

Journal of the Senate

FIFTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 28, 2002—9:30 a.m.

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

Heavenly Father,

The teams that reach the final four
Everybody would agree
Did not get to where they are
With Mediocrity.

But he keeps on trying hard
To put the brakes on me;
He loves to see me falter,
He's Mediocrity.

He exploits my weaknesses,
It's clear for all to see.
He hold me back and puts me down,
This Mediocrity.

Just when I think I've shaken loose
And started running free,
Who becomes my stumbling block
But Mediocrity.

Lord, fill me with Your love and power
So I'll no longer be
Kept short of my potential
By Mediocrity.

Help me pull out all the stops
To become all that I can be,
And not be content to live
In Mediocrity.

I pray in the Name of Christ,
AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Ways and Means: **HB 2743**.

CHANGE OF REFERENCE

The President withdrew **HB 2091** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Assessment and Taxation.

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

March 26, 2002

As required by SCR 1610, Janet Schalansky, Secretary, Department of Social and Rehabilitation Services, and Albert Murray, Commissioner, Juvenile Justice Authority, submitted a report on the study of reimbursement rates to various residential facilities to the Joint Committee on Corrections and Juvenile Justice Oversight.

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

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1831—

A RESOLUTION congratulating and commending the Shawnee Heights High School boys basketball team and Coach Craig Cox for winning the 2002 Class 5A State Basketball Championship.

WHEREAS, The Shawnee Heights High School boys basketball team won the 2002 Kansas State High School Activities Association Class 5A State Basketball Championship with a thrilling 66 to 52 victory over McPherson High School in the state championship game at the Expocentre in Topeka on March 9, thereby becoming state champions twice in the past three years; and

WHEREAS, The Shawnee Heights High School "T-Birds" basketball team finished the season with a record of 20 wins and 5 losses; and

WHEREAS, The members of this championship team are: Anthony Giordono, Marcus Miller, Gary Woodland, A.J. Maxwell, John Meissner, Clint Mayer, T.J. Finan, Chris Torrez, Matt Mitchell, Shawn Phillips, Edward Maltos and Ben Martin; and the coaches are head coach Craig Cox and assistant coaches Alan Dean and Jim Wagner; and

WHEREAS, Gary Woodland, the T-Birds' senior star guard who scored 26 points in the championship game, was named as a member of the all city, all league, all state for class 5A and all state for all classes teams by the Topeka Capital-Journal newspaper. He was also named as the all city and league co-player of the year. John Meissner was named to the all city 2nd team, the all league first team and all state for class 5A 3rd team. Chris Torrez was named to the all city 2nd team, all league first team and all state for class 5A 2nd team. Marcus Miller was honorable mention for all city, and all league and all state for class 5A, and was named to the league all defensive team; and

WHEREAS, The members of this outstanding basketball team have received statewide recognition for their fine sportsmanship and athletic abilities; and

WHEREAS, The success of this team is due to its excellent teamwork, strong competitive spirit and determination to win. The team also has had the enthusiastic support of the school's administrators, the faculty, the students, the players' parents and many area citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Shawnee Heights High School boys basketball team and Coach Cox be congratulated and commended for winning the 2002 Kansas State High School Activities Association Class 5A State Basketball Championship; and

Be it further resolved: That the Secretary of the Senate be directed to send 20 enrolled copies of this resolution to Warren Watson, Principal, Shawnee Heights High School, 4201 S.E. Shawnee Heights Road, Tecumseh, Kansas 66542-9794.

On emergency motion of Senator Hensley **SR 1831** was adopted unanimously.

Senator Hensley introduced and congratulated team members Anthony Giordono, Marcus Miller, Gary Woodland, A.J. Maxwell, John Meissner, Clint Mayer, T.J. Finan, Chris Torrez, Matt Mitchell, Shawn Phillips, Edward Maltos and Ben Martin; head coach Craig Cox and assistant coach Jim Wagner. Accompanying them was Rep. Roger Toelkes.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

SB 643, An act concerning the secretary of health and environment; abolishing the state board of cosmetology and transferring the powers, duties and functions thereof to the secretary of health and environment; concerning cosmetology and permanent color technology, tattooing and body piercing; concerning the transfer of certain powers, duties and functions to the secretary of health and environment; amending K.S.A.39-938, 65-1,148, 65-1920 and 65-1925 and K.S.A. 2001 Supp. 65-1901, 65-1902, 65-1903, 65-1904, 65-1904a, 65-1904b, 65-1905, 65-1907, 65-1908, 65-1909, 65-1912, 65-1926, 65-1940, 65-1941, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1951, 65-1954, 65-1955, 74-2701 and 75-3717 and repealing the existing sections; also repealing K.S.A. 2000 Supp. 65-1940, as amended by section 6 of chapter 193 of the 2001 Session Laws of Kansas, 65-1941, as amended by section 7 of chapter 193 of the 2001 Session Laws of Kansas, 65-1943, as amended by section 8 of chapter 193 of the 2001 Session Laws of Kansas, 65-1944, as amended by section 9 of chapter 193 of the 2001 Session Laws of Kansas, 65-1945, as amended by section 10 of chapter 193 of the 2001 Session Laws of Kansas, 65-1946, as amended by section 11 of chapter 193 of the 2001 Session Laws of Kansas, 65-1947, as amended by section 12 of chapter 193 of the 2001 Session Laws of Kansas, 65-1948, as amended by section 13 of chapter 193 of the 2001 Session Laws of Kansas, 65-1949, as amended by section 14 of chapter 193 of the 2001 Session Laws of Kansas, 65-1950, as amended by section 15 of chapter 193 of the 2001 Session Laws of Kansas, 65-1951, as amended by section 16 of chapter 193 of the 2001 Session Laws of Kansas, 65-1954, as amended by section 17 of chapter 193 of the 2001 Session Laws of Kansas, 74-2701, as amended by section 19 of chapter 193 of the 2001 Session Laws of Kansas and section 21 of chapter 193 of the 2001 Session Laws of Kansas, by Committee on Ways and Means, was considered on final action, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Barone, Feleciano, Gilstrap, Gooch, Hensley, Lee.

The bill passed, as amended.

S Sub HB 2230, An act concerning the Kansas code for care of children; relating to children not attending school; dispositions; amending K.S.A. 38-1501 and 38-1563 and K.S.A. 2001 Supp. 38-1502 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 32, Nays 8, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Brownlee, Gooch, Harrington, Huelskamp, Lyon, O'Connor, Pugh, Tyson.

The substitute bill passed, as amended.

HB 2372, An act concerning the board of behavioral sciences; marriage and family therapists and psychologists; amending K.S.A. 2000 Supp. 65-6406 and 74-5310 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.

HB 2639, An act concerning mortgage guaranty insurance companies; relating to the requirements on authorized real estate security; amending K.S.A. 40-3502 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, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelkamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Lee.

The bill passed.

Sub HB 2686, An act concerning solid waste; relating to certain industrial waste; amending K.S.A. 2001 Supp. 65-3407, 65-3415b and 65-3415f 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, Huelkamp, 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, as amended.

HB 2697, An act concerning civil procedure for limited actions; amending K.S.A. 2001 Supp. 61-2910 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, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelkamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Pugh.

The bill passed, as amended.

HB 2708, An act concerning the Johnson county park and recreation district; relating to the acquisition of property and the issuance of bonds; amending K.S.A. 19-2874 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, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Jenkins, Jordan, Kerr, Lee, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Lyon, Tyson.

The bill passed.

HB 2709, An act concerning the uniform commercial code; relating to secured transactions; amending K.S.A. 58-244, 66-1217, 66-1219, 79-2616 and 79-2617 and K.S.A. 2001 Supp. 17-630, 84-1-105, 84-9-102, 84-9-104, 84-9-109, 84-9-201, 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, 84-9-515, 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 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, Huelkamp, 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 2719, An act concerning certain governmental procedures; relating to state and school district purchasing procedures; repealing the Kansas performance review act; amending K.S.A. 75-3738 and 75-3740 and K.S.A. 2001 Supp. 72-6760, 75-3739 and 75-3739a and repealing the existing sections; also repealing K.S.A. 75-7101, 75-7102, 75-7103, 75-7104, 75-7105 and 75-7107, 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, Huel-skamp, 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 2723, An act relating to manufactured homes and mobile homes; amending K.S.A. 58-4204 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, Huel-skamp, 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 2727, An act concerning certain local units of government; relating to the powers and duties of the governing body thereof; relating to the transfer of territory from one drainage district to another; relating to the recreation district established by the Blue Valley unified school district no. 229; amending K.S.A. 12-1926, 12-1927, 12-1928, 24-128, 24-129 and 24-130 and K.S.A. 2001 Supp. 19-2765 and 19-4004 and repealing the existing sections; also repealing K.S.A. 12-1935, 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, Huel-skamp, 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 2771, An act concerning civil procedure for limited actions; concerning garnishment; relating to methods of service of process; concerning telefacsimile communications and internet electronic mail; amending K.S.A. 2001 Supp. 61-3003 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, Huel-skamp, 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.

S Sub HB 2831, An act concerning the interlocal agreement act; relating to the powers and duties of public agencies thereunder; amending K.S.A. 12-2903 and 12-2904 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, Huel-

skamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Tyson.

The substitute bill passed, as amended.

HB 2900. An act authorizing the state board of regents to sell and convey certain real property located in Riley county, Kansas, for and on behalf of Kansas state university; prescribing disposition of the proceeds thereof, 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.

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 Wagle in the chair.

The committee report on **SB 634** recommending a **Sub SB 634** be adopted, and the substitute bill be passed.

HB 2662 be amended by adoption of the committee amendments, and the bill be passed as amended.

Sub SB 614 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Brownlee on page 3, after line 1, by inserting:

“(4) Not more than \$10,000,000 shall be paid from the KUSF to the state treasurer pursuant to this subsection (f) in any one fiscal year.

(5) The provisions of this subsection (f) shall expire on June 30, 2005. Thereafter, state general fund moneys shall be used to fund the KAN-ED network.”, and **Sub SB 614** be passed as amended.

