

Journal of the Senate

SIXTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, April 11, 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,

Help us to answer these questions in a way that is pleasing to you:

Do I practice what I preach? Do I preach what I practice?

Do others get a favorable impression of the God I serve by the way I behave toward them?

Do I remember to give You proper credit for my good qualities?

Does my behavior cause others to be attracted to You?

Do I believe the end justifies the means?

Do I give as much thought to how I win as to whether I win?

Do others believe they can trust me?

Do I make sure that what I say and what I do reflect who I really am?

I ask these questions in the Name of Christ,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: **SB 662**.

Reapportionment: **SB 663**.

MESSAGE FROM THE GOVERNOR

SB 375 approved on April 10, 2002.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2396**, **HB 2782**, **HB 3034**.

Passage of **SB 372**, **SB 629**.

Passage of **SB 364**, as amended by **House Substitute for SB 364**; **SB 429**, as amended, **SB 489**, as amended, **SB 509**, as amended, **SB 541**, as amended.

Adoption of **SCR 1623**, as amended.

The House nonconcurrs in Senate amendments to **Substitute HB 2653** and requests a conference and has appointed Representatives Hayzlett, Bethell and M. Long as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2949** 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 **Substitute SB 508** and has appointed Representatives Wilk, Neufeld and Shriver as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 553** and has appointed Representatives Edmonds, Huff and Larkin as conferees on the part of the House.

The House announces the appointment of Representative Lloyd to replace Representative Tanner and the appointment of Representative Mason to replace Representative Lloyd as conferees on **SB 531**.

The House announces the appointment of Representative Lloyd to replace Representative Tanner and the appointment of Representative Mason to replace Representative Lloyd as conferees on **SB 551**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2396, HB 2782, HB 3034 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Morris the Senate nonconcurrred in the House amendments to **SB 517** and requested a conference committee be appointed.

The President appointed Senators Morris, Adkins and Feleciano as a conference committee on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Oleen, Downey, Emler, Pugh, Taddiken, Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Praeger, Salmans, Schmidt, Schodorf, Steineger, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1840—

RESOLUTION congratulating and commending the Kansas State University womens basketball team.

WHEREAS, The Kansas State University womens basketball team finished its season with 26 wins and eight losses and with 11 wins to five losses in the Big 12 Conference. The Wildcats reached the Sweet Sixteen for the first time in 19 years when they beat Kent State 93 to 65 and Arkansas 82 to 68 in the first and second rounds of the National Collegiate Athletic Association tournament. Included in its Cinderella season, the 'Cats were ranked in the Associated Press and USA Today/ESPN Coaches Polls 10 times, including their highest ranking of No. 9 on January 28. Kansas State beat two Top 10 teams and five teams in the Top 15 this year; and

WHEREAS, The members of this team are Andrea Armstrong, Shalondra Booker, Chelsea Domenico, Amy Dutmer, Kari Hanson, Laurie Koehn, Brie Madden, Megan Mahoney, Kimmy Newsom, Nicole Ohlde, Kristin Rethman and Kendra Wecker. The head coach is Deb Patterson, the assistant head coach is Kamie Ethridge and the assistant coaches are Kristin Becker and Sue Serafini; and

WHEREAS, Nicole Ohlde was named to the All-Big 12 first team and Laurie Koehn and Kendra Wecker were named to the All-Big 12 third team. Nicole Ohlde, Kristin Rethman and Andrea Armstrong also were named to the Academic All-Big 12 first team; and

WHEREAS, Nicole Ohlde was honored as a Associated Press Honorable Mention All-America, Kodak District V All-America, a finalist for ESPN The Magazine Center of the Year, and Verizon Academic All-District selection. Laurie Koehn was honored as ESPN.com's Rookie of the Year; and

WHEREAS, Head coach Deb Patterson was named the Big 12 Coach of the Year, ESPN The Magazine Coach of the Year, WBCA District V Coach of the Year and as a finalist for the Naismith and Associated Press Coach of the Year: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Kansas State University womens basketball team and the team's coaches for their team and individual successes during the 2001-2002 basketball season; and

Be it further resolved: That the Secretary of the Senate provide 16 enrolled copies of this resolution to Dr. Jon Wefald, President, Kansas State University, Anderson Hall, Manhattan, Kansas 66506 for distribution to the players and coaches.

On emergency motion of Senator Oleen **SR 1840** was adopted unanimously.

Senator Oleen introduced and congratulated team members: Andrea Armstrong, Shalondra Booker, Chelsea Domenico, Amy Dutmer, Kari Hanson, Laurie Koehn, Brie Madden, Megan Mahoney, Kimmyery Newsom, Nicole Ohlde, Kristin Rethman and Kendra Wecker; head coach, Deb Patterson; assistant head coach, Kamie Ethridge and assistant coaches, Kristin Becker and Sue Serafini. Senators joined Senator Oleen in a standing ovation for the visitors.

REPORTS OF STANDING COMMITTEES

Committee on **Reapportionment** recommends **SB 663** be passed.

REPORT ON ENGROSSED BILLS

SB 129 reported correctly re-engrossed April 10, 2002.

SB 439 reported correctly re-engrossed April 11, 2002.

REPORT ON ENROLLED BILLS

SR 1834, SR 1835, SR 1837, SR 1838 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 11, 2002.

COMMITTEE OF THE WHOLE

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

Recommended **SB 640** be amended by adoption of the committee amendments.

Senator Downey moved to amend **SB 640** as amended by Senate Committee, on page 77, in line 7, by adding \$11,528,860 to the dollar amount and adjusting the dollar amount in line 7 accordingly

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

On roll call, the vote was: Yeas 15, Nays 24, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barone, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Lee, Salmans, Schmidt, Steineger, Vratil.

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

Present and Passing: Huelskamp.

The motion failed and the amendment was rejected.

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

On motion of Senator Oleen, the Senate recessed until 2:00 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with Vice-President Praeger in the chair.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Morris and Huelskamp introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1841—

A RESOLUTION congratulating and commending the Seward County Community College womens basketball team and Coach Jim Littell for winning the 2002 National Junior College Athletic Association Division I womens national championship.

WHEREAS, The Seward County Community College womens basketball team won the 2002 National Junior College Athletic Association Division I womens national championship with a thrilling 87 to 80 victory over Northeastern Oklahoma A&M in the national championship game at the Bicentennial Center in Salina on Saturday, March 23; and

WHEREAS, The Seward County "Lady Saints" basketball team finished the season with a record of 38 wins and 0 losses. The victory gave the team its first national championship after posting a record of 104 wins to two losses over the past three seasons. This year's team won all of its Jayhawk West conference games, and defeated Cloud County, Fort Scott, Butler County and Neosho opponents in the Region VI tournament. At the national tournament they defeated Northeastern Colorado, Moberly (Missouri) and Gulf Coast (Florida) before meeting and defeating Northeastern Oklahoma, the number one rated team, in the championship game; and

WHEREAS, The team members were Marta Dydek, Cami Jacobs, Stacie Bell, Emily Edmonds, Kim Ortega, Vaida Zagurskyte', Laci Rogers, Erica Hatterman, Anne Weese, Whitney Hoelting, Megan Clift, Cassie Cordell and Tracy Wynn; the student trainer was Leslie Gonzales and the student managers were Bobby Hadley and Kerri Hill; the head coach was Jim Littell and the assistant coach was Scott Hinkle; and

WHEREAS, The academic records at Seward County Community College show that all of the 14 women on the basketball team were on the fall honor roll with a team grade point average of 3.75 and with five women having perfect 4.00 grade point averages. Seven of the team members are native Kansans; 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 was due to its excellent teamwork, strong competitive spirit and determination to win. The team also had the enthusiastic support of the college'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 Seward County Community College womens basketball team and Coach Littell be congratulated and commended for winning the 2002 National Junior College Athletic Association Division I womens national championship; and

Be it further resolved: That the Secretary of the Senate be directed to send 13 enrolled copies of this resolution to Dr. James R. Grote, President, Seward County Community College, P.O. Box 1137, Liberal, Kansas 67905-1137.

On emergency motion of Senator Morris **SR 1841** was adopted unanimously.

