reject such petition. An order of the board of county commissioners under this section may provide for the transfer of all or part of the territory described in the notice of hearing, but shall not include any territory not so described.

(c) Any decision of the board of county commissioners required by this section may be made by a majority of such board.”;

By renumbering the remaining sections accordingly;

Also on page 7, in line 38, by striking “15-123” and inserting “12-1926, 12-1927, 12-1928, 12-1935, 24-128, 24-129 and 24-130”;

On page 1, in the title, in line 12, following the semicolon, by inserting “relating to the transfer of territory from one drainage district to another;”; also in line 12, by striking “15-123” and inserting “12-1926, 12-1927, 12-1928, 24-128, 24-129 and 24-130”; in line 13, after “sections” by inserting “also repealing K.S.A. 12-1935”

Senator Brownlee further amended **HB 2727** as amended by Senate Committee, on page 7, following line 37, by inserting the following:

“Sec. 4. K.S.A. 12-1926 is hereby amended to read as follows: 12-1926. (a) Except as provided by ~~this section~~ subsection (c), recreation commissions shall consist of five members to be appointed as follows: (1) Upon the adoption of the provisions of this act by the city or school district acting independently, the governing body of such city or school district shall appoint four persons who are residents of the taxing district to serve as members of the recreation commission, the first appointee to serve for four years, the second for three years, the third for two years, and the fourth for one year, and the fifth member who also shall serve for four years shall be appointed by the four appointee members of such commission; or (2) upon the adoption of the provisions of this act by the city and school district acting jointly, the governing bodies each shall appoint two persons who are residents of the taxing district to serve as members of the recreation commission, and the persons so selected shall select one additional person, and all of such persons shall constitute the recreation commission.

Of the members of the commission first selected by the school district, one shall serve for a term of one year, and one for a term of four years; one of those first selected by the governing body of the city shall serve for a term of two years, and one for a term of three years. The additional member shall serve for a term of four years. Thereafter, the members of the commission shall be selected in the same manner as the member such person is succeeding and the term of office of each shall be four years. Any member of the recreation commission may be removed from the commission, by the appointing authority, for any cause which would justify removal of an appointive officer of the city or school district. Except for members first appointed to the commission, all commissioners not filling a vacancy shall hold office for a term of four years and until their successors are appointed and qualified. Whenever a vacancy occurs in the membership of the commission, a successor shall be selected to fill such vacancy in the same manner as and for the unexpired term of the member such person is succeeding. The commission shall elect a chairperson and secretary from their membership. The commissioners are hereby empowered to administer in all respects the business and affairs of the recreation system. The treasurer of the city or school district to which is certified the budget of the recreation commission shall serve as ex officio treasurer of the recreation commission. Such treasurer shall keep an accurate record of all money and property received and disbursed and shall make a report thereof

monthly to the commission, or as often as the commission requires. Members of the commission and the ex officio treasurer of the commission shall serve without compensation.

(b) Any recreation commission established pursuant to K.S.A. 12-1901 *et seq.*, and amendments thereto, prior to the effective date of this act may continue as constituted on the effective date of this act or may, upon a majority vote of the commissioners, reorganize into a five-member commission as provided by subsection (a). If the commission continues as constituted on the effective date of this act, upon the expiration of the term of a member, a person shall be appointed to the commission in the same manner as the member such person is succeeding. The term of office shall be four years. Whenever a vacancy occurs in the membership of the commission, a successor shall be selected to fill such vacancy in the same manner as and for the unexpired term of the member such person is succeeding.

(c) ~~From and after the effective date of this act, the Blue Valley recreation system established by the Blue Valley unified school district No. 229 shall be governed by a recreation commission consisting of seven members appointed by the board of education of such school district. There shall be at least two residents of each member district of such school district appointed to the recreation commission. The terms of office of members of the recreation commission serving prior to the effective date of this act shall expire on the effective date of this act, but such members shall continue to serve until their successors are appointed hereunder. Members of the recreation commission serving prior to the effective date of this act may be reappointed as provided by this subsection. Of the members first appointed to the commission after the effective date of this act: (1) One member shall be appointed for a term of one year, (2) two members shall be appointed for terms of two years, (3) two members shall be appointed for terms of three years, and (4) two members shall be appointed for terms of four years. Thereafter successors shall be appointed for terms of four years and until their successors are appointed and qualified. Members may be removed from the commission by the board of education. Vacancies shall be filled by appointment for the unexpired term.~~