HB 2802 be amended by adoption of the committee amendments.

The Committee rose and reported progress (see Committee of the Whole, afternoon session).

On motion of Senator Oleen, the Senate recessed until 1:00 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with President Kerr in the chair.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2647**; **Substitute HB 2653**; **HB 2795**, **HB 2933**, **HB 2982**.

Adoption of **Substitute HCR 5037**.

Passage of **SB 391**, **SB 416**, **SB 490**.

Also, passage of **SB 395**, as amended, **SB 400**, as amended, **SB 430**, as amended by **House Substitute for SB 430**; **SB 437**, as amended; **Substitute SB 545**, as amended, **SB 551**, as amended; **SB 586**, as amended; **SB 605**, as amended by **House Substitute for SB 605**.

The House concurs in Senate amendments to **HB 2821**.

The House nonconcurrs in Senate amendments to **HB 2078** and requests a conference and has appointed Representatives O'Neal, Loyd and Pauls as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **Senate Substitute for HB 2621** and requests a conference and has appointed Representatives Wilk, Neufeld and Shriver as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2624** and requests a conference and has appointed Representatives Freeborn, Sloan and Flora as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2772** and requests a conference and has appointed Representatives O'Neal, Loyd and Pauls as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2781** and requests a conference and has appointed Representatives Ray, Campbell and Gilbert as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 392** and has appointed Representatives O'Neal, Loyd and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 439** and has appointed Representatives Lane, P. Long and Ruff as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2647; Substitute HB 2653; HB 2795; HB 2933; HB 2982; Substitute HCR 5037 were thereupon introduced and read by title.

ORIGINAL MOTION

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2624**.

The President appointed Senators Tyson, Taddiken and Lee as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2772**.

The President appointed Senators Vratil, Schmidt and Goodwin as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2781**.

The President appointed Senators Allen, Schmidt and Gilstrap as conferees on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2091**, as amended by Senate Committee, be further amended on page 2, by striking all in lines 4 through 43;

On page 3, by striking all in lines 1 through 15 and inserting the following:

"Section 1. K.S.A. 79-3271 is hereby amended to read as follows: 79-3271. As used in this act, unless the context otherwise requires: (a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations, except that for taxable years commencing after December 31, 1995, a taxpayer may elect that all income derived from the acquisition, management, use or disposition of tangible or intangible property constitutes business income. The election shall be effective and irrevocable for the taxable year of the election and the following nine taxable years. The election shall be binding on all members of a unitary group of corporations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, ~~investment company~~; or any type of insurance company, but such term shall not be deemed to include any business entity, other than those hereinbefore

enumerated, whose primary business activity is making consumer loans or purchasing retail installment contracts from one or more sellers.

(e) “Nonbusiness income” means all income other than business income.

(f) “Public utility” means any business entity which owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, oil, oil products or gas.

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

~~(g)~~ (h) “Sales” means all gross receipts of the taxpayer not allocated under K.S.A. 79-3274 through 79-3278, and amendments thereto.

~~(h)~~ (i) “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

~~(i)~~ (j) “Telecommunications company” means any business entity or unitary group of entities whose primary business activity is the transmission of communications in the form of voice, data, signals or facsimile communications by wire or fiber optic cable.

~~(j)~~ (k) “Distressed area taxpayer” means a corporation which: (1) Is located in a county which has a population of not more than 45,000 persons and which, as certified by the department of commerce and housing, has sustained an adverse economic impact due to the closure of a state hospital in such county pursuant to the recommendations of the hospital closure commission; and (2) which has a total annual payroll of \$20,000,000 or more for employees employed within such county.

(l) *For the purposes of this subsection and subsection (b)(5) of K.S.A. 79-3279, and amendments thereto, the following terms are defined:*

(1) “Administration services” include clerical, fund or shareholder accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial, internal auditing, legal and tax services performed for an investment company;

(2) “distribution services” include the services of advertising, servicing, marketing, underwriting or selling shares of an investment company, but, in the case of advertising, servicing or marketing shares, only where such service is performed by a person who is, or in the case of a closed end company, was, either engaged in the services of underwriting or selling investment company shares or affiliated with a person who is engaged in the service of underwriting or selling investment company shares. In the case of an open end company, such service of underwriting or selling shares must be performed pursuant to a contract entered into pursuant to 15 U.S.C. §80a-15(b), as in effect on the effective date this act;

(3) “Investment company”, means any person registered under the federal Investment Company Act of 1940, as in effect on the effective date of this act, or a company which would be required to register as an investment company under such act except that such person is exempt to such registration pursuant to §80a-3(c)(1) of such act;

(4) “investment funds service corporation” includes any corporation or S corporation headquartered in and doing business in this state which derives more than 50% of its gross income from the provision of management, distribution or administration services to or on behalf of an investment company or from trustees, sponsors and participants of employee benefit plans which have accounts in an investment company;

(5) “management services” include the rendering of investment advice to an investment company making determinations as to when sales and purchases of securities are to be made on behalf of the investment company, or the selling or purchasing of securities constituting assets of an investment company, and related activities, but only where such activity or activities are performed:

(A) Pursuant to a contract with the investment company entered into pursuant to 15 U.S.C. §80a-15(a), in effect on the effective date of this act; or

(B) for a person that has entered into such contract with the investment company;

(6) “qualifying business income” is business income derived from the provision of management, distribution or administration services to or on behalf of an investment company

or from trustees, sponsors and participants of employee benefit plans which have accounts in an investment company; and

(7) "residence" is the fund shareholder's primary residence or principal place of business.

Sec. 2. K.S.A. 79-3279 is hereby amended to read as follows: 79-3279. (a) All business income of railroads and interstate motor carriers of persons or property for-hire shall be apportioned to this state by multiplying the business income by a fraction, in the case of railroads, the numerator of which is the freight car miles in this state and the denominator of which is the freight car miles everywhere, and, in the case of interstate motor carriers, the numerator of which is the total number of miles operated in this state and the denominator of which is the total number of miles operated everywhere.

(b) All business income of any other taxpayer shall be apportioned to this state by one of the following methods:

(1) By multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three; or

(2) at the election of a qualifying taxpayer, by multiplying the business income by a fraction, the numerator of which is the property factor plus the sales factor, and the denominator of which is two.

(A) For purposes of this subsection (b)(2), a qualifying taxpayer is any taxpayer whose payroll factor for a taxable year exceeds 200% of the average of the property factor and the sales factor. Whenever two or more corporations are engaged in a unitary business and required to file a combined report, the ~~percentage~~ *fraction* comparison provided by this subsection (b)(2) shall be calculated by using the payroll factor, property factor and sales factor of the combined group of unitary corporations.

(B) An election under this subsection (b)(2) shall be made by including a statement with the original tax return indicating that the taxpayer elects to apply the apportionment method under this subsection (b)(2). The election shall be effective and irrevocable for the taxable year of the election and the following nine taxable years. The election shall be binding on all members of a unitary group of corporations. Notwithstanding the above, the secretary of revenue may upon the request of the taxpayer, grant permission to terminate the election under this subsection (b)(2) prior to expiration of the ten-year period.

(3) At the election of a qualifying telecommunications company, by multiplying the business income by a fraction, the numerator of which is the information carrying capacity of wire and fiber optic cable available for use in this state, and the denominator of which is the information carrying capacity of wire and fiber optic cable available for use everywhere during the tax year.

(A) For purposes of this subsection (b)(3), a qualifying telecommunications company is a telecommunications company that is a qualifying taxpayer under paragraph (A) of subsection (b)(2).

(B) A qualifying telecommunications company shall make the election under this subsection (b)(3) in the same manner as provided under paragraph (B) of subsection (b)(2).

(4) At the election of a distressed area taxpayer, by multiplying the business income by the sales factor. The election shall be made by including a statement with the original tax return indicating that the taxpayer elects to apply this apportionment method. The election may be made only once, it must be made on or before December 31, 1999 and it shall be effective for the taxable year of the election and the following nine taxable years for so long as the taxpayer maintains the payroll amount prescribed by subsection (j) of K.S.A. 79-3271.

(5) *At the election of the taxpayer made at the time of filing of the original return, the qualifying business income of any investment funds service corporation organized as a corporation or S corporation which maintains its primary headquarters and operations or is a branch facility that employs at least 100 individuals in this state and has any investment company fund shareholders resided in this state shall be apportioned to this state as provided in this subsection, as follows:*

(A) *By multiplying the investment funds service corporation's qualifying business income from administration, distribution and management services provided to each investment company by a fraction, the numerator of which shall be the average of the number of*

shares owned by the investment company's fund shareholders resided in this state at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year, and the denominator of which shall be the average of the number of shares owned by the investment company's fund shareholders everywhere at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year.

(B) A separate computation shall be made to determine the qualifying business income from each fund of each investment company. The qualifying business income from each investment company shall be multiplied by the fraction calculated pursuant to paragraph (A) for each fund of such investment company.

(C) The qualifying portion of total business income of an investment funds service corporation shall be determined by multiplying such total business income by a fraction, the numerator of which is the gross receipts from the provision of management, distribution and administration services to or on behalf of an investment company, and the denominator of which is the gross receipts of the investment funds service company. To the extent an investment funds service corporation has business income that is not qualifying business income, such business income shall be apportioned to this state pursuant to subsection (b)(1).

(D) For tax year 2002, the tax liability of an investment funds service corporation that has elected to apportion its business income pursuant to paragraph (5) shall be increased by an amount equal to 50% of the difference of the amount of such tax liability if determined pursuant to subsection (b)(1) less the amount of such tax liability determined with regard to paragraph (5).

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

New Sec. 3. A taxpayer seeking to make the election available pursuant to subsection (b)(5) of K.S.A. 79-3279, and amendments thereto, shall only be eligible to make such election if the taxpayer maintains or exceeds the number of employees in existence at the time the taxpayer first makes such an election.