Senator Morris introduced team members, who were in Topeka for the resolution: Tracy Wynn, Vaida Zagurskyte', Marta Dydek, Emily Edmonds and Cassie Cordell; head women's basketball coach, Jim Littell; assistant coach, Scott Hinkle; and trustee at Seward County Community College, Steve Cobble.

Senators Kerr, Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1842—

A RESOLUTION congratulating and commending Captain Mark D. Nutsch.

WHEREAS, Mark D. Nutsch of Alma is a captain in the United States Army and as a member of the Army Special Forces was heavily involved in the recent fighting in Afghanistan. He has been described by the commander of the Army Special Forces, Major General Geoffrey C. Lambert, who is also a Kansan, as "one of my most distinguished warriors in Afghanistan. His accomplishments are legendary. From cavalry charges to being the first to gain control of John Walker Lindh, Mark did it all"; and

WHEREAS, Captain Nutsch led his twelve-man "A"-Team deep behind enemy lines into northern Afghanistan with a charter to help the Northern Alliance plan and coordinate a campaign to seize the key Afghan city of Mazar-e Sharif; and

WHEREAS, Captain Nutsch and his men, under the threat of artillery fire and mines, traveled primarily on horseback 10 - 30 kilometers a day, meeting with Northern Alliance commanders and troops to plan the campaign and to call for air-dropped supplies to equip the Afghan warriors for intensive combat. Once the offensive began, Captain Nutsch's team broke into three-man groups to advise the Afghan commanders and to call in precision fires. The "A"-Team was instrumental in the liberation of over 50 towns and cities; for the destruction of hundreds of Taliban vehicles, bunkers and heavy equipment; and the surrender, capture or destruction of thousands of the Taliban and Al-Qaeda; and

WHEREAS, The ranking Afghan General to work with Captain Nutsch and his men has been quoted as saying, "I now have a friend, Captain Mark Nutsch. I feel he is my brother. He is so sincere; whenever I see him, I feel joy. I asked for a few Americans. They brought with them the courage of a whole Army": Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Captain Nutsch for the valor of his daring deeds under the most strenuous, difficult conditions, for his success in accomplishment of his assigned mission and for the honor he brings to his family and state, as well as to the United States Army and our nation; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Major General Geoffrey C. Lambert and to Captain Mark Nutsch, both addressed to Headquarters, United States Army Special Forces Command (Airborne), Fort Bragg, North Carolina 28310-5200.

On emergency motion of Senator Kerr **SR 1842** was adopted unanimously.

Senator Kerr introduced Major General Geoffrey Lambert, Commanding General of the U.S. Army Special Forces for a few remarks:

I am humbled to be present in these chambers to recognize a son of Kansas, Captain Mark Nutsch. The Senate's Resolution of congratulations and commendation for one of my Army soldiers leaves me forever in your debt.

I would like to quote portions of a field report from Captain Nutsch from the 25th of October, 2001. It has been used in speeches by Secretary of Defense Donald Rumsfeld and speaks to all that Mark and his men have done as Army professionals in the global war against terrorism.

"I am advising a man on how to best employ light infantry and horse cavalry in the attack against Taliban Russian AT-55 tanks, Russian armored personnel carriers, the BTR's, mortars, artillery, ZSU anti-aircraft guns, and machine guns. I can't recall the United States fighting like this since the Gatling gun destroyed Pancho Villa's charges in the Mexican Civil War . . .

We have done this every day since we hit the ground. The men attack with ten AK-47 bullets per man, with their machine (Pk) gunners with less than 100 rounds, and with less than five rounds per RPG-7 rocket launcher. They have little water and less food.

I observed a Pk gunner who walked ten miles to get into the fight who was proud to show his artificial right leg from the knee down, caused by a Taliban round years ago.

We have witnessed the horse cavalry use bounding over watch from spur to spur to carry wounded from Taliban strong points, under heavy mortar, ZSU, artillery, RPG, and Pk fire.

There is little medical care if injured—only a donkey ride to the aid station, which is a dirt hut.

We are doing amazingly well with what we have . . . Frankly, I am surprised that we have not been slaughtered.

We will get better at working things out as we go. It is a challenge just to have food and water for a few days. These folks have nothing. I have ridden 15 miles a day since arriving, yet everywhere I go the civilians and the "muj" soldiers are always telling me they are glad the USA has come. They all speak of their hopes for a better Afghanistan once the Taliban are gone"

Senator Kerr introduced Captain Mark Nutsch, and senators joined him in a standing ovation. Accompanying Captain Nutsch were his wife, Amy, and daughter, Kaija; his parents, Larry and Vivian Nutsch.

Other guests were James Lambert, brother of General Lambert; Naoma Lambert, mother of General Lambert; Adjutant General Gregg Gardner and Captain Dave Bolduc.

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

SENATE RESOLUTION No. 1843—

A RESOLUTION relating to the rules of the Senate for 2001-2004; amending rule 41, relating to committee of the whole.

Be it resolved by the Senate of the State of Kansas: That Rule 41 is hereby amended to read as follows:

Rule 41. Committee of the Whole. On motion the Senate may go into Committee of the Whole. The President shall appoint a chairperson to preside over the Committee of the Whole. The rules of the Senate shall be observed in the Committee of the Whole, so far as applicable except that there shall be no limit on the number of times of speaking and Rule 38 (authorizing a call of the senate) shall not apply. A motion to lay on the table or a call for the previous question shall not be in order. No substitute motion to amend a bill or resolution shall be in order. A substitute motion to report a bill or resolution to the full Senate once made shall be decided subject only to debate and Rule 51 (motion to strike the enacting or resolving clause). A roll call shall be had on any question subject to the requirements of Rule 37, ~~but no more than five roll calls shall be taken upon any bill under consideration in the Committee of the Whole.~~

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 Schmidt in the chair.

On motion of Senator Schmidt the morning report and the following afternoon report were adopted:

Recommended **SB 658** be passed.

On motion of Senator Oleen an emergency was declared, the rules suspended and **SB 663** was moved to the top of the calendar under the heading of General Orders, the motion carried on a $\frac{2}{3}$ constitutional majority.

The Committee recommended **SB 663** be passed.

HCR 5051 be adopted.

Sub HB 2754; HB 3031 be amended by adoption of the committee amendments, and the bills be passed as amended.

The Committee returned to consideration of **SB 640**, as amended by adoption of the committee amendments during the morning session.

SB 640 be further amended by motion of Senator Schodorf as amended by Senate Committee, on page 33, in line 29, by striking "\$1,807,834" and inserting "\$1,739,644";

On page 153, in line 2, by striking "27.0" and inserting "26.0"

Senator Huelskamp further amended **SB 640** as amended by Senate Committee, on page 175, following line 30, by inserting new material to read as follows:

"Sec. 86. (a) During the fiscal year ending June 30, 2003, no expenditures shall be made from any moneys appropriated for any state agency from the state general fund or any special revenue fund for fiscal year 2003 by chapter 144 or chapter 216 of the 2001 Session Laws of Kansas or by this or other appropriation act of the 2002 regular session of the legislature for salary bonus payments which exceed \$1,000 to state officers or employees under the pay plan for state employees or any executive directive issued by the governor except for salary bonus payments under the executive directive no. 00-296, and longevity bonus payments pursuant to K.S.A. 75-5541, and amendments thereto.";

By renumbering remaining sections accordingly

Senator Praeger further amended **SB 640** as amended by Senate Committee, on page 172, in line 11, by striking "or any special revenue fund";

On page 173, in line 7, by striking "or any special revenue fund"

Senator Praeger further amended **SB 640** as amended by Senate Committee, on page 67, in line 2, preceding the period by inserting ": *Provided further*, That the secretary of social and rehabilitation services shall complete a valid resident assessment on each individual residing in NF/MH facilities with the support of medical assistance funds and identify

adequate alternative community services to assure effective care and treatment before such individual is scheduled for discharge from a facility”

Senator Kerr further amended **SB 640** as amended by Senate Committee, on page 114, in line 7, by adding \$900,000 to the dollar amount and adjusting the dollar amount in line 7 accordingly; in line 18, before the period by inserting “: *And provided further*, That the sum of \$500,000 shall be used from this account to fund adult intensive supervision basic grants, which shall be in addition to any other expenditures the department of corrections allocates for such purpose”; in line 19, by adding \$400,000 to the dollar amount and adjusting the dollar amount in line 19 accordingly;