*Any recreation commission having more than five members and established prior to July 1, 2002, may continue as constituted on June 30, 2002, or upon a majority vote of such commissioners, may reorganize into a five member district as provided in subsection (a). If a recreation commission having more than five members and established prior to July 1, 2002, continues as constituted on June 30, 2002, upon the expiration of the term of a member, a person shall be appointed to the recreation commission in the same manner as the member such person is succeeding. The term of office shall be four years. Whenever a vacancy occurs in the membership of a recreation commission, a successor shall be selected to fill such vacancy in the same manner as and for the unexpired term of the member such person is succeeding.*

Sec. 5. K.S.A. 12-1927 is hereby amended to read as follows: 12-1927. (a) ~~Except as provided by subsection (b)~~ The recreation commission shall prepare an annual budget for the operation of the recreation system. Prior to the certification of its budget to the city or school district, the recreation commission shall meet for the purpose of answering and hearing objections of taxpayers relating to the proposed budget and for the purpose of considering amendments to such proposed budget. The recreation commission shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper having a general circulation in the taxing district. Such notice shall include the proposed budget and shall set out all essential items in the budget except such groupings as designated by the director of accounts and reports on a special publication form prescribed by the director of accounts and reports and furnished with the regular budget form. The public hearing required to be held herein shall be held not less than 10 days prior to the date on which the recreation commission is required to certify its budget to the city or school district. After such hearing the budget shall be adopted or amended and adopted by the recreation commission. In order to provide funds to carry out the provisions of this act and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, the recreation commission shall annually, not later than August 1 of any year, certify its budget to such city or school district which shall levy a tax sufficient to raise the amount required by such budget on all the taxable tangible property within the taxing district. Each year a copy of the budget adopted by the recreation

commission shall be filed with the city clerk in the case of a city-established recreation system or with the clerk of the school district in the case of a school district-established recreation system or with the clerk of the taxing district in the case of a jointly established recreation system. A copy of such budget also shall be filed with the county clerk of the county in which the recreation system is located. If the recreation system is located in more than one county, a copy of the budget shall be filed with the clerk of the county in which the greater portion of the assessed valuation of the recreation system is located. The city or school district shall not be required to levy a tax in excess of the maximum tax levy set by the city or school district by current resolution. In the case of a new recreation commission established under the provisions of this act, such levy shall not be required to exceed one mill. Whenever the recreation commission determines that the tax currently being levied for the commission, as previously established by the city or school district, is insufficient to operate the recreation system and the commission desires to increase the mill levy above the current levy, the commission shall request that the city or school district authorize an increase by adopting a resolution declaring it necessary to increase the annual levy. The city or school district may authorize the increase by resolution, but such increase shall not exceed one mill per year. The maximum annual mill levy for the recreation commission general fund shall not exceed a total of four mills.

~~(b) Prior to adopting the budget pursuant to subsection (a), the Blue Valley recreation commission appointed by the Blue Valley unified school district No. 229 shall submit its proposed budget to the board of education of such school district. The school board either shall approve, or modify and approve, the proposed budget. The recreation commission shall adopt such budget as approved, or modified and approved, by the board.~~

~~(c)~~ Any resolution adopted under subsection (a) shall state the total amount of the tax to be levied for the recreation system and shall be published once each week for two consecutive weeks in the official newspaper of the taxing district. Whereupon, such annual levy in an amount not to exceed the amount stated in the resolution may be made for the ensuing budget year and each successive budget year unless a petition requesting an election upon the proposition to increase the tax levy in excess of the current tax levy, signed by at least 5% of the qualified voters of the taxing district, is filed with the county election officer within 30 days following the date of the last publication of the resolution. In the event a valid petition is filed, no such increased levy shall be made without such proposition having been submitted to and having been approved by a majority of the voters of the taxing district voting at an election called and held thereon. All such elections shall be called and held in the manner provided by the general bond law, and the cost of the election shall be borne by the recreation commission. Such taxes shall be levied and collected in like manner as other taxes, which levy the city or school district shall certify, on or before August 25 of each year, to the county clerk who is hereby authorized and required to place the same on the tax roll of the county to be collected by the county treasurer and paid over by the county treasurer to the ex officio treasurer of the recreation commission.