New Sec. 4. For all taxable years commencing after December 31, 2002, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act who is engaged in a manufacturing business listed in sector 32621 of the North American Industry Classification System, United States 2002 edition as in effect on January 1, 2002, an amount equal to 20% of the property tax levied for property tax year 2003, 25% of the property tax levied for property tax year 2004, 30% of the property tax levied for property tax year 2005, 35% of the property tax levied for property tax year 2006, and 40% of the property tax levied for property tax year 2007, and all such years thereafter, actually and timely paid during an income taxable year upon commercial and industrial machinery and equipment classified for property taxation purposes pursuant to section 1 of article 11 of the Kansas constitution in subclass (5) of class 2. If the amount of such tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount thereof which exceeds such tax liability shall be refunded to the taxpayer. If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners or members

account for their proportionate shares of the income or loss of the corporation, partnership or limited liability company. No taxpayer shall be eligible to claim a credit pursuant to this section for any taxable year to which this section applies unless the taxpayer as of December 31 of the taxable year for which a credit is claimed has maintained or exceeded the number of employees in existence on January 1, 2002. Any taxpayer claiming a credit pursuant to this section shall not be allowed a credit pursuant to K.S.A. 2001 Supp. 79-32,206, and amendments thereto.

New Sec. 5. The provisions of sections 1 through 3 of this act shall be applicable to all taxable years commencing after December 31, 2001.

Sec. 6. K.S.A. 79-3271 and 79-3279 are hereby repealed.”;

In the title, in line 18, after the semicolon by inserting “concerning the apportionment of business income of certain investment funds service companies;”; in line 19, by striking all after “K.S.A.” and inserting “79-3271 and 79-3279 and repealing the existing sections.”; and the bill be passed as amended.

Committee on **Commerce** recommends **HB 2729** be amended on page 10, after line 26, by inserting the following:

“Unless provided by regulations to the contrary, on or after January 1, 2004, any insurer, group-funded workers compensation pool or self-insured employer who voluntarily submits claim information to the director pursuant to release 1 of the international association of industrial accident boards and commission’s electronic data interchange implementation guide dated August 9, 1995, and amendments thereto, up to April 1, 2002, shall be deemed to be in compliance.”;

On page 11, after line 10, by inserting the following:

“Sec. 6. K.S.A. 2001 Supp. 44-510i is hereby amended to read as follows: 44-510i. (a) The director shall appoint, subject to the approval of the secretary, a specialist in health services delivery, who shall be referred to as the medical administrator. The medical administrator shall be a person licensed to practice medicine and surgery in this state and shall be in the unclassified service under the Kansas civil service act.

(b) The medical administrator, subject to the direction of the director, shall have the duty of overseeing the providing of health care services to employees in accordance with the provisions of the workers compensation act, including but not limited to:

(1) Preparing, with the assistance of the advisory panel, the fee schedule for health care services as set forth in this section;

(2) developing, with the assistance of the advisory panel, the utilization review program for health care services as set forth in this section;

(3) developing a system for collecting and analyzing data on expenditures for health care services by each type of provider under the workers compensation act; and

(4) carrying out such other duties as may be delegated or directed by the director or secretary.

(c) The director shall prepare and adopt rules and regulations which establish a schedule of maximum fees for medical, surgical, hospital, dental, nursing, vocational rehabilitation or any other treatment or services provided or ordered by health care providers and rendered to employees under the workers compensation act and procedures for appeals and review of disputed charges or services rendered by health care providers under this section;

(1) The schedule of maximum fees shall be reasonable, shall promote health care cost containment and efficiency with respect to the workers compensation health care delivery system, and shall be sufficient to ensure availability of such reasonably necessary treatment, care and attendance to each injured employee to cure and relieve the employee from the effects of the injury. The schedule shall include provisions and review procedures for exceptional cases involving extraordinary medical procedures or circumstances and shall include costs and charges for medical records and testimony.

(2) In every case, all fees, transportation costs, charges under this section and all costs and charges for medical records and testimony shall be subject to approval by the director and shall be limited to such as are fair, reasonable and necessary. The schedule of maximum fees shall be revised as necessary at least every two years by the director to assure that the schedule is current, reasonable and fair.

(3) Any contract or any billing or charge which any health care provider, vocational rehabilitation service provider, hospital, person or institution enters into with or makes to any patient for services rendered in connection with injuries covered by the workers compensation act or the fee schedule adopted under this section, which is or may be in excess of or not in accordance with such act or fee schedule, is unlawful, void and unenforceable as a debt.

(d) There is hereby created an advisory panel to assist the director in establishing a schedule of maximum fees as required by this section. The panel shall consist of the commissioner of insurance and ~~seven~~ *eight* members appointed as follows: One person shall be appointed by the Kansas medical society; one member shall be appointed by the Kansas association of osteopathic medicine; one member shall be appointed by the Kansas hospital association; one member shall be appointed by the Kansas chiropractic association; *one member shall be appointed by the Kansas physical therapy association*; and three members shall be appointed by the secretary. Of the members appointed by the secretary, one shall be a representative of employers recommended to the secretary by the Kansas chamber of commerce and industry; one shall be a representative of employees recommended to the secretary by the Kansas AFL-CIO; and one shall be a representative of providers of vocational rehabilitation services pursuant to K.S.A. 44-510g and amendments thereto. Each appointed member shall be appointed for a term of office of two years which shall commence on July 1 of the year of appointment. Members of the advisory panel attending meetings of the advisory panel, or attending a subcommittee of the advisory panel authorized by the advisory panel, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

(e) All fees and other charges paid for such treatment, care and attendance, including treatment, care and attendance provided by any health care provider, hospital or other entity providing health care services, shall not exceed the amounts prescribed by the schedule of maximum fees established under this section or the amounts authorized pursuant to the provisions and review procedures prescribed by the schedule for exceptional cases. With the exception of the rules and regulations established for the payment of selected hospital inpatient services under the diagnosis related group prospective payment system, a health care provider, hospital or other entity providing health care services shall be paid either such health care provider, hospital or other entity's usual and customary charge for the treatment, care and attendance or the maximum fees as set forth in the schedule, whichever is less. In reviewing and approving the schedule of maximum fees, the director shall consider the following:

(1) The levels of fees for similar treatment, care and attendance imposed by other health care programs or third-party payors in the locality in which such treatment or services are rendered;

(2) the impact upon cost to employers for providing a level of fees for treatment, care and attendance which will ensure the availability of treatment, care and attendance required for injured employees;

(3) the potential change in workers compensation insurance premiums or costs attributable to the level of treatment, care and attendance provided; and

(4) the financial impact of the schedule of maximum fees upon health care providers and health care facilities and its effect upon their ability to make available to employees such reasonably necessary treatment, care and attendance to each injured employee to cure and relieve the employee from the effects of the injury.

Sec. 7. K.S.A. 44-510k is hereby amended to read as follows: 44-510k. (a) At any time after the entry of an award for compensation, the employee may make application for a hearing, in such form as the director may require for the furnishing of medical treatment. Such post-award hearing shall be held by the assigned administrative law judge, in any county designated by the administrative law judge, and the judge shall conduct the hearing as provided in K.S.A. 44-523 and amendments thereto. The administrative law judge can make an award for further medical care if the administrative law judge finds that the care is necessary to cure or relieve the effects of the accidental injury which was the subject of the underlying award. No post-award benefits shall be ordered without giving all parties to the award the opportunity to present evidence, including taking testimony on any disputed

matters. A finding with regard to a disputed issue shall be subject to a full review by the board under subsection (b) of K.S.A. 44-551 and amendments thereto. Any action of the board pursuant to post-award orders shall be subject to review under K.S.A. 44-556 and amendments thereto.

(b) Any application for hearing made pursuant to this section shall receive priority setting by the administrative law judge, only superseded by preliminary hearings pursuant to K.S.A. 44-534a and amendments thereto. The parties shall meet and confer prior to the hearing pursuant to this section, but a prehearing settlement conference shall not be necessary. The administrative law judge shall have authority to award medical treatment relating back to the entry of the underlying award, but in no event shall such medical treatment relate back more than six months following the filing of such application for post-award medical treatment. Reviews taken under this section shall receive priority settings before the board, only superseded by reviews for preliminary hearings. A decision shall be rendered by the board within 30 days from the time the review hereunder is submitted.

(c) The administrative law judge may award attorney fees and costs on the claimant's behalf consistent with subsection (g) of K.S.A. 44-536 and amendments thereto. *As used in this subsection, "costs" include, but are not limited to, witness fees, mileage allowances, any costs associated with reproduction of documents that become a part of the hearing record, the expense of making a record of the hearing and such other charges as are by statute authorized to be taxed as costs.*

Sec. 8. K.S.A. 44-523 is hereby amended to read as follows: 44-523. (a) The director, administrative law judge or board shall not be bound by technical rules of procedure, but shall give the parties reasonable opportunity to be heard and to present evidence, insure the employee and the employer an expeditious hearing and act reasonably without partiality.

(b) Whenever a party files an application for hearing pursuant to K.S.A. 44-534 and amendments thereto, the matter shall be assigned to an administrative law judge for hearing and the administrative law judge shall set a terminal date to require the claimant to submit all evidence in support of the claimant's claim no later than 30 days after the first full hearing before the administrative law judge and to require the respondent to submit all evidence in support of the respondent's position no later than 30 days thereafter. An extension of the foregoing time limits shall be granted if all parties agree. An extension of the foregoing time limits may also be granted:

- (1) If the employee is being paid temporary or permanent total disability compensation;
- (2) for medical examination of the claimant if the party requesting the extension explains in writing to the administrative law judge facts showing that the party made a diligent effort but was unable to have a medical examination conducted prior to the submission of the case by the claimant but then only if the examination appointment was set and notice of the appointment sent prior to submission by the claimant; or
- (3) on application for good cause shown.

(c) When all parties have submitted the case to an administrative law judge for an award, the administrative law judge shall issue an award within 30 days. The administrative law judge shall not stay a decision due to the absence of a submission letter. When the award is not entered in 30 days, any party to the action may notify the director that an award is not entered and the director shall assign the matter to an assistant director or to a special administrative law judge who shall enter an award forthwith based on the evidence in the record, or the director, on the director's own motion, may remove the case from the administrative law judge who has not entered an award within 30 days following submission by the party and assign it to an assistant director or to a special administrative law judge for immediate decision based on the evidence in the record.