On page 115, in line 3, by adding \$500,000 to the dollar amount and adjusting the dollar amount in line 3 accordingly; in line 8, before the period, by inserting “: *Provided further*, That the sum of \$500,000 shall be used from this account to fund substance abuse treatment slots in state correctional facilities, which shall be in addition to any other moneys the department of corrections allocates for such purpose”; in line 9, by adding \$51,000 to the dollar amount and adjusting the dollar amount in line 9 accordingly; in line 15, by subtracting \$137,000 from the dollar amount and adjusting the dollar amount in line 15 accordingly; in line 22, by subtracting \$249,000 from the dollar amount and adjusting the dollar amount in line 22 accordingly; in line 28, by subtracting \$28,000 from the dollar amount and adjusting the dollar amount in line 28 accordingly; in line 34, by subtracting \$52,000 from the dollar amount and adjusting the dollar amount in line 34 accordingly; in line 41, by subtracting \$56,000 from the dollar amount and adjusting the dollar amount in line 41 accordingly;

On page 116, in line 5, by subtracting \$137,000 from the dollar amount and adjusting the dollar amount in line 5 accordingly; in line 12, by subtracting \$52,000 from the dollar amount and adjusting the dollar amount in line 12 accordingly; in line 17, before the period, by inserting “: *Provided further*, That the department of corrections is authorized to enter into an extension of up to three years of the existing contract for food services, which is scheduled to expire at the end of fiscal year 2003: *And provided further*, That such food services contract extension shall be exempt from the competitive bidding requirements of K.S.A. 75-3739, and amendments thereto”; in line 18, by subtracting \$375,000 from the dollar amount and adjusting the dollar amount in line 18 accordingly;

On page 120, following line 8, by inserting the following:

“(k) Notwithstanding the provisions of subsection (d) of K.S.A. 75-5212, and amendments thereto, the secretary of corrections shall reduce the inservice training for correctional officers from a total of 80 hours to a total of 40 hours for the fiscal year ending June 30, 2003.”

Senator Kerr further amended **SB 640** as amended by Senate Committee, in line 37, preceding the period by inserting “*Provided*, That notwithstanding the provisions of K.S.A. 19-1930, and amendments thereto, payments by the department of corrections under subsection (b) of K.S.A. 19-1930, and amendments thereto, for the cost of maintenance of prisoners shall not exceed the per capita daily operating cost, not including inmate program, for the department of corrections”

Senator Morris further amended **SB 640** as amended by Senate Committee, on page 8, in line 9, preceding “not” by inserting “of”;

On page 50, in line 39, by striking “41” and inserting “641”;

On page 62, by striking lines 7 through 18 and inserting the following:

“(n) Notwithstanding any other provision of the law to the contrary, during the fiscal year ending June 30, 2003, moneys from one or more special revenue funds of the department of health and environment may be used for operating expenditures for the above agency: *Provided, however*, That expenditures from such special revenue funds for operating expenditures shall not exceed \$2,600,000: *Provided further*, That such expenditures shall not be made from the aboveground petroleum storage tank release trust fund or the underground petroleum storage tank release trust fund.”;

On page 134, following line 18, by inserting the following:

“(c) The above agency is authorized to make expenditures from moneys appropriated to the above agency from the state general fund or from any special revenue fund for fiscal year 2003 as authorized by chapter 144 or chapter 216 of the 2001 Session Laws of Kansas or by this or other appropriation act of the 2002 regular session of the legislature to use an

800 megahertz radio system tower or towers in Meade county to facilitate placement of an early warning system.”;

On page 145, by striking all in lines 37 through 43;

On page 146, by striking all in line 1;

On page 153, in line 27, by adding 74.0 to the number in the line and adjusting the number in line 27 accordingly

Senator Morris further amended **SB 640** as amended by Senate Committee, on page 175, following line 30, by inserting the following:

“Sec. 86. (a) On July 1, 2002, the director of accounts and reports shall transfer \$9,475,242 from the children’s initiatives fund to the state general fund.”;

And by renumbering sections accordingly

Senator Hensley moved to amend **SB 640** as amended by Senate Committee, on page 66, following line 11, by inserting the following:

“Senior pharmacy plus IGT fund..... \$8,000,000

Provided, That all expenditures from the senior pharmacy plus IGT fund, which is hereby created in the state treasury, shall be to provide funding for the senior pharmacy act pursuant to 2002 Senate Bill No. 656.”;

Also on page 66, following line 23, by inserting the following:

“(e) On July 1, 2002, or as soon thereafter as moneys are available, the director or accounts and reports shall transfer \$8,000,000 from aging—IGT fund of the department on aging to the senior pharmacy plus IGT fund.”

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

On roll call, the vote was: Yeas 20, Nays 20, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barone, Brownlee, Clark, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Lee, Morris, O’Connor, Praeger, Pugh, Schmidt, Steiner, Tyson.

Nays: Adkins, Allen, Barnett, Brungardt, Corbin, Donovan, Emler, Jackson, Jenkins, Jordan, Kerr, Lyon, Oleen, Salmans, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The motion failed and the amendment was rejected.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on this amendment because I believe it is more prudent to act on the legislation which authorizes the senior pharmacy plus program (**Senate Bill 656**) before we insert this provision into the budget. I am certainly supportive of any legislation designed to expand drug coverage for Kansas Seniors in need.—DAVID ADKINS

Having voted on the prevailing side, Senator Wagle moved the Senate reconsider its action on the amendment Senator Hensley offered to **SB 640**. The motion carried and the amendment was adopted.

The Committee recommended **SB 640** be passed as further amended.

Senator Oleen moved Senate Rule 41, be suspended for the purpose of allowing an additional roll call vote for the minority party.

The motion carried on a two-thirds constitutional majority.

The following amendments to **SB 640** were rejected:

Senator Harrington moved to amend the bill as amended by Senate Committee, on page 163, in line 42, by striking “on each such date”; also in line 42, following “2003” by inserting “on July 1”; in line 43, by striking “\$17,500,000” and inserting “\$5,500,000 and on October 1, January 1 and April 1 the amount of \$17,500,000”;

On page 175, following line 30, by inserting the following:

“New Sec. 86. On July 1, 2002, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$12,000,000 from the state general fund to the state school district finance fund.”;

By renumbering sections accordingly

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

On roll call, the vote was: Yeas 12, Nays 25, Present and Passing 1, Absent or Not Voting 2.

Yeas: Adkins, Allen, Brownlee, Clark, Downey, Gilstrap, Gooch, Haley, Harrington, Hensley, Lee, Steineger.

Nays: Barnett, Barone, Brungardt, Donovan, Emler, Feleciano, Goodwin, Huelskamp, Jackson, Jenkins, Kerr, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Present and Passing: Lyon.

Absent or Not Voting: Corbin, Jordan.

The motion failed and the amendment was rejected.

Senator Barone moved to amend the bill as amended by Senate Committee, on page 87, in line 35, by adding \$818,093 to the dollar amount and adjusting the dollar amount in line 35 accordingly;

On page 90, in line 11, by adding \$2,780,401 to the dollar amount and adjusting the dollar amount in line 11 accordingly;

On page 93, in line 34, by adding \$17,782 to the dollar amount and adjusting the dollar amount in line 34 accordingly; in line 39, by adding \$419,302 to the dollar amount and adjusting the dollar amount in line 39 accordingly;

On page 94, in line 2, by adding \$676,381 to the dollar amount and adjusting the dollar amount in line 2 accordingly;

On page 95, in line 15, by adding \$335,254 to the dollar amount and adjusting the dollar amount in line 15 accordingly;

On page 96, in line 22, by adding \$747,078 to the dollar amount and adjusting the dollar amount in line 22 accordingly;

On page 98, in line 24, by adding \$955,272 to the dollar amount and adjusting the dollar amount in line 24 accordingly;

On page 100, in line 37, by adding \$3,609,686 to the dollar amount and adjusting the dollar amount in line 37 accordingly; in line 41, by adding \$169,365 to the dollar amount and adjusting the dollar amount in line 41 accordingly;

On page 104, in line 10, by adding \$2,084,371 to the dollar amount and adjusting the dollar amount in line 10 accordingly;

On page 107, in line 15, by adding \$1,641,021 to the dollar amount and adjusting the dollar amount in line 15 accordingly

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

On roll call, the vote was: Yeas 13, Nays 25, Present and Passing 1, Absent or Not Voting 1.