~~(c)~~ The tax levy provided in this section shall not be considered a levy of such city or school district under any of the statutes of this state, but shall be in addition to all other levies authorized by law and, with respect to any such levy made for the first time in 1989, shall not be subject to the provisions of K.S.A. 79-5021 *et seq.*, and amendments thereto.

~~(d)~~ (1) At any time after the making of the first tax levy pursuant to this act, the amount of such tax levy may be reduced by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection ~~(c)~~ (b). The authority of any recreation commission in existence on the effective date of this act or any recreation commission established under the provisions of this act to operate and conduct its activities, ~~other than the recreation commission appointed by the Blue Valley unified school district No. 229,~~ may be revoked in any year following the third year of its operation by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection ~~(c)~~ (b). If the petition submitted is for the purpose of reducing the mill levy, it shall state the mill levy reduction desired. Upon revocation, all property and money belonging to the recreation commission shall become the property of the taxing authority levying the tax for the commission, and the recreation commission shall

be dissolved. *In the event the authority of a recreation commission is revoked pursuant to this subsection, the taxing authority may continue to levy a tax in the manner prescribed by the petition language for the purpose of paying any outstanding obligations of the recreation commission which exist on the date such authority is revoked. The authority to levy a tax for this purpose shall continue only as long as such outstanding obligations exist.*

~~(2) In the event the authority of a recreation commission is revoked pursuant to this subsection, the taxing authority may continue to levy a tax in the manner prescribed in this section for the purpose of paying any outstanding obligations of the recreation commission which exist on the date such recreation commission is revoked. The authority to levy a tax for this purpose shall continue only as long as such outstanding obligations exist.~~

~~(3) If the recreation district whose authority is revoked owns any real property at the time of such revocation, title to such real property shall revert to the taxing authority.~~

~~(4) (e) All financial records of the recreation commission shall be audited as provided in K.S.A. 75-1122, and amendments thereto, and a copy of such annual audit report shall be filed with the governing body of the city or school district, or both, in the case of a jointly established recreation system. A copy of such audit also shall be filed with the county clerk of the county in which the recreation system is located. If the recreation system is located in more than one county, a copy of the budget shall be filed with the clerk of the county in which the greater portion of the assessed valuation of the recreation system is located. The cost of each audit shall be borne by the recreation commission.~~

Sec. 6. K.S.A. 12-1928 is hereby amended to read as follows: 12-1928. Every recreation commission appointed pursuant to this act shall have the power to:

- (a) Make and adopt rules and regulations for the operation of the recreation system;
- (b) conduct the activities of the recreation system on any property under its custody and management, or, with proper consent, on any other public property and upon private property with the consent of the owners;
- (c) receive any gift or donation from any source;
- (d) receive, accept and administer any money appropriated or granted to it by the state or federal government or any agency thereof;
- (e) purchase insurance. The city or school district to which the recreation commission certifies its budget shall levy an annual tax upon all taxable tangible property within the taxing district in an amount necessary to pay for insurance purchased for those purposes authorized by K.S.A. 75-6111, and amendments thereto, and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, except that no levy shall be made under this subsection which, when coupled with any levy made pursuant to subsection (j), is in excess of one mill without the approval of the city or school district. Taxes levied pursuant to this subsection shall be in addition to all other taxes authorized or limited by K.S.A. 12-1927, and amendments thereto, or any other provisions of law;
- (f) sue and be sued;
- (g) enter contracts;
- (h) enter lease agreements for real and personal property. The term of any such lease shall not exceed 10 years. Any such lease agreement shall be subject to the approval of the city or school district to which the recreation commission certifies its budget;
- (i) employ a superintendent of recreation and any other employees which may be necessary for proper operation of the recreation system;
- (j) create and establish employee benefits contribution funds for the purpose of paying the employer's share of any employee benefits, exclusive of any salaries, wages or other direct payments to such employees, as may be prescribed in the resolution creating such funds. The recreation commission may receive and place in such funds any moneys from any source whatsoever which may be lawfully utilized for the purposes stated in the resolution creating such funds, including the proceeds of tax levies authorized by law for such purposes. The city or school district to which is certified the budget of any recreation commission which has established employee benefits contribution funds pursuant to this subsection shall levy an annual tax upon all taxable tangible property within the taxing district in an amount determined by the recreation commission to be necessary for the purposes for which such funds were created and to pay a portion of the principal and interest on

bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, except that no levy shall be made under this subsection which, when coupled with any levy made pursuant to subsection (e), is in excess of one mill without the approval of the city or school district. Taxes levied pursuant to this subsection shall be in addition to all other taxes authorized or limited by K.S.A. 12-1927, and amendments thereto, or any other provisions of law. For the purposes of this subsection, employee benefits shall include social security as provided by subsection (c) of K.S.A. 40-2305, and amendments thereto, workers' compensation as provided by K.S.A. 44-505c, and amendments thereto, unemployment compensation as provided by K.S.A. 44-710a, and amendments thereto, health insurance and retirement benefits;

(k) acquire title to personal property by purchase, bequest, gift or other donation and acquire title to real property by devise, gift or other donation. ~~No real property may be purchased by the recreation commission appointed by the Blue Valley unified school district No. 229 without first obtaining the approval of the board of education of such school district. Whenever property owned by a recreation commission is sold, the proceeds shall be used for recreation purposes; and~~

(l) *make improvements for recreation system purposes; and*

(~~l~~) (m) perform any other acts necessary to carry out the provisions of this act.”;

And by renumbering the remaining sections accordingly;

Also on page 7, in line 38, after “K.S.A.” by inserting “12-1926, 12-1927, 12-1928, 12-1935 and”;

On page 1, in the title, in line 12, after the semicolon by inserting “relating to the recreation district established by the Blue Valley unified school district no. 229;”; also in line 12, after “K.S.A.” by inserting “12-1926, 12-1927, 12-1928 and”; in line 13, after “sections” by inserting “; also repealing K.S.A. 12-1935”, and **HB 2727** be passed as further amended.

**S Sub for HB 2230** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator O'Connor on page 1, in line 42, after “thereto” by inserting “, except that the court may determine the child to not be a child in need of care if the court finds that the child is not attending school due to circumstances that include, but are not limited to, threats directed toward such child, fear of personal safety or the presence of an environment that causes the child to be frightened”;

On page 2, in line 1, after “thereto” by inserting “, except that the court may determine the child to not be a child in need of care if the court finds that the child is not attending school due to circumstances that include, but are not limited to, threats directed toward such child, fear of personal safety or the presence of an environment that causes the child to be frightened”, and **S Sub for HB 2230** be passed as amended.

**S Sub for HB 2831** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Oleen on page 1, in line 25, by striking all after the semicolon; following line 25, by inserting:

“(4) any state officer; and”;

Also on page 1, in line 26, by striking “(4)” and inserting “(5)”; following line 31, by inserting:

“(d) “State officer” shall mean the governor, attorney general, secretary of state, state treasurer and insurance commissioner of the state of Kansas.

(e) “Native American Indian tribes” shall mean federally-recognized Native American Indian tribes.

(f) “Gaming compact” shall mean a gaming compact as defined by K.S.A. 46-2301, and amendments thereto.”;

On page 2, following line 10, by inserting:

“(c) Any public agency may enter into agreements with Native American Indian tribes for joint or cooperative actions. Such agreements shall be considered to be an interlocal agreement and shall be subject to the procedures and limitations of the interlocal cooperation act.

The provisions of this subsection shall not be construed as authorizing a public agency to enter into a gaming compact pursuant to the interlocal cooperation act.”;

By relettering subsections (c) through (f) as subsections (d) through (g), respectively;



Also on page 2, in line 23, by striking “(c)” and inserting “(d)”

Senator Lyon amended **S Sub for HB 2831** on page 1, in line 33, by striking “Any” and inserting “Subject to the limitations of subsection (g), any”;

On page 3, following line 10, by inserting:

“(g) An interlocal agreement shall not authorize or enable a public agency to purchase a private business concern.”, and **S Sub for HB 2831** be passed as amended.

**SB 607** be passed over and retain a place on the calendar.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Thursday, March 28, 2002.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