(d) Not less than 10 days prior to the first full hearing before an administrative law judge, the administrative law judge shall conduct a prehearing settlement conference for the purpose of obtaining stipulations from the parties, determining the issues and exploring the possibility that the parties may resolve those issues and reach a settlement prior to the first full hearing.

(e) (1) *If a party or a party's attorney believes that the administrative law judge to whom a case is assigned cannot afford that party a fair hearing in the case, the party or attorney may file a motion for change of administrative law judge. A party or a party's*

attorney shall not file more than one motion for change of administrative law judge in a case. The administrative law judge shall promptly hear the motion informally upon reasonable notice to all parties who have appeared in the case. Notwithstanding the provisions of K.S.A. 44-552, and amendments thereto, the administrative law judge shall decide, in the administrative law judge's discretion, whether or not the hearing of such motion shall be taken down by a certified shorthand reporter. If the administrative law judge disqualifies the administrative law judge's self, the case shall be assigned to another administrative law judge by the director. If the administrative law judge refuses to disqualify the administrative law judge's self, the party seeking a change of administrative law judge may file in the district court of the county in which the accident occurred the affidavit provided in subsection (e)(2). If an affidavit is to be filed in the district court, it shall be filed within 10 days.

(2) If a party or a party's attorney files an affidavit alleging any of the grounds specified in subsection (e)(3), the chief judge shall at once determine, or refer the affidavit to another district court judge for prompt determination of, the legal sufficiency of the affidavit. If the affidavit is filed in a district court in which there is no other judge who is qualified to hear the matter, the chief judge shall at once notify the departmental justice for the district and request the appointment of another district judge to determine the legal sufficiency of the affidavit. If the affidavit is found to be legally sufficient, the district court judge shall order the director to assign the case to another administrative law judge or to an assistant director.

(3) Grounds which may be alleged as provided in subsection (e)(2) for change of administrative law judge are that:

(A) The administrative law judge has been engaged as counsel in the case prior to the appointment as administrative law judge.

(B) The administrative law judge is otherwise interested in the case.

(C) The administrative law judge is related to either party in the case.

(D) The administrative law judge is a material witness in the case.

(E) The party or party's attorney filing the affidavit has cause to believe and does believe that on account of the personal bias, prejudice or interest of the administrative law judge such party cannot obtain a fair and impartial hearing. Such affidavit shall state the facts and the reasons for the belief that bias, prejudice or an interest exists.

(4) In any affidavit filed pursuant to subsection (e)(2), the recital of previous rulings or decisions by the administrative law judge on legal issues or concerning prior motions for change of administrative law judge filed by counsel or such counsel's law firm, pursuant to this subsection, shall not be deemed legally sufficient for any believe that bias or prejudice exists.”;

By renumbering sections accordingly;

On page 11, after “44-510b,” by inserting “44-510k, 44-523,”; in line 12, after “44-508” by inserting “and 44-510i”;

In the title, in line 10, after “510b,” by inserting “44-510k, 44-523,”; also in line 10, after “44-508” by inserting “and 44-510i”; and the bill be passed as amended.

Also **Substitute for HB 2872** be amended on page 1, in line 35, by striking “until such applicant's” and inserting “on or before their”;

On page 5, in line 35, by striking all after “New Sec. 10.”; by striking all of lines 36 through 43, and inserting the following:

“Financing of the workforce development loan program act shall be from moneys made available from the Kansas department of human resources received from the United States department of labor and the Kansas department of social and rehabilitation services received from the United States department of health and human services in accordance with the provisions of this section and in accordance with and subject to the provisions of Kansas appropriation acts.

The Kansas department of human resources shall provide funding for the purpose of this act which shall be limited to the use of federal department of labor workforce investment act funds which are returned to the state as unspent local WIA program year adult, youth and dislocated worker funds. Such unspent funds shall be converted to and identified as state-level set-aside funds for use in carrying out activities as provided under this act. The annual amount of such funds shall not exceed \$500,000. The WIA set-aside funds shall be made available subject to the written approval from the United States department of labor

authorizing the use of such for the purpose of this act and appropriated by the United States congress. Funding for this act by the Kansas department of human resources shall be contingent on the availability of WIA funding and shall terminate on or before the final WIA authorization date of June 30, 2005. Due to restrictions placed on the transfer of unspent federal funds to the state treasury and the need for timely disbursement of federal funds for WIA expenditures, the Kansas department of human resources shall develop in cooperation with the Kansas board of regents, a system for the reimbursement of actual expenses incurred pursuant to this act. Such reimbursement procedures shall be in compliance with acceptable federal department of labor and office of management and budget procedures established for the draw down and disbursement of federal WIA funds.

The secretary of the department of social and rehabilitation services shall cooperate in the administration of the workforce development loan program act which may be funded with the \$500,000 which is to be contributed annually by the Kansas department of social and rehabilitation services in accordance with and subject to the provisions of appropriation acts. When there is a candidate that appears to meet the eligibility guidelines for federal funding administered by the Kansas department of social and rehabilitation services, the Kansas board of regents shall notify the Kansas department of social and rehabilitation services. Upon the Kansas department of social and rehabilitation service's approval of the candidate's eligibility, the director of accounts and reports shall transfer funding from the appropriate federal source as identified by the Kansas department of social and rehabilitation services to the Kansas state treasurer. All receipts and interest collected from repayments of federal funds transferred under the authority of this section shall be returned to the director of accounts and reports for deposit to the originating federal funding source.; and the substitute bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 654** be amended on page 1, in line 22, by striking "either"; also in line 22, by striking "the rates effective June 1, 1994, or"; in line 23, by striking "defined" and inserting "authorized"; also in line 23, by striking "40-1113c" and inserting "40-955";

On page 2, following line 16, by inserting the following:

Sec. 2. K.S.A. 2001 Supp. 44-585 is hereby amended to read as follows: 44-585. (a) Premium contributions to the pool shall be based upon appropriate manual classification and rates, plus or minus applicable experience credits or debits, and minus any advance discount approved by the trustees, not to exceed 15% of manual premium. The pool must use rules, classifications and rates as promulgated by an approved rating organization and must report premium and loss data to a rating organization. Such rates shall ~~either be the rates effective June 1, 1994, or~~ the prospective loss costs, as ~~defined~~ *authorized* in K.S.A. 40-955, and amendments thereto, plus expenses necessary to administer the pool. For purposes of subsection (b) the prospective loss costs shall be presumed to be the 70% required to be deposited in the claims fund. If the pool has been in operation for more than five years, the board of trustees may determine such rates as approved by the commissioner.

(b) At least 70% of the annual premium shall be placed into a designated depository for the sole purpose of paying claims. If so approved by the commissioner of insurance, the annual premium to be designated to such depository may be determined to be the net amount of premium after all or a portion of the specific and aggregate excess insurance premium costs have been paid. This shall be called the claims fund account. The remaining annual premium shall be placed into a designated depository for the payment of taxes, fees and administrative costs. This shall be called the administrative fund account. If a pool has been in operation for more than five years, the commissioner may authorize allocation of a different amount to the claims fund account, if solvency of the pool would not be endangered.

(c) At the end of a fund year or any time thereafter, the trustees may declare a refund of any surplus moneys for the fund year in excess of the amount necessary to fulfill all obligations under the workers compensation act for that fund year. Such refund shall not be distributed, in whole or in part, less than 12 months after the end of the fund year for which the refund was declared. After receipt from the pool of the notice of declared refund and satisfactory evidence that sufficient funds remain on deposit for the payment of all outstanding claims and expenses, including incurred but not reported claims, the commis-

sioner shall approve distribution of the declared refund. Any such refund shall be paid only to those employers who remained participants in the pool for an entire year. Payment of previously earned refunds shall not be contingent on continued membership in the pool.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 17, by striking “is” and inserting “and K.S.A. 2001 Supp. 44-585 are”;

On page 1, in the title, in line 10, after “12-2621” by inserting “and K.S.A. 2001 Supp. 44-585”; also in line 10, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Judiciary** recommends **Substitute for HB 2469** be amended on page 4, in line 21, by striking “to be appointed”; in line 32, by striking “or” and inserting a comma; also in line 32, after “association” by inserting “or any other investment account that the court may authorize”;

On page 27, in line 43, after “The” by inserting “nominee of the”;

On page 28, in line 3, after “(3)” by inserting “the nominee of”; also in line 3, after “if” by inserting “the minor is”; in line 5, before “spouse” by inserting “nominee of the”; in line 7, after “the” by inserting “nominee of the”;

On page 38, in line 38, by striking “strive to meet the following goals: Become” and inserting “become”;

On page 41, in line 3, by striking “in the following order of priority” and inserting “except”; in line 4, by striking “Except in” and inserting “In”; in line 7, by striking “except”; in line 20, by striking all after “(C)”; by striking all in lines 21 and 22; in line 23, by striking “court” and inserting “in the circumstances where the ward’s treating physician shall certify in writing to the guardian that the ward is in a persistent vegetative state or is suffering from an illness or other medical condition for which further treatment, other than for the relief of pain, would not likely prolong the life of the ward other than by artificial means, nor would be likely to restore to the ward any significant degree of capabilities beyond those the ward currently possesses, and which opinion is concurred in by either a second physician or by any medical ethics or similar committee to which the health care provider has access established for the purposes of reviewing such circumstances and the appropriateness of any type of physician’s order which would have the effect of withholding or withdrawing life-saving or life sustaining medical care, treatment, services or procedures”;

On page 42, in line 12, by striking “for”; in line 13, by striking “good cause shown”;

On page 44, in line 4, after “59-2946” by inserting “, subsection (b)(3) of K.S.A. 2001 Supp. 59-29b49”;

On page 46, in line 12, after “59-2946” by inserting “, subsection (b)(3) of K.S.A. 2001 Supp. 59-29b49”;