Yeas: Adkins, Barnett, Barone, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Lee, Salmans, Steineger.

Nays: Allen, Brownlee, Brungardt, Clark, Corbin, Donovan, Emler, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Vratil, Wagle.

Present and Passing: Harrington.

Absent or Not Voting: Umbarger.

The motion failed and the amendment was rejected.

Senator Corbin moved to amend the bill as amended by Senate Committee, on page 135, in line 8, by adding \$403,434 to the dollar amount and by adjusting the dollar amount in line 8 accordingly

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

On roll call, the vote was: Yeas 18, Nays 18, Present and Passing 2, Absent or Not Voting 2.

Yeas: Adkins, Brownlee, Clark, Corbin, Downey, Goodwin, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Lee, Morris, Pugh, Schmidt, Taddiken, Tyson, Umbarger.

Nays: Allen, Barnett, Brungardt, Donovan, Emler, Gilstrap, Haley, Kerr, Lyon, O'Connor, Oleen, Praeger, Salmans, Schodorf, Steineger, Teichman, Vratil, Wagle.

Present and Passing: Feleciano, Gooch.

Absent or Not Voting: Barone, Harrington.

The motion failed and the amendment was rejected.

Senator Feleciano moved to amend the bill as amended by Senate Committee, on page 63, in line 7, by adding \$618,000 to the dollar amount and adjusting the dollar amount in line 7 accordingly;

On page 64, in line 23, by adding \$3,800,000 to the dollar amount and adjusting the dollar amount in line 23 accordingly; in line 32, by adding \$8,268,160 to the dollar amount and adjusting the dollar amount in line 32 accordingly;

On page 66, in line 42, by adding \$4,857,077 to the dollar amount and adjusting the dollar amount in line 42 accordingly;

On page 67, in line 3, by adding \$166,865 to the dollar amount and adjusting the dollar amount in line 3 accordingly; in line 23, by adding \$352,662 to the dollar amount and adjusting the dollar amount in line 23 accordingly; in line 37, by adding \$250,646 to the dollar amount and adjusting the dollar amount in line 37 accordingly;

On page 68, in line 10, by adding \$273,582 to the dollar amount and adjusting the dollar amount in line 10 accordingly; in line 30, by adding \$163,492 to the dollar amount and adjusting the dollar amount in line 30 accordingly;

On page 69, in line 15, by adding \$3,000,000 to the dollar amount and adjusting the dollar amount in line 15 accordingly; in line 33, by adding \$509,386 to the dollar amount and adjusting the dollar amount in line 33 accordingly; in line 37, by adding \$12,409,647 to the dollar amount and adjusting the dollar amount in line 37 accordingly; in line 41, by adding \$3,798,540 to the dollar amount and adjusting the dollar amount in line 41 accordingly;

On page 70, in line 10, by adding \$224,002 to the dollar amount and adjusting the dollar amount in line 10 accordingly;

On page 73, in line 25, by adding \$150,000 to the dollar amount and adjusting the dollar amount in line 25 accordingly; in line 29, by adding \$700,000 to the dollar amount and adjusting the dollar amount in line 29 accordingly;

On page 74, in line 6, by adding \$1,000,000 to the dollar amount and adjusting the dollar amount in line 6 accordingly; in line 11, by adding \$1,000,000 to the dollar amount and adjusting the dollar amount in line 11 accordingly;

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

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

Yeas: Barone, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Lee, Salmans, Steineger.

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

The motion failed and the amendment was rejected.

Senator Hensley moved to amend the bill as amended by Senate Committee, on page 151, following line 18, by inserting the following:

“(h) For the fiscal years ending June 30, 2002, June 30, 2003, or June 30, 2004, no expenditures shall be made from the state highway fund or any special revenue fund of the state department of transportation, or any other state agency, for a capital improvement project or projects to construct a tunnel network in the capitol area complex. Any unexpended funds shall be used in making grants and awards to local communities and other entities pursuant to federal law.”;

And by relettering the remaining subsections accordingly

Senator Adkins moved to amend the bill as amended by Senate Committee, on page 131, in line 14, by adding \$181,478 to the dollar amount and by adjusting the dollar amount in line 14 accordingly;

On page 173, in line 4, before the period, by inserting: “or the Kansas bureau of investigation”; in line 12, before the period, by inserting: “or the Kansas bureau of investigation”

Senator Huelskamp moved to amend the bill as amended by Senate Committee, on page 175, following line 30, by inserting the following:

“Sec. 86. Notwithstanding any other provision of law to the contrary, during the fiscal year ending June 30, 2003, no expenditures shall be made from any moneys appropriated for any state agency from the state general fund or any special revenue fund for fiscal year 2003 by chapter 144 or chapter 216 of the 2001 Session Laws of Kansas or by this or other

appropriation act of the 2002 regular session of the legislature for salaries and wages, including associated employer contributions, for any state officer or employee who is given holiday leave for any day or days on which state offices are closed in observance of a holiday or holiday season in addition to one day for independence day, labor day, veteran's day, Christmas, new year's day, Martin Luther King day and memorial day and two days for Thanksgiving.”;

And by renumbering the remaining sections accordingly

Senator Brownlee moved to amend the bill as amended by Senate Committee, on page 64, in line 32, by adding \$3,000,000 to the dollar amount and by adjusting the dollar amount in line 32 accordingly;

On page 73 by striking all in lines 33 through 36;

On page 121, in line 42, by subtracting \$3,000,000 from the dollar amount and by adjusting the dollar amount in line 42 accordingly;

On page 175, following line 30, by inserting the following:

“Sec. 86. (a) On July 1, 2002, the director of accounts and reports shall transfer \$8,000,000 from the children's initiatives fund to the state general fund.

(b) On June 30, 2003, the director of accounts and reports shall transfer any unencumbered balance in the Kansas endowment for youth fund of the Kansas public employees retirement system from the Kansas endowment for youth fund to the state general fund.”;

And by renumbering sections accordingly

Senator Gilstrap moved to amend the bill as amended by Senate Committee, on page 120, following line 8, by inserting the following:

“(k) In addition to the other purposes for which expenditures may be made by the department of corrections from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2003 for the department of corrections as authorized by this or other appropriation act of the 2002 regular session of the legislature, expenditures may be made by the department of corrections for fiscal year 2003 for operating expenditures for the department of corrections and the secretary of corrections shall consult, cooperate and coordinate activities relating to placement of any day reporting center within Wyandotte county which takes placements of or which provides services for any person sentenced to the custody of the secretary with such municipalities and members of the public that have an interest in such placement and may be affected by the secretary's decision on such placement to ensure that the municipality and the comments and concerns of the public are considered by the department prior to making such placement within Wyandotte county: *And provided further*, That, in making a final determination of such placement of any such facility within Wyandotte county by the secretary, the secretary shall make sure determination only after, (1) providing appropriate updates and relevant information on the department's progress toward a final placement decision, (2) giving due consideration to whether such placement is supported by such municipalities and the public and whether such placement is conducive to the location chosen, the community and the purpose behind the placement of such facility, (3) providing timely notice of a final decision, and (4) receiving approval from the governing body of the city in which the facility will be located: *And provided further*, That no such facility shall be placed within 1,000 feet of an existing day care center, preschool or elementary school.”

A ruling of the chair was requested as to the germaneness of the amendment to the bill.

The Chair ruled the amendment to be germane.

Senator Gilstrap withdrew the amendment.

Senator Gilstrap again moved to amend the bill as amended by Senate Committee, on page 120, following line 8, by inserting the following:

“(k) In addition to the other purposes for which expenditures may be made by the department of corrections from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2003 for the department of corrections as authorized by this or other appropriation act of the 2002 regular session of the legislature, expenditures may be made by the department of corrections for fiscal year 2003 for operating expenditures for the department of corrections and the secretary of corrections shall consult, cooperate and coordinate activities relating to placement of any day reporting center within Wyandotte county which takes placements of or which provides services for any person sentenced to

the custody of the secretary with such municipalities and members of the public that have an interest in such placement and may be affected by the secretary's decision on such placement to ensure that the municipality and the comments and concerns of the public are considered by the department prior to making such placement within Wyandotte county: *And provided further*, That no such facility shall be placed within 1,000 feet of an existing day care center, preschool or elementary school."

Senator Huelskamp moved to amend the bill on page 175, following line 30, by inserting the following: "Sec. 86. (a) On June 30, 2003, the director of accounts and reports shall transfer \$10,000,000 from the Kansas endowment for youth fund of the Kansas public employees retirement system from the Kansas endowment for youth fund to the state general fund.";

And by renumbering sections accordingly

Senator Haley moved to amend the bill as amended by Senate Committee, on page 8, in line 15, by subtracting \$174,933 from the dollar amount and by adjusting the dollar amount in line 15 accordingly

SB 457 be amended by adoption of the committee amendments, be further amended by motion of Senator Taddiken as amended by Senate Committee, on page 17, following line 22 by inserting the following:

"(e) During the fiscal year ending June 30, 2002, the secretary of the Kansas department of agriculture, with the approval of the director of the budget, may transfer any part of any item of appropriation for fiscal year 2002 from the state water plan fund of the Kansas department of agriculture to another item of appropriation for fiscal year 2002 from the state water plan fund of the Kansas department of agriculture.", and **SB 457** be passed as further amended.

SB 653 be amended by adoption of the committee amendments, be further amended by motion of Senator Feleciano on page 1, line 37, by striking all after the word "except" through the word "and" on line 39, and **SB 653** be passed as further amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a 2/3 constitutional majority, and **SB 457**, **SB 640**, **SB 653**, **SB 658**, **SB 663**; **Sub HB 2754**; **HB 3031**; **HCR 5051** were advanced to Final Action and roll call.

SB 457, An act making and concerning appropriations for the fiscal years ending June 30, 2002, and June 30, 2003, for the board of accountancy, state bank commissioner, Kansas board of barbering, behavioral sciences regulatory board, state board of healing arts, Kansas state board of cosmetology, Kansas dental board, state department of credit unions, state board of mortuary arts, board of nursing, board of examiners in optometry, state board of pharmacy, real estate appraisal board, Kansas real estate commission, office of the securities commissioner of Kansas, state board of technical professions, state board of veterinary examiners, governmental ethics commission, secretary of state, insurance department, health care stabilization fund board of governors, state board of indigents' defense services, citizens' utility ratepayer board, department of administration, department of revenue, Kansas lottery, Kansas racing and gaming commission, department of commerce and housing, Kansas inc., Kansas technology enterprise corporation, Kansas commission on veterans affairs, department of health and environment, department on aging, department of social and rehabilitation services, department of education, Kansas state historical society, Kansas state university, department of corrections, juvenile justice authority, adjutant general, attorney general—Kansas bureau of investigation, Kansas department of agriculture, state conservation commission, Kansas water office, department of transportation, state board of regents, state library, ombudsman of corrections, Kansas public employees retirement system, department of human resources and state fair board; authorizing certain transfers and capital improvement projects, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing; repealing section 59 of chapter 216 of the 2001 Session Laws of Kansas.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Brownlee, Clark, Haley, Huelskamp, Lyon, O'Connor, Pugh, Steineger, Tyson.
The bill passed, as amended.

SB 640. An act making and concerning appropriations for the fiscal years ending June 30, 2002, June 30, 2003, June 30, 2004, June 30, 2005, June 30, 2006, and June 30, 2007, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 75-2319 and K.S.A. 2001 Supp. 55-193, 79-2959, 79-2964, 79-3425i, 79-34,147 and 82a-953a and repealing the existing sections; also repealing section 100 of chapter 144 of the 2001 Session Laws of Kansas.

On roll call, the vote was: Yeas 22, Nays 18, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brungardt, Clark, Corbin, Donovan, Emler, Jackson, Jenkins, Jordan, Kerr, Morris, Oleen, Praeger, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Wagle.

Nays: Barone, Brownlee, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Lee, Lyon, O'Connor, Pugh, Steineger, Tyson, Vratil.
The bill passed, as amended.

EXPLANATION OF VOTES

MR. PRESIDENT: While this budget is far from perfect, the fiscal realities we face preclude a perfect work product and therefore I reluctantly vote yes. This budget contains some provisions I do not support but I believe given the challenges we face that we need to advance a budget bill to the conference committee so that work may proceed on a resolution of the state's fiscal crisis. On balance I can vote for this budget because it sustains funding for public education and cuts recommended to the budgets of our state's higher education institutions. This bill also restores funding for correctional institutions slated for closure in the Governor's budget. I am hopeful that any final budget will reflect my priority of adequately funding public education and public safety. I am also supportive of the provision in this bill that preserve the viability of the Children's Initiative Fund and the Kansas Endowment for Youth—two essential sources of funds, made possible from revenue earned in our state's settlement with big tobacco, which are utilized to enhance the well-being of Kansas children and youth. Maintaining the settlement proceeds for the benefit of young Kansans is among my highest priorities. We have difficult decisions to make in resolving our budget crisis, but I believe this bill represents a regrettable but viable first step in the Senate's attempt to resolve this crisis.—DAVID ADKINS

MR. PRESIDENT: Adding to the school base aid per pupil is an essential element in the state budget package. However, we have an unprecedented funding crisis and other parts of the budget are worthy, also. Granting funding equal to this year is a responsible, but painful decision. I must vote no on the amendment adding to K-12 funding.—PETE BRUNGARDT

MR. PRESIDENT: I voted "no" on the amendment to increase the base state aid per pupil *not* because I do not support education, but because I believe it is fiscally irresponsible to think that this great state can tax its way out of the current situation. I believe that some tax increases will be necessary just to be able to fund at current levels. Many of my constituents who are members of the education community have told me they would be ecstatic if they received more funding. They have gone on to tell me, however, they understand that everyone needs to be fiscally responsible and funding at the current level will be fiscally responsible.

Mr. President, I reluctantly cast the fiscally responsible vote. I voted "no" on the amendment to increase the base state aid per pupil.—JAY SCOTT EMLER

MR. PRESIDENT: I vote no on **SB 640**.

For all of our debate today, and for all of the amendments that were discussed, I can find only one reason to vote for this bill: \$8 million dedicated to pharmacy assistance for Kansas Seniors.

Unfortunately, there are an overwhelming number of reasons to vote no. In the past, the Senate has broken promises on our commitment to education, our elderly, our disabled, higher education, and many other areas, promises typically made during a previous session.

Today, the Senate breaks a promise made less than two months ago. We promised 304 Kansas school districts a minimal increase of \$20 in state aid per pupil. Today, that promise has been broken.

Then there are the promises made two years ago to our Regents institutions, made three years ago to a Comprehensive Transportation Plan, and made many years ago to the mentally and physically disable. All broken.

And, even then, this budget falls at least \$300 million short of meeting our shortfall. This is not belt tightening. In some cases it borders on strangulation. In whole, it is a misguided attempt at managing state government.—ANTHONY HENSLEY

Senators Barone, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Lee and Steiner request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **SB 640**.

MR. PRESIDENT: There is an old adage - when you are in a hole, quit digging. Well, after four years of spending a cumulative total of \$700 million more than Kansas taxpayers sent us, we have quite a hole—and we are still digging. This over spending of the last four years has now created a budget deficit of more than \$306 million, as some of us predicted would happen.

Mr. President, this bill does very little to correct the spending problems of past budgets.—TIM HUELSKAMP

Senators Brownlee, Harrington, O'Connor, Pugh and Tyson request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on **SB 640**.

MR. PRESIDENT: I stand in support of **SB 640** to take a position of trying to get this budget impasse resolved that we have faced since the beginning of this session.

I plan to support the Chairman of Ways and Means and this budget because at this time it is the right thing to do. The battle is not over, we still have the conference committee process.

There has been a lot of discussion of how to reconcile this budget problem. Should we raise taxes first or should we pass the budget first.