On page 50, in line 31, by striking “for good cause shown”;

On page 53, in line 10, by striking “and”; in line 11, after “(5)” by inserting “if the provisions of the trust will provide for the authority to terminate the trust during the lifetime of the conservatee or ward, that such provisions shall preclude the exercise thereof if such termination of the trust will disqualify the conservatee or ward from being eligible for any governmental benefits; and

(6)”;

Also on page 53, in line 14, after “if” by inserting “such reimbursement was ever”; in line 15, after “then” by inserting “any remaining balance”; in line 16, by striking “to” and inserting “as follows”; by striking all in lines 17 through 31 and inserting the following:

“(A) To the conservator, if the termination occurs during the lifetime of the conservatee and the conservatorship remains open, or to the guardian, if the termination occurs during the lifetime of the ward and the guardianship remains open, or to the conservatee or ward, in the event the conservatorship or guardianship has been terminated

and the conservatee or ward restored to capacity; or

(B) if the termination of the trust occurs by virtue of the conservatee’s or ward’s death, as follows: (i) If a testamentary power of appointment was granted to the conservatee or ward in the trust instrument, pursuant to the conservatee’s or ward’s valid exercise of such testamentary power of appointment which specifically references such power of appoint-

ment; or (ii) in the absence of any such power of appointment or to the extent such power was not validly exercised by the conservatee or ward over the entirety of the trust assets, to: (a) The devisees and legatees the trustee determines would have otherwise received such trust assets, and in the manner they would have received it, under the provisions of the conservatee's or ward's last will and testament had such last will and testament been admitted to probate and the trust assets constituted a portion of the conservatee's or ward's estate; (b) in the absence of a valid duly probated last will and testament of the conservatee or ward, the persons who would have received such trust assets, and in the manner they would receive it, under the intestacy laws of the state of residence of the conservatee or ward at the time of the death of the conservatee or ward had such trust assets constituted a portion of the estate of the conservatee or ward; or (c) the duly appointed representative of the estate of the conservatee or ward, then the court may grant to the conservator or guardian the authority to establish such a trust and to transfer specified property or assets from the conservatee's or ward's estate to the trust. The court shall order the conservator or guardian to report any such transfer within the conservator's or guardian's next accounting as required by section 34, and amendments thereto."; and the substitute bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2703**, as amended by House Committee, be amended on page 3, in line 15, following the semicolon by inserting "furniture and appliances from which ozone depleting chlorofluorocarbons have been removed in accordance with the provisions of the federal clean air act;"; in line 30, by striking all after "a"; by striking all of lines 31 through 43;

On page 4, by striking all of lines 1 through 3 and by inserting "permitted solid waste disposal area used exclusively for the disposal on land of construction and demolition wastes. This term shall not include a site that is used exclusively for the disposal of clean rubble.";

On page 4, after line 42, by inserting the following:

"New Sec. 2. When the department determines through scientific analysis and demonstration that a construction and demolition landfill has or can reasonably be expected to cause harm to the waters of the state, the department may require any future phases at such landfill to utilize a compacted soil liner and may require the owner or the operator of the landfill to take appropriate response actions including, without limitation, any one or more of the following: Groundwater monitoring, groundwater remediation, methane gas collection or orderly closure of any phase of such landfill which has been the source of the release.";

By renumbering the remaining sections accordingly; and the bill be passed as amended.

REPORT ON ENROLLED BILLS

SCR 1622 reported correctly enrolled, properly signed and presented to the Secretary of State on March 28, 2002.

COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole for further consideration of bills on the calendar under the heading of General Orders with Senator Wagle in the chair.

On motion of Senator Wagle the following report was adopted:

The Committee resumed consideration of **HB 2802**, as amended by adoption of the committee amendments in the morning session.

The Committee recommended **HB 2802** be passed as amended.

SB 650; HB 2399, HB 2763, HB 2799, HB 2808, HB 2879, HB 2901 be passed.

The Committee considered **HB 2741**.

Senator Hensley moved to amend **HB 2741** by striking all following the enacting clause and inserting:

"Section 1. In accordance with section 2 of article 2 of the constitution of the state of Kansas, the state of Kansas is divided into 40 single member state senatorial districts. Such districts are reapportioned in accordance with section 1 of article 10 of the constitution of the state of Kansas.

Sec. 2. (a) As used in sections 1 through 43, and amendments thereto, “voting district,” “tract,” “block group” or “block” means, respectively, a voting district (VTD), tract, block group or block identified on the official United States 2000 decennial census maps.

(b) Voting districts, tracts, block groups and blocks are referred to in sections 1 through 43, and amendments thereto, by the alphanumeric code by which they are identified on the official United States 2000 decennial census maps and data lists.

(c) The boundaries of counties, voting districts, tracts, block groups and blocks referred to in sections 1 through 43, and amendments thereto, are those boundaries as they exist and are identified on the official United States 2000 decennial census maps.

Sec. 3. (a) If a county, voting district, tract, block group or block is not included within a senatorial district established by this act, such county, voting district, tract, block group or block shall be attached to the state senatorial district to which it is contiguous and, if contiguous to more than one state senatorial district, it shall be attached to the contiguous state senatorial district which has the least total population.

(b) If a county, voting district, tract, block group or block is included in two or more state senatorial districts established by this act, such county, voting district, tract, block group or block shall be attached to and become a part of the state senatorial district which has the least total population.

Sec. 4. Senatorial district 1 shall consist of all of Atchison county; and all of Brown county; and all of Doniphan county; and all of Jackson county; and all of Pottawatomie county.

Sec. 5. Senatorial district 2 shall consist of the following voting districts in Douglas county: (000010), (000030), (00006A), (00006B), (00006C), (00006D), (000080), (000090), (000130), (000140), (000150), (000160), (000170), (000180), (000200), (000210), (000220), (000230), (000240), (000250), (000270), (000280), (000290), (000300), (000310), (000320), (000330), (000340), (000350), (000360), (000370), (000380), (000400), (000410), (000420), (000430), (00044A), (000450), (000460), (000470), (00052A), (00052B), (00053A), (00053B), (000540), (000560), (000570), (000580), (00061D), (00067A), (00067B).

Sec. 6. Senatorial district 3 shall consist of the following voting districts in Douglas county: (000020), (000040), (000050), (00007A), (00007B), (00007C), (00010A), (00010B), (00010C), (00010D), (000110), (00012A), (00012B), (000190), (000260), (00044B), (00044C), (00044D), (00044E), (00048A), (00048B), (00048C), (00048D), (00049A), (00049B), (00050A), (00050B), (00050C), (00050D), (000600), (00061A), (00061B), (00061C), (000620), (000630), (000640), (000650), (000660); and all of Jefferson county; and the following voting districts in Leavenworth county: (000010), (000020), (000030), (000040), (000050), (000060), (000070), (000310), (000320), (000350), (000360), (000370), (000380), (000390).

Sec. 7. Senatorial district 4 shall consist of the following voting districts in Wyandotte county: (000090), (000100), (000110), (000120), (000130), (000140), (000150), (000160), (000170), (000180), (000190), (000200), (000210), (000220), (000230), (000240), (000250), (000260), (000270), (000280), (000290), (000300), (000310), (000320), (000330), (000340), (000350), (000360), (000380), (000400), (000680), (000690), (000710), (000720), (000730), (000760), (000770), (000850), (000860), (000870), (000880), (000890), (000900), (000910), (000920), (000930), (000940), (000950), (000960), (000970), (000980), (000990), (001000), (001010), (001020), (001030), (001040), (001050), (001060), (001070), (001080), (001090), (001100), (001310), (001320), (001330), (001340), (001350), (001360), (001370), (001380), (001390), (001400), (001420), (001430), (001440), (001470), (001480), (001490), (001500).

Sec. 8. Senatorial district 5 shall consist of the following voting districts in Leavenworth county: (000080), (000090), (000100), (000110), (000120), (000130), (000140), (000150), (000160), (00017A), (00017B), (00017C), (00017D), (00017E), (00017F), (00017G), (00017H), (00017I), (000180), (00019A), (00019B), (00019C), (000200), (000210), (000220), (000230), (000240), (000250), (000260), (00027A), (00027B), (000280), (00029A), (00029B), (00029C), (00029D), (000300), (000330), (000340); and the following voting districts in Wyandotte county: (000010), (000020), (000030), (000040), (000050), (000060), (001110), (001120), (001130), (001140), (001150), (001160), (001410), (001450), (001460), (001510), (001520), (001530), (001540), (001550), (001560), (001570), (001580).

Sec. 9. Senatorial district 6 shall consist of the following voting districts in Wyandotte county: (000070), (000080), (000370), (000390), (000410), (000420), (000430), (000440), (000450), (000460), (000470), (000480), (000490), (000500), (000510), (000520), (000530), (000540), (000550), (000560), (000570), (000580), (000590), (000600), (000610), (000620), (000630), (000640), (000650), (000660), (000670), (000700), (000740), (000750), (000780), (000790), (000800), (000810), (000820), (000830), (000840), (001170), (001180), (001190), (001200), (001210), (001220), (001230), (001240), (001250), (001260), (001270), (001280), (001290), (001300).

Sec. 10. Senatorial district 7 shall consist of the following voting districts in Johnson county: (000060), (000100), (000110), (000120), (000130), (000200), (000210), (000220), (000230), (000740), (000750), (000760), (000770), (000780), (000790), (000800), (000810), (000820), (000830), (000840), (000850), (000860), (000870), (000880), (000890), (000900), (000910), (000920), (000930), (000940), (000950), (000960), (000970), (001540), (001550), (002500), (002510), (002520), (002530), (002540), (002550), (002560), (002570), (002580), (002590), (002600), (002610), (002620), (002630), (002640), (002650), (002660), (002670), (002680), (002690), (002700), (002710), (002720), (002730), (002740), (002750), (003130), (003140), (003150).