This is a valid concern but I do not believe that this has been the real hurdle for us to cross.

My concern is, do the people who have criticized this budget really want to get it resolved?

Have the critics made an honest effort to resolve the problem or are they just posturing themselves and others for next November's elections.

It is one thing to advocate no cut, and in fact to increase expenditures, but from where do they want to set the revenues for the many concerns we face.

Have the critics officially presented a revenue (tax) enhancement proposal to the Senate Tax Committee for their consideration? If not, why not? The information that I have received is that no such proposal was ever offered.

Standing on the Senate Floor and advocating increased expenditures without addressing from where the money will come from, in a responsible manner that is affordable is just rhetoric.—DWAYNE UMBARGER

MR. PRESIDENT: I vote in opposition to **SB 640** because of the damage it does to State programs and services. That damage is unnecessary and ill-advised. The most important service provided by this State, education, will be greatly damaged for many years. Our children will be denied the opportunities they deserve, the opportunities necessary to make them the most productive citizens for the future. My opposition includes cuts to higher education, Parents as Teachers and Infants and Toddlers programs. We owe our children more than we are offering.

I further oppose this budget because of significant cuts to the Judicial Branch budget and use of one-time money. All people in this State benefit from our judicial system and the Legislature has a constitutional obligation to adequately fund our court system. We are failing in that duty. In fact, it appears that the Judicial Branch is being punished because it attempted to provide additional funding through Court initiative.

Perhaps the greatest failure of this budget is an attempt to solve long-term problems with short-term solutions. This budget surely promises that we will continue to experience budget deficits in fiscal years 2004 and 2005 much like we have experienced in FY 2002 and 2003. The use of one-time money and accounting gimmicks is excessive and promises future problems. We should be smarter than that; our constituents expect us to solve our budget problems, not defer them to next year.

Finally, in this budget, we neglect our responsibility to deal properly with local governments, cities and counties. By failing to properly fund certain demand transfers, we are forcing those local governments to raise local taxes. Our reluctance to raise taxes has the effect of shifting that responsibility to cities and counties. We should step up to the plate and meet our responsibility. That is why we were elected.—JOHN VRATIL

SB 653. An act concerning crimes and punishment; relating to prisoners and offenders; cost of maintenance; amending K.S.A. 19-1930 and repealing the existing section.

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

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

Nays: Adkins, Allen, Barone, Brownlee, Feleciano, Gilstrap, Haley, Hensley, Jordan, Lee, Steineger.

The bill passed, as amended.

SB 658. An act concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; death and disability benefits; employer contributions; amending K.S.A. 2001 Supp. 74-4927 and 74-4927f and repealing the existing sections.

On roll call, the vote was: Yeas 27, Nays 13, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Barone, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Lee, Pugh, Steineger, Taddiken, Teichman.

The bill passed.

SB 663. An act providing for redistricting of state board of education member districts; repealing K.S.A. 4-502 through 4-513.

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.

Sub HB 2754. An act concerning telecommunications; amending K.S.A. 2001 Supp. 66-2005 and 66-2008 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 66-2012 and 66-2016.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Jenkins, Jordan, Kerr, Lee,

Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barone, Corbin, Feleciano, Huelskamp, Schmidt.

The substitute bill passed, as amended.

HB 3031, An act concerning natural gas; amending K.S.A. 55-102 and repealing the existing section.

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

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

The bill passed, as amended.

HCR 5051, A concurrent resolution urging the United States Postal Service to issue a commemorative postage stamp honoring America's coal miners.

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

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

The resolution was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 402**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 4, in line 26, by striking all after the period; by striking all in lines 27 and 28;

On page 6, in line 10, before "72-1906" by inserting "72-1905,";

In the title, in line 16, following "sections" by inserting "; also repealing K.S.A. 2001 Supp. 72-1905";

And your committee on conference recommends the adoption of this report.

RALPH M. TANNER

KATHE LLOYD

BILL REARDON

Conferees on part of House

DWAYNE UMBARGER

JOHN VRATIL

CHRISTINE DOWNEY

Conferees on part of Senate

Senator Umbarger moved the Senate adopt the Conference Committee Report on **SB 402**.

On roll call, the vote was: Yeas 35, Nays 5, 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, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Lyon, O'Connor, Pugh, Tyson.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2812**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

And your committee on conference recommends the adoption of this report.

SANDY PRAGER
RUTH TEICHMAN
Conferees on part of Senate

RAY L. COX
JOE D. HUMERICKHOUSE
Conferees on part of House

On motion of Senator Praeger, the Senate adopted the conference committee report on **HB 2812**, and requested a new conference committee be appointed.

The President appointed Senators Praeger, Teichman and Feleciano as a second Conference Committee on the part of the Senate on **HB 2812**.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Jordan as a member of the Conference Committee on **SB 517** to replace Senator Adkins.

The President announced the appointment of Senator Oleen as a member of the Conference Committee on **S Sub for HB 2831** to replace Senator Vratil.

MESSAGE FROM THE GOVERNOR

April 11, 2002

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as Governor of the State of Kansas as of April 11, 2002, pursuant to law.

BILL GRAVES
Governor

Member, State Civil Service Board, William A. Dean, pursuant to the authority vested in me by KSA 75-2929a, effective upon the date of confirmation by the Senate, to serve a four-year term ending March 15, 2006.

Member, State Civil Service Board, Glenn W. Fisher, pursuant to the authority vested in me by KSA 75-2929a, effective upon the date of confirmation by the Senate to serve a four-year term ending March 15, 2006.

Member, Public Employee Relations Board, Sally S. O'Grady, pursuant to the authority vested in me by KSA 75-4323, effective upon the date of confirmation by the Senate, to serve a four-year term ending March 15, 2006.

MESSAGE FROM THE HOUSE

Announcing, the House adopts the conference committee report on **SB 395**.

The House adopts the conference committee report on **SB 564**.

The House adopts the conference committee report on **Senate Substitute for HB 2123**.

The House accedes to the request of the Senate for a conference on **SB 517** and has appointed Representatives Wilk, Neufeld and Nichols as conferees on the part of the House.

The House announces the appointment of Representative Kuether to replace Representative Storm as a conferee on **HB 2831**.

The House announces the appointment of Representative Kuether to replace Representative Storm as a conferee on **SB 403**.

ORIGINAL MOTION

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **Sub HB 2653**.

The President appointed Senators Donovan, Salmans and Gooch as conferees on the part of the Senate.

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **HB 2949**.

The President appointed Senators Donovan, Salmans and Gooch as conferees on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2828**, as amended by House Committee, be passed.

Also **HB 2009** be amended by striking all in lines 13 through 32 and inserting the following:

“Section 1. K.S.A. 2001 Supp. 17-7503 is hereby amended to read as follows: 17-7503.

(a) Every domestic corporation organized for profit shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms prescribed by the secretary of state. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return, except that if any such corporation shall apply for an extension of time for filing its annual income tax return under the internal revenue service or under subsection (c) of K.S.A. 79-3221, and amendments thereto, such corporation shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing the report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221, and amendments thereto. Such application shall include a copy of the application to income tax authorities. The report shall contain the following information:

- (1) The name of the corporation;
- (2) the location of the principal office;
- (3) the names of the president, secretary, treasurer and members of the board of directors, with the residence address of each;
- (4) the number of shares of capital stock issued and the amount of capital stock paid up;

(5) the nature and kind of business in which the corporation is engaged; and
 (6) a list of stockholders owning at least 5% of the capital stock of the corporation, with the post office address of each.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

- (1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;
- (2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;
- (3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;
- (4) the total number of stockholders of the corporation;
- (5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;
- (6) the number of acres of agricultural land, held and reported in each category under provision (5), state separately, being irrigated; and
- (7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(c) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed

on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report will be dated and subscribed by the person as true, under penalty of perjury. At the time of filing such annual report it shall be the duty of each domestic corporation organized for profit to pay to the secretary of state an annual franchise tax in an amount equal to ~~#1~~ \$2 for each \$1,000 of the corporation's shareholder's equity attributable to Kansas, except that no such tax shall be less than ~~\$20~~ \$40 or more than ~~\$2,500~~ \$5,000. The amount of any such franchise tax paid by the corporation to the secretary as provided by this subsection shall not be disclosed by the secretary.

Sec. 2. K.S.A. 2001 Supp. 17-7504 is hereby amended to read as follows: 17-7504. (a) Every corporation organized not for profit shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms prescribed by the secretary of state. The report shall be filed on the 15th day of the sixth month following the close of the taxable year, except that such corporation may apply to the secretary of state not more than 90 days after the due date of its annual report for an extension of the time for filing the report, and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221, and amendments thereto. The report shall contain the following information:

- (1) The name of the corporation;
- (2) the location of the principal office;
- (3) the names of the president, secretary and treasurer, and the members of the board of directors, with the residence address of each;
- (4) the number of memberships or the number of shares of capital stock issued and the amount of capital stock paid up.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

- (1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;
- (2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;
- (3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;
- (4) the total number of stockholders of the corporation;
- (5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;
- (6) the number of acres of agricultural land, held and reported in each category under paragraph (5) of this subsection (b), stated separately, being irrigated; and
- (7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(c) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report will be dated and subscribed by the person as true, under penalty of perjury. At the time of filing such report, each nonprofit corporation shall pay an annual privilege fee of \$5, ~~except that the annual fee for tax periods ending after December 31, 1992, shall be \$20~~ \$40 for all tax years commencing after December 31, 2001.

Sec. 3. K.S.A. 2001 Supp. 17-7505 is hereby amended to read as follows: 17-7505. (a) Every foreign corporation organized for profit, or organized under the cooperative type

statutes of the state, territory or foreign country of incorporation, now or hereafter doing business in this state, and owning or using a part or all of its capital in this state, and subject to compliance with the laws relating to the admission of foreign corporations to do business in Kansas, shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation operates on a fiscal year other than the calendar year it shall give written notice thereof to the secretary of state prior to December 31 of the year commencing such fiscal year. The report shall be made on a form prescribed by the secretary of state. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return, except that if any such corporation shall apply for an extension of time for filing its annual income tax return under the internal revenue service or under subsection (c) of K.S.A. 79-3221, and amendments thereto, such corporation shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing the report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221, and amendments thereto. Such application shall include a copy of the application to income tax authorities. The report shall contain the following facts:

- (1) The name of the corporation and under the laws of what state or country organized;
- (2) the location of its principal office;
- (3) the names of the president, secretary, treasurer and members of the board of directors, with the residence address of each;
- (4) the number of shares of capital stock issued and the amount of capital stock paid up;

- (5) the nature and kind of business in which the company is engaged and its place or places of business both within and without the state of Kansas;

- (6) the value of the property owned and used by the company in Kansas, where situated, and the value of the property owned and used outside of Kansas and where situated; and

- (7) the corporation's shareholder's equity attributable to Kansas.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

- (1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

- (2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

- (3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

- (4) the total number of stockholders of the corporation;

- (5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

- (6) the number of acres of agricultural land, held and reported in each category under paragraph (5) of this subsection (b), stated separately, being irrigated; and

- (7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report will be dated and subscribed by the person as true, under penalty of perjury. At the time of filing its annual report, each such foreign corporation shall pay to the secretary of state an annual franchise tax in an amount equal to ~~the~~ \$2 for each \$1,000 of the corporation's shareholder's equity attributable to Kansas, except that no such tax shall be less than ~~\$20~~ \$40 or more than ~~\$2,500~~ \$5,000. The amount of any

such franchise tax paid by the foreign corporation to the secretary as provided by this subsection shall not be disclosed by the secretary.

Sec. 4. K.S.A. 2001 Supp. 17-76,139 is hereby amended to read as follows: 17-76,139.

(a) Every limited liability company organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

(1) The name of the limited liability company; and

(2) a list of the members owning at least 5% of the capital of the company, with the post office address of each.

(b) Every foreign limited liability company shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company also shall apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited liability company.

(c) The annual report required by this section shall be signed by a member of the limited liability company and forwarded to the secretary of state. At the time of filing the report, the limited liability company shall pay to the secretary of state an annual franchise tax in an amount equal to ~~\$1~~ \$2 for each \$1,000 of the net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, or for a one-member LLC taxed as a sole proprietorship, ~~\$1~~ \$2 for each \$1,000 of net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the preceding taxable year, except that no annual tax shall be less than ~~\$20~~ \$40 or more than ~~\$2,500~~ \$5,000. The amount of any such franchise tax paid by the limited liability company to the secretary as provided by this subsection shall not be disclosed by the secretary.

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, shall be applicable to the articles of organization of any domestic limited liability company or to the authority of any foreign limited liability company which fails to file its annual report or pay the franchise tax within 90 days of the time prescribed in this section for filing and paying the same. Whenever the articles of organization of a domestic limited liability company or the authority of any foreign limited liability company are forfeited for failure to file an annual report or to pay the required franchise tax, the domestic limited liability

company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees and taxes, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

(e) When reinstatement is effective, it relates back to and takes effect as of the effective date of the forfeiture and the company may resume its business as if the forfeiture had never occurred.

(f) No limited liability company shall be required to file its first annual report under this act, or pay any annual franchise tax required to accompany such report, unless such limited liability company has filed its articles of organization or application for authority at least six months prior to the last day of its tax period. If any limited liability company files with the secretary of state a notice of change in its tax period and the next annual report filed by such limited liability company subsequent to such notice is based on a tax period of less than 12 months, the annual tax liability shall be determined by multiplying the annual franchise tax liability for such year by a fraction, the numerator of which is the number of months or any portion thereof covered by the annual report and the denominator of which is 12, except that the tax shall not be less than \$20.

Sec. 5. On and after June 1, 2002, K.S.A. 2001 Supp. 41-501 is hereby amended to read as follows: 41-501. (a) As used in this section and K.S.A. 41-501a, and amendments thereto:

(1) "Gallon" means wine gallon.

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

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

(b) (1) For the purpose of raising revenue a tax is imposed upon the manufacturing, using, selling, storing or purchasing alcoholic liquor, cereal malt beverage or malt products in this state or a federal area at a rate of ~~\$-18~~ \$.23 per gallon on beer and cereal malt beverage; ~~\$-20~~ \$.26 per gallon on all wort or liquid malt; ~~\$-10~~ \$.13 per pound on all malt syrup or malt extract; ~~\$-30~~ \$.40 per gallon on wine containing 14% or less alcohol by volume; ~~\$-75~~ \$1.00 per gallon on wine containing more than 14% alcohol by volume; and ~~\$2.50~~ \$3.25 per gallon on alcohol and spirits.

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

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

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

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

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

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

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

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

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

(i) The director shall collect the taxes imposed by this section and shall account for and remit all moneys collected from the tax to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit ~~7.14~~ 7.14% of the moneys collected from taxes imposed upon alcohol and spirits under subsection (b)(1) to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and shall credit the balance of the moneys collected to the state general fund.

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

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

New Sec. 6. On June 1, 2002, a tax at the rate of \$.05 per gallon on all beer and cereal malt beverage, \$.10 per gallon for wine containing 14% or less of alcohol by volume, \$.25 per gallon for wine containing more than 14% of alcohol by volume, \$.75 per gallon on

alcohol and spirits, \$.06 per gallon on wort and liquid malt, and \$.03 per pound of malt syrup and malt extract, is hereby imposed on the manufacture, use, sale, storage or purchase of such alcoholic liquors owned at 12:01 a.m. on June 1, 2002, by a licensed distributor or retail dealer as to which the tax has been imposed as provided in K.S.A. 41-501, and amendments thereto. Such tax shall be paid by the licensed distributor or retail dealer owning such alcoholic liquors, cereal malt beverage or beer at such time and date. On or before June 25, 2002, every such distributor and retail dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons of such alcoholic liquors, cereal malt beverage or beer so owned at 12:01 a.m. on June 2, 2002, and such report shall be accompanied by a remittance of the tax due.