Sec. 11. Senatorial district 8 shall consist of the following voting districts in Johnson county: (000640), (001560), (001570), (001580), (001590), (001600), (001610), (001620), (001630), (001640), (001650), (001660), (001670), (001680), (001690), (001700), (001710), (001720), (001730), (001740), (001750), (001760), (001770), (001780), (001790), (001800), (001810), (001820), (001830), (001840), (001850), (001860), (001870), (001890), (001910), (001920), (001930), (001940), (001960), (001970), (001980), (001990), (002000), (002010), (002280), (002290), (002300), (002310), (002320).

Sec. 12. Senatorial district 9 shall consist of the following voting districts in Johnson county: (00007A), (00007B), (00008A), (00008B), (00017B), (00017C), (00017D), (00017E), (000430), (000450), (000490), (000500), (000510), (000520), (000530), (000540), (000550), (000560), (000570), (000620), (000630), (000650), (000660), (000670), (000680), (000690), (000700), (000710), (00072A), (00072B), (00072C), (00072D), (00072E), (001130), (001140), (001150), (001160), (00117A), (00117B), (00117C), (001180), (001190), (00120A), (00120B), (001210), (001220), (001230), (001240), (001250), (001260), (001270), (001280), (001290), (001440), (001460), (001520), (00153A), (00153B), (00153C), (00153G), (00153J), (00153K), (00153L), (00153M), (00153N), (00153O), (00153P), (00153Q), (00153U), (00153V), (00153W), (00153X), (00153Y), (00153Z), (002040), (003000), (00316A), (00316B), (00316C), (00316D), (00316E), (00316F), (00316G), (00316H), (00316I), (00316J), (00316K), (00316L), (00316M), (00316N), (00316O), (00316P), (00316Q), (00316R), (00316S), (00316T), (00316U), (00316V), (00316W), (00316X), (00316Y), (00316Z).

Sec. 13. Senatorial district 10 shall consist of the following voting districts in Johnson county: (000050), (000190), (000420), (000440), (000460), (000470), (000480), (000580), (000590), (000600), (000610), (000980), (002760), (002770), (002780), (002790), (002800), (002810), (002820), (002830), (002840), (002850), (002860), (002870), (002880), (002890), (002900), (002910), (002920), (002930), (002940), (002950), (002960), (002970), (002980), (002990), (003010), (003020), (003030), (003040), (003050), (003060), (003070), (003080), (003090), (003100), (003110); and the following voting districts in Wyandotte county: (001590).

Sec. 14. Senatorial district 11 shall consist of the following voting districts in Johnson county: (000240), (000250), (000260), (000270), (000280), (000290), (000300), (000310), (000320), (000330), (000340), (000350), (000360), (000370), (000380), (000400), (001880), (001900), (001950), (002020), (002030), (002050), (002060), (002070), (002080), (002090), (002100), (002110), (002140), (002150), (002160), (002200), (002210), (002240), (002330), (002340), (002350), (002370), (002380), (002390), (002400), (002410), (002420).

Sec. 15. Senatorial district 12 shall consist of the following voting districts in Anderson county: (00002A), (00002B), (000030), (000040), (000050), (000060), (000090), (00014A), (00014B), (000170), (000200); and the following voting districts in Franklin county: (000010), (000020), (000030), (000040), (000050), (000060), (000070), (000080), (000100), (000110), (00012A), (00012B), (00013A), (00013B), (00013C), (000140), (000150),

(000160), (000170), (000180), (000190), (00020A), (00020B), (000210), (000220), (000230), (000240); and all of Linn county; and the following voting districts in Miami county: (000010), (000020), (00003A), (00003B), (00004A), (00004B), (00004C), (000050), (000060); and the following blocks in voting district (00007A), tract 1001.00, block group 1, in Miami county: block 000, block 002, block 003, block 004, block 005, block 011, block 012, block 013, block 014, block 016, block 017, block 018, block 020, block 021, block 022, block 023, block 024, block 025, block 026, block 027, block 028, block 029, block 030, block 031, block 032, block 033, block 034, block 037, block 045, block 051, block 986, block 987, block 988, block 991, block 992, block 993, block 994, block 995, block 996, block 998, block 999; and the following blocks in voting district (00007A), tract 1002.00, block group 1, in Miami county: block 000, block 009, block 010, block 011, block 012; and the following blocks in voting district (00007A), tract 1002.00, block group 2, in Miami county: block 007, block 008, block 009, block 038, block 041, block 042, block 044, block 045, block 048, block 049, block 052, block 128; and the following voting districts in Miami county: (000080), (000090), (000100), (00011A), (00011B), (00011C), (00012A), (00012B), (00013A), (00013B), (00013C), (00013D), (000140), (000150), (00016A), (00016B), (000170), (00018A), (00018B), (00019A), (00019B), (000200), (000210), (000220), (00023B), (00023C), (00023D), (000240), (000250), (000260), (000270), (000280).

Sec. 16. Senatorial district 13 shall consist of all of Bourbon county; and the following voting districts in Cherokee county: (000050), (00010B), (000110), (000120), (00013A), (00013B), (00013C), (00013D), (000140), (00015A), (00015B), (000160), (000170), (00018A), (00018B), (00018C), (000200), (000220), (000250), (000260), (000270), (000280), (000290), (000310), (000320), (000330), (000340), (000350), (00039A), (00039B), (000400), (000410), (00042A), (00042B); and all of Crawford county.

Sec. 17. Senatorial district 14 shall consist of the following voting districts in Cherokee county: (000010), (000020), (000030), (00004A), (00004B), (000060), (000070), (000080), (000090), (00010A), (000190), (000210), (000230), (000240), (00030A), (00030B), (000360), (00037A), (00037B), (00037C), (000380); and all of Labette county; and the following voting districts in Montgomery county: (000070), (000110), (000120), (000130), (000140), (000150), (000160), (000170), (000180), (000190), (000200), (000210), (000220), (000230), (000250), (000430), (00044A), (00044B), (00044C); and all of Neosho county.

Sec. 18. Senatorial district 15 shall consist of all of Allen county; and the following voting districts in Anderson county: (000010), (000070), (000080), (000100), (000110), (000120), (000130), (000150), (000160), (000180), (000190), (000210), (000220), (000230), (000240); and all of Chautauqua county; and the following voting districts in Coffey county: (000010), (000020), (000030), (00004A), (00004B), (00005A), (00005B), (00005C), (000060), (000080), (000110), (000160), (000170); and all of Elk county; and the following voting districts in Franklin county: (000090), (000250); and the following voting districts in Montgomery county: (00001A), (00001B), (00001C), (000020), (000030), (000040), (000050), (000060), (000080), (000090), (000100), (000240), (000260), (000270), (000280), (000290), (000300), (000310), (00032A), (00032B), (00032C), (000330), (000340), (000350), (000360), (000370), (000380), (000390), (00040A), (00040B), (00040C), (000410), (000420), (000450), (000460), (000470); and all of Wilson county; and all of Woodson county.

Sec. 19. Senatorial district 16 shall consist of all of Butler county; and the following voting districts in Greenwood county: (000010), (000020), (000030), (000040), (000050), (000060), (000100), (000110), (000120), (000140), (000160), (000170), (000180).

Sec. 20. Senatorial district 17 shall consist of all of Chase county; and the following voting districts in Coffey county: (000070), (000090), (000100), (000120), (000130), (000140), (000150); and the following voting districts in Greenwood county: (000070), (000080), (000090), (000130), (000150); and all of Lyon county; and the following voting districts in Marion county: (000020), (000030), (000040), (000050), (000060), (000070), (000090), (000100), (00011A), (00011B), (000120), (000130), (000140), (000150), (00016A), (00016B), (00016C), (000180), (000200), (000210), (00022A), (00022B), (000240), (000260), (000270), (000280), (000290), (000310); and the following voting districts in Morris county: (000010), (000020), (000030), (000060), (000070), (000080), (000090), (000100), (000110), (000120), (000130), (000140), (000150), (000160), (000170); and the following voting dis-

tricts in Osage county: (000010), (000020), (000030), (000080), (000090), (000130), (000140), (000220).

Sec. 21. Senatorial district 18 shall consist of the following voting districts in Shawnee county: (000010), (000090), (000100), (000110), (000120), (000130), (000140), (000150), (000170), (000200), (000220), (000230), (000320), (000330), (000350), (000410), (000420), (000430), (000440), (000450), (000460), (000470), (000580), (000590), (000600), (000610), (000620), (000630), (000640), (000650), (000660), (001040), (001050), (001060), (001070), (001080), (001090), (001100), (001110), (001120), (001130), (001140), (001150), (001160), (001170), (001180), (001190), (001210), (001220), (001230), (001360), (001370), (001380), (001390), (001410), (001460), (001760), (001770), (001850), (001860), (001870), (001880), (001890); and all of Wabaunsee county.

Sec. 22. Senatorial district 19 shall consist of the following voting districts in Douglas county: (000590), (000680); and the following voting districts in Osage county: (000040), (000050), (000060), (00007A), (00007B), (000100), (000110), (000120), (000150), (000160), (000170), (000180), (000190), (000200), (000210), (000230), (000240); and the following voting districts in Shawnee county: (000030), (000050), (000080), (000180), (000190), (000250), (000260), (000270), (000280), (000290), (000300), (000310), (000370), (000400), (000480), (000490), (000500), (000510), (000520), (000530), (000540), (000550), (000560), (000570), (000670), (000680), (000690), (000700), (000710), (000720), (000730), (000740), (000750), (000760), (000770), (000780), (000790), (000800), (000810), (000820), (000830), (000840), (000850), (000860), (000870), (00088A), (00088B), (000890), (000900), (000910), (000920), (000930), (000940), (000950), (001010).

Sec. 23. Senatorial district 20 shall consist of the following voting districts in Shawnee county: (000020), (000040), (000060), (000070), (000160), (000210), (000240), (000340), (000360), (000380), (000390), (000960), (000970), (000980), (000990), (001000), (001020), (001030), (001175), (001200), (001240), (001250), (001260), (001270), (001280), (001290), (001300), (001310), (001320), (001330), (001340), (001350), (001400), (001420), (001430), (001440), (001450), (001470), (001480), (001490), (001500), (001510), (001520), (001530), (001540), (001550), (001560), (001570), (001580), (001590), (001600), (001610), (001620), (001630), (001640), (001650), (001660), (001670), (001680), (001690), (00170A), (001710), (001720), (001730), (001740), (001750), (001780), (001800), (001810), (001820), (001830), (001840), (001900).

Sec. 24. Senatorial district 21 shall consist of all of Clay county; and all of Cloud county; and the following voting districts in Jewell county: (000010), (000030), (000040), (000060), (000070), (000100), (000110), (000130), (000150), (000170), (000190), (000200), (000210), (000220), (000240); and all of Marshall county; and all of Nemaha county; and all of Republic county; and the following voting districts in Riley county: (000020), (000030), (000040), (000060), (000070), (000080), (000140), (00039A), (000420), (000430), (000450), (000460); and all of Washington county.

Sec. 25. Senatorial district 22 shall consist of all of Geary county; and the following voting districts in Riley county: (000010), (00005A), (00005B), (00005C), (00005D), (00005E), (000090), (000100), (000110), (000120), (000130), (000150), (000160), (000170), (000180), (000190), (000200), (000210), (00022A), (00022B), (000230), (000240), (00025A), (00025B), (000260), (000270), (000280), (000290), (000300), (000310), (000320), (000330), (000340), (000350), (00036A), (00036B), (000370), (000380), (00039B), (00039C), (00039D), (00039E), (00039F), (00039G), (00039H), (000400), (000410), (00044A), (00044B), (00044C), (00047A), (00047B), (00047C), (000480).

Sec. 26. Senatorial district 23 shall consist of the following voting districts in Johnson county: (00009A), (00009B), (00009C), (00009D), (00014A), (00014B), (00014C), (00014D), (00014E), (00014F), (00015A), (00015B), (000160), (00017A), (00018A), (00018B), (000730), (000990), (001000), (001010), (00102A), (00102B), (001030), (001040), (001050), (001060), (001070), (001090), (001100), (001110), (001120), (001300), (001310), (001320), (001330), (001350), (001360), (001370), (001380), (001390), (001400), (001410), (00153D), (00153E), (00153F), (00153H), (00153I), (00153R), (00153S), (00153T), (00249A), (00311A), (00311B), (00311C), (00311D), (003120); and the following blocks in voting district (00007A), tract 1002.00, block group 1, in Miami county: block 002; and the following voting districts in Miami county: (00007B), (00023A).

Sec. 27. Senatorial district 24 shall consist of the following voting districts in Dickinson county: (000010), (00002A), (00002B), (00002C), (000030), (000040), (000050), (000130), (000220); and all of Ottawa county; and all of Saline county.

Sec. 28. Senatorial district 25 shall consist of the following voting districts in Sedgwick county: (00010A), (00047B), (00047C), (00063A), (00063B), (00063C), (000640), (000870), (001210), (001220), (001750), (001760), (001770), (001780), (001870), (001880), (001920), (001930), (001940), (002020), (002070), (002080), (002100), (002330), (002340), (002350), (002430), (00271A), (00271B); and the following blocks in voting district (002770), tract 0103.00, block group I, in Sedgwick county: block 147, block 148, block 149, block 150, block 151, block 156; and the following voting districts in Sedgwick county: (002870), (002880), (002890), (002910), (002915), (002920), (002930), (002950), (002960), (002970), (002980), (002990), (003010), (003020), (003030), (003040), (003070), (003100), (003110), (003130), (003140), (003200), (003210).

Sec. 29. Senatorial district 26 shall consist of the following voting districts in Sedgwick county: (000010), (00002A), (00002B), (00003C), (000040), (00006A), (00006B), (000130), (00014A), (000150), (000160), (00017A), (000180), (000190), (000200), (00021A), (00021B), (000220), (000230), (00024A), (00024B), (000250), (000260), (000270), (000280), (00029A), (00029B), (00029C), (000300), (00031A), (00031C), (000320), (000330), (000340), (000350), (000360), (000380), (00041A), (00041B), (000420), (000430), (000440), (000450), (000560), (000570), (000580), (00069B), (00069C), (000710), (000750), (000760), (000770), (000780), (000790), (000850), (00086A), (00086B), (00086C), (00086D), (002180), (00223B), (00224B), (002270), (00229A), (002320), (002600), (002620), (002720), (002800), (002810), (002820), (002840), (002850), (002860).

Sec. 30. Senatorial district 27 shall consist of the following voting districts in Sedgwick county: (00003A), (00003B), (000050), (00010B), (00011A), (00012A), (00012B), (002030), (002040), (002050), (002060), (002090), (002440), (002450), (002460), (002470), (002480), (002490), (002500), (002510), (002520), (002530), (002540), (002550), (002560), (002570), (002580), (002590), (002610), (002630), (002640), (00265A), (00265B), (002660), (002670), (002680), (002690), (00270A), (00270B), (00270C), (00273A), (002740), (002750), (002760); and the following blocks in voting district (002770), tract 0095.03, block group I, in Sedgwick county: block 007, block 008, block 009, block 010, block 011, block 012, block 013, block 014, block 015, block 016, block 017, block 020, block 021, block 022, block 023, block 024, block 025, block 026, block 027, block 028, block 029, block 030, block 031, block 032, block 033, block 034, block 039, block 042, block 043, block 044, block 045, block 046, block 047, block 048, block 049, block 056, block 057, block 058, block 990, block 992, block 993, block 994, block 996, block 997; and the following voting districts in Sedgwick county: (002780), (002790), (002830).

Sec. 31. Senatorial district 28 shall consist of the following voting districts in Sedgwick county: (00014B), (00017B), (000390), (000400), (000670), (000680), (00069A), (000700), (001430), (001790), (001800), (001810), (001820), (001830), (001840), (001850), (001890), (001950), (001960), (002010), (002110), (002120), (002130), (002140), (002150), (002160), (002170), (002190), (002200), (002210), (002220), (00223A), (00224A), (002250), (002260), (00230A), (00230B), (002310).

Sec. 32. Senatorial district 29 shall consist of the following voting districts in Sedgwick county: (00046B), (00046C), (000880), (000890), (000900), (000910), (000920), (000930), (000940), (000950), (000960), (000970), (000980), (000990), (001000), (00101A), (00101B), (001020), (001030), (001040), (001050), (001060), (001070), (001080), (001090), (001100), (001130), (001140), (001150), (001230), (001300), (001310), (001900), (001910), (001970), (002940), (003000), (003050), (003060), (003090).

Sec. 33. Senatorial district 30 shall consist of the following voting districts in Sedgwick county: (000500), (000510), (00052A), (00052B), (00052C), (00052D), (00052E), (00053A), (00053B), (00053C), (00053F), (000540), (000550), (001160), (001170), (001200), (001240), (001250), (001260), (001270), (001280), (001290), (001320), (001330), (001340), (001350), (001360), (001370), (001380), (001390), (001400), (001420), (001440), (001450), (001460), (001470), (00148A), (00148B), (001490), (001500), (001510), (001520), (001530), (001550), (001560), (001570), (001600), (001610), (001620), (001630), (001640), (00165A), (00165B),

(001670), (001680), (00170A), (001710), (001720), (001730), (001860), (001980), (001990), (002000).

Sec. 34. Senatorial district 31 shall consist of all of Harvey county; and the following voting districts in Sedgwick county: (000070), (000080), (00009A), (00009B), (00009C), (00037A), (00037B), (00046A), (00047A), (00048A), (00048B), (00048C), (00048D), (00048E), (00048F), (000490), (000590), (00060A), (00060B), (00060C), (00060D), (00061A), (00061B), (00062A), (00062B), (00062C), (00062D), (00062E), (00062F), (00062G), (00062I), (000650), (00066A), (00066B), (00081A), (00081B), (00081C), (000820), (00083A), (00083B), (00083C), (00083D), (000840), (001110), (00112A), (00112B), (001180), (001580), (001590), (00169A), (00169B), (003080), (003120), (003150), (003160), (00317A), (00317B), (00317C), (003180), (00319A), (00319B), (00319C).

Sec. 35. Senatorial district 32 shall consist of all of Cowley county; and the following voting districts in Sedgwick county: (000720), (000730), (000740); and all of Sumner county.

Sec. 36. Senatorial district 33 shall consist of all of Barber county; and the following voting districts in Barton county: (000010), (000030), (000050), (000070), (000080), (000090), (000100), (00011A), (00011B), (000120), (000130), (000140), (000150), (000160), (000170), (000180), (00019A), (00019B), (000200), (000210), (00022A), (00022B), (00022C), (00022D), (00022E), (00022F), (00023A), (00023B), (00023C), (000290), (000300), (000330), (000340), (000370), (000380), (000390); and the following voting districts in Clark county: (000020), (000030), (000070); and all of Comanche county; and all of Edwards county; and all of Harper county; and all of Kingman county; and all of Kiowa county; and all of Pratt county; and all of Stafford county.

Sec. 37. Senatorial district 34 shall consist of all of Reno county.

Sec. 38. Senatorial district 35 shall consist of the following voting districts in Barton county: (000020), (000040), (000060), (000240), (000250), (000260), (00027A), (00027B), (000280), (000310), (000320), (000350), (000360); and the following voting districts in Dickinson county: (000060), (000070), (000080), (000090), (000100), (000110), (000120), (000140), (000150), (000160), (000170), (000180), (000190), (000200), (000210), (000230), (000240), (000250), (000260), (000270), (000280), (000290), (000300), (000310), (000320); and all of Ellsworth county; and all of Lincoln county; and all of McPherson county; and the following voting districts in Marion county: (000010), (000080), (000170), (000190), (000230), (000250), (000300); and the following voting districts in Morris county: (000040), (000050); and all of Rice county.

Sec. 39. Senatorial district 36 shall consist of all of Ellis county; and all of Hodgeman county; and the following voting districts in Jewell county: (000020), (000050), (000080), (000090), (000120), (000140), (000160), (000180), (000230), (000250); and all of Mitchell county; and all of Osborne county; and all of Pawnee county; and all of Phillips county; and all of Rush county; and all of Russell county; and all of Smith county.

Sec. 40. Senatorial district 37 shall consist of the following voting districts in Johnson county: (000010), (000020), (000030), (000040), (001340), (001420), (001430), (001450), (001470), (001480), (001490), (001500), (001510), (002120), (002130), (002170), (002180), (002190), (002220), (002230), (002250), (002260), (00227A), (00227B), (002360), (002430), (002440), (002450), (002460), (002470), (002480), (00249B), (00249C), (00249D), (00249E), (00249F), (00249G), (00249H).

Sec. 41. Senatorial district 38 shall consist of the following voting districts in Clark county: (000010), (000040), (000050), (000060); and all of Ford county; and all of Gray county; and the following voting districts in Haskell county: (000060), (000070), (000080); and all of Meade county; and all of Seward county.

Sec. 42. Senatorial district 39 shall consist of all of Finney county; and all of Grant county; and all of Hamilton county; and the following voting districts in Haskell county: (000010), (000020), (000030), (000040), (000050); and all of Kearny county; and all of Morton county; and all of Stanton county; and all of Stevens county.

Sec. 43. Senatorial district 40 shall consist of all of Cheyenne county; and all of Decatur county; and all of Gove county; and all of Graham county; and all of Greeley county; and all of Lane county; and all of Logan county; and all of Ness county; and all of Norton county; and all of Rawlins county; and all of Rooks county; and all of Scott county; and all of Sheridan

county; and all of Sherman county; and all of Thomas county; and all of Trego county; and all of Wallace county; and all of Wichita county.

Sec. 44. K.S.A. 4-4,201 through 4-4,243 are hereby repealed.

Sec. 45. This act shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, by striking all after “ACT” and inserting “concerning state senate districts; providing for the reapportionment thereof; repealing K.S.A. 4-4,201 through 4-4,243.”

The Chair was requested to rule on the germaneness of the amendment to **HB 2741**.

The Chair ruled the amendment not germane to the bill.

Senator Haley moved to amend the bill on page 1, after line 13, by inserting the following:

“Section 1. K.S.A. 2001 Supp. 21-4310 is hereby amended to read as follows: 21-4310.

(a) Cruelty to animals is:

(1) Intentionally killing, ~~injuring~~, maiming, torturing, *burning* or mutilating or *causing serious physical injury* to any animal;

(2) abandoning or leaving any animal in any place without making provisions for its proper care;

(3) having physical custody of any animal and failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal; ~~or~~

(4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment; or

(5) *intentionally causing any physical injury other than serious physical injury to any animal.*

(b) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) bona fide experiments carried on by commonly recognized research facilities;

(3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated;

(4) rodeo practices accepted by the rodeo cowboys’ association;

(5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) ~~with respect to farm animals~~; normal or accepted practices of animal husbandry;

(7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, ~~farm~~ animal or property;

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

or

(9) laying an equine down for medical or identification purposes.

(c) As used in this section, “equine” means a horse, pony, mule, jenny, donkey or hinny.

(d) (1) *Cruelty to animals as described in subsection (a)(1) is a nonperson felony. Upon conviction of cruelty to animals as described in subsection (a)(1), a person shall be sentenced to not less than 30 days nor more than one year’s imprisonment and fined not less than \$100.*

(2) *Cruelty to animals as described in subsections (a)(2), (a)(3), (a)(4) and (a)(5) is a class A nonperson misdemeanor.”;*

And by renumbering sections accordingly;

Also on page 1, in line 43, after “Supp.” by inserting “21-4310 and”; also in line 43, by striking “is” and inserting “are”;

On page 1, in the title, in line 9, by striking all after “concerning”; in line 10, by striking “harm or death” and inserting “crimes, criminal procedure and punishment; relating to

cruelty and inflicting harm or death to animals"; also in line 10, after "Supp." by inserting "21-4310 and"; in line 11, by striking "section" and inserting "sections"

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 9, Nays 25, Present and Passing 3, Absent or Not Voting 3.

Yeas: Adkins, Allen, Feleciano, Gilstrap, Gooch, Haley, Jackson, Praeger, Steineger.

Nays: Barnett, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Jenkins, Jordan, Kerr, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Present and Passing: Goodwin, Harrington, Lee.

Absent or Not Voting: Barone, Hensley, Huelskamp.

The motion failed and the amendment was rejected.

The Committee recommended **HB 2741** be passed.

The committee report on **HB 2075** recommending a **S Sub for HB 2075** be adopted, and the substitute bill be passed.

HB 2680, HB 2733, HB 2746, HB 2810, HB 2880 be amended by adoption of the committee amendments, and the bills be passed as amended.

SCR 1615 be amended by adoption of the committee amendments, and the resolution be adopted as amended.

HB 2817 be amended by motion of Senator Brownlee on page 1, after line 34, by inserting the following:

"Sec. 2. K.S.A. 60-1102 is hereby amended to read as follows: 60-1102. (a) *Filing*. Any person claiming a lien on real property, under the provisions of K.S.A. 60-1101, and amendments thereto, shall file with the clerk of the district court of the county in which property is located, within ~~four months~~ *120 days when such property is residential property, and within 180 days when such property is other than residential property*, after the date material, equipment or supplies, used or consumed was last furnished or last labor performed under the contract a verified statement showing:

- (1) The name of the owner,
- (2) the name and address sufficient for service of process of the claimant,
- (3) a description of the real property,
- (4) a reasonably itemized statement and the amount of the claim, but if the amount of the claim is evidenced by a written instrument, or if a promissory note has been given for the same, a copy thereof may be attached to the claim in lieu of the itemized statement.

(b) *Recording*. Immediately upon the receipt of such statement the clerk of the court shall index the lien in the general index by party names and file number.

Sec. 3. K.S.A. 2001 Supp. 60-1103 is hereby amended to read as follows: 60-1103. (a) *Procedure*. Any supplier, subcontractor or other person furnishing labor, equipment, material or supplies, used or consumed at the site of the property subject to the lien, under an agreement with the contractor, subcontractor or owner contractor may obtain a lien for the amount due in the same manner and to the same extent as the original contractor except that:

(1) The lien statement must state the name of the contractor and be filed within ~~three months~~ *90 days when such property is residential property, and within 180 days when such property is other than residential property*, after the date supplies, material or equipment was last furnished or labor performed by the claimant;

(2) if a warning statement is required to be given pursuant to K.S.A. 60-1103a, and amendments thereto, there shall be attached to the lien statement the affidavit of the supplier or subcontractor that such warning statement was properly given; and

(3) a notice of intent to perform, if required pursuant to K.S.A. 60-1103b, and amendments thereto, must have been filed as provided by that section.

(b) Owner contractor is defined as any person, firm or corporation who:

(1) Is the fee title owner of the real estate subject to the lien; and

(2) enters into contracts with more than one person, firm or corporation for labor, equipment, material or supplies used or consumed for the improvement of such real property.

(c) *Recording and notice.* When a lien is filed pursuant to this section, the clerk of the district court shall enter the filing in the general index. The claimant shall (1) cause a copy of the lien statement to be served personally upon any one owner, any holder of a recorded equitable interest and any party obligated to pay the lien in the manner provided by K.S.A. 60-304, and amendments thereto, for the service of summons within the state, or by K.S.A. 60-308, and amendments thereto, for service outside of the state, (2) mail a copy of the lien statement to any one owner of the property, any holder of a recorded equitable interest and to any party obligated to pay the same by restricted mail or (3) if the address of any one owner or such party is unknown and cannot be ascertained with reasonable diligence, post a copy of the lien statement in a conspicuous place on the premises. The provisions of this subsection requiring that the claimant serve a copy of the lien statement shall be deemed to have been complied with, if it is proven that the person to be served actually received a copy of the lien statement. No action to foreclose any lien may proceed or be entered against residential real property in this state unless the holder of a recorded equitable interest was served with notice in accordance with the provisions of this subsection.

(d) *Rights and liability of owner.* The owner of the real property shall not become liable for a greater amount than the owner has contracted to pay the original contractor, except for any payments to the contractor made:

(1) Prior to the expiration of the ~~three-month~~ time period for filing lien claims as provided in subsection (a)(1), if no warning statement is required by K.S.A. 60-1103a, and amendments thereto; or

(2) subsequent to the date the owner received the warning statement, if a warning statement is required by K.S.A. 60-1103a, and amendments thereto.

The owner may discharge any lien filed under this section which the contractor fails to discharge and credit such payment against the amount due the contractor.”;

And by renumbering sections accordingly;

Also on page 1, in line 35, by striking “is” and inserting “and 60-1102 and K.S.A. 2001 Supp. 60-1103 are”;

Also on page 1, in the title, in line 9, by striking “agricultural”; in line 10, after “58-204” by inserting “and 60-1102 and K.S.A. 2001 Supp. 60-1103”; also in line 10, by striking “section” and inserting “sections”, and **HB 2817** be passed as amended.

SCR 1623 be amended by adoption of the committee amendments, be further amended by motion of Senator Praeger as amended by Senate Committee, on page 2, in line 1, by striking all after the semicolon; in line 2, by striking all before the first “the”; in line 15 by striking “not”

Senator Praeger further amended the resolution as amended by Senate Committee, on page 2, in line 3, by striking “two persons”; also in line 3, after “one” by inserting “person”; in line 7, after the semicolon by inserting the following: “one person representing foreign stock insurance companies appointed by the insurance commissioner from a list submitted by the America Insurance Association, one person representing foreign mutual insurance companies appointed by the insurance commissioner from a list submitted by the National Association of Independent Insurers;”, and **SCR 1623** be adopted as further amended.

SB 644 be amended by adoption of the committee amendments.

The motion to recommend favorably for passage failed, and the bill remains on the calendar under the heading of General Orders.

SB 530, be amended by adoption of the committee amendments, and the bill be passed over and retain a place on the calendar.

HB 2337, **HB 2785** be passed over and retain a place on the calendar.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Friday, March 29, 2002.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