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

Sec. 7. On and after June 1, 2002, K.S.A. 79-4101 is hereby amended to read as follows: 79-4101. (a) For the purpose of providing revenue which may be used by the state, counties and cities in the enforcement of the provisions of this act, from and after the effective date of this act, for the privilege of engaging in the business of selling alcoholic liquor by retailers or farm wineries to consumers in this state or selling alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments or caterers in this state, there is hereby levied and there shall be collected and paid a tax at the rate of ~~8%~~ 10% upon the gross receipts received from: (1) The sale of alcoholic liquor by retailers, microbreweries or farm wineries to consumers within this state; and (2) the sale of alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments or caterers in this state.

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

Sec. 8. On and after June 1, 2002, K.S.A. 79-41a02 is hereby amended to read as follows: 79-41a02. (a) There is hereby imposed, for the privilege of selling alcoholic liquor, a tax at the rate of ~~10%~~ 12% upon the gross receipts derived from the sale of alcoholic liquor by any club, caterer, drinking establishment or temporary permit holder.

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

Sec. 9. On and after June 1, 2002, K.S.A. 2001 Supp. 79-41a03 is hereby amended to read as follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-41a02, and amendments thereto, shall become due and payable by the club, caterer, drinking establishment or temporary permit holder monthly, or on or before the 25th day of the month immediately succeeding the month in which it is collected, but any club, caterer, drinking establishment or temporary permit holder filing an annual or quarterly return under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607, and amendments thereto, shall, upon such conditions as the secretary of revenue may prescribe, pay the tax required by this act on the same basis and at the same time the club, caterer, drinking establishment or temporary permit holder pays such retailers' sales tax. Each club, caterer, drinking establishment or temporary permit holder shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross receipts derived from the sale of alcoholic liquor by the club, caterer, drinking establishment or temporary permit holder for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross receipts derived from the sale

of alcoholic liquor shall be kept separate and apart from the records of other retail sales made by a club, caterer, drinking establishment or temporary permit holder in order to facilitate the examination of books and records as provided herein.

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

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

(d) The secretary of revenue shall remit all revenue collected under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Subject to the maintenance requirements of the local alcoholic liquor refund fund created under K.S.A. 79-41a09, and amendments thereto, ~~25%~~ 37.5% of the remittance shall be credited to the state general fund, ~~5%~~ 4.17% shall be credited to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and the balance shall be credited to the local alcoholic liquor fund created by K.S.A. 79-41a04, and amendments thereto.

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

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

Sec. 10. On and after June 1, 2002, K.S.A. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. The rate of such tax shall be ~~\$.24~~ \$.89 on each 20 cigarettes or fractional part thereof or ~~\$.30~~ \$1.1125 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided.

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

New Sec. 11. On or before June 30, 2002, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01

a.m. on June 1, 2002. A tax of \$.65 on each 20 cigarettes or fractional part thereof or \$.8125 on each 25 cigarettes, as the case requires and \$.65 or \$.8125, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to June 1, 2002, is hereby imposed and shall be due and payable on or before June 30, 2002. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 12. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied stamps only to licensed wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and stamps applied by the heat process and meter imprints shall be supplied to wholesale dealers at a discount of ~~2.65%~~ 0.71% from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the bond. Failure on the part of any wholesale dealer to remit as herein specified shall be cause for forfeiture of such dealer's bond. All revenue received from the sale of such stamps or meter imprints shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall first credit such amount as the director shall order to the cigarette tax refund fund and shall credit the remaining balance to the state general fund. A refund fund designated the cigarette tax refund fund not to exceed \$10,000 at any time shall be set apart and maintained by the director from taxes collected under this act and held by the state treasurer for prompt payment of all refunds authorized by this act. Such cigarette tax refund fund shall be in such amount as the director shall determine is necessary to meet current refunding requirements under this act.

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

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

Sec. 13. On and after June 1, 2002, K.S.A. 79-3312 is hereby amended to read as follows: 79-3312. The director shall redeem any unused stamps or meter imprints that any wholesale dealer presents for redemption within six months after the purchase thereof, at the face value less ~~2.65%~~ 0.71% thereof if such stamps or meter imprints have been purchased from the director. The director shall prepare a voucher showing the net amount of such refund due, and the director of accounts and reports shall draw a warrant on the state treasurer for the same. Wholesale dealers shall be entitled to a refund of the tax paid on cigarettes which have become unfit for sale upon proof thereof less ~~2.65%~~ 0.71% of such tax.

Sec. 14. On and after June 1, 2002, K.S.A. 79-3371 is hereby amended to read as follows: 79-3371. A tax is hereby imposed upon the privilege of selling or dealing in tobacco products in this state by any person engaged in business as a distributor thereof, at the rate of ~~ten percent (10%)~~ 20% of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings or causes to be brought into this state from without the state tobacco products for sale; (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (c) ships or transports tobacco products to retailers in this state to be sold by those retailers.

New Sec. 15. On or before June 30, 2002, each distributor having a place of business in this state shall file a report with the director in such form as the director may prescribe, showing the tobacco products on hand at 12:01 a.m. on June 1, 2002. A tax at a rate equal to 10% of the wholesale sales price of such tobacco products is hereby imposed upon such tobacco products and shall be due and payable on or before June 30, 2002. The tax upon such tobacco products shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 16. On and after June 1, 2002, K.S.A. 79-3378 is hereby amended to read as follows: 79-3378. On or before the ~~twentieth~~ 20th day of each calendar month every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product ~~(1)~~ brought, or caused to be brought, into this state for sale; and ~~(2)~~ made, manufactured, or fabricated in this state for sale in this state during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the director. Each return shall be accompanied by a remittance for the full tax liability shown therein, less ~~four percent (4%)~~ 2% of such liability as compensation to reimburse the distributor for his or her expenses incurred in the administration of this act. As soon as practicable after any return is filed, the director shall examine the return. If the director finds that, ~~in his or her judgment,~~ the return is incorrect and any amount of tax is due from the distributor and unpaid, ~~he or she~~ the director shall notify the distributor of the deficiency. If a deficiency disclosed by the director's examination cannot be allocated by him to a particular month or months, ~~he or she~~ the director may nevertheless notify the distributor that a deficiency exists and state the amount of tax due. Such notice shall be given to the distributor by registered or certified mail.

New Sec. 17. (a) On and after March 1, 2002, in addition to the tax imposed by the Kansas estate tax act, a tax is hereby imposed on the privilege of succeeding to the ownership of any property, corporeal or incorporeal, and any interest therein within the jurisdiction of this state by any relative, or stranger in the blood, of a decedent other than the spouse, brothers and sisters, lineal ancestors, lineal descendants, step-parents, step-children, adopted children, lineal descendants of any adopted child or step-child, the spouse or surviving spouse of a son or daughter, or the spouse or surviving spouse of an adopted child or step-child of the decedent. In the case of an adopted child or step-child, a spouse or surviving spouse of an adopted child or step-child or the lineal descendant of an adopted child or step-child of the decedent, such person shall file with the department of revenue

an affidavit setting forth the relationship of such person to the decedent. Such affidavit shall be sufficient proof of the adoptive or step-child relationship in question, and the department, or any officer or employee thereof, shall not require any additional proof of such relationship. As used in this paragraph, "step-child" means a child of a spouse or former spouse of the decedent or the brothers and sisters of the decedent.

(b) The tax shall be charged upon the value of the property succeeded to and shall be in an amount equal to a percentage of such value as follows: On any amount up to \$100,000, 10%; or any amount in excess of \$100,000 and up to \$200,000, 12%; on all sums in excess of \$200,000, 15%.

(c) All moneys collected pursuant to the provisions of this section shall be remitted to the state treasurer who shall credit the entire amount thereof to the state general fund.

(d) The provisions of this section shall be deemed supplemental to the Kansas estate tax act.

Sec. 18. K.S.A. 2001 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110.

(a) *Resident Individuals.* Except as otherwise provided by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

(1) *Married individuals filing joint returns.*

(A) *For tax years 2002, 2003, 2004 and 2005:*

<i>If the taxable income is:</i>	<i>The tax is:</i>
Not over \$30,000	3.6% of Kansas taxable income
Over \$30,000 but not over \$60,000	\$1,080 plus 6.55% of excess over \$30,000
Over \$60,000	\$3,045 plus 6.75% of excess over \$60,000

(B) *For tax years 2006, and all tax years thereafter:*

<i>If the taxable income is:</i>	<i>The tax is:</i>
Not over \$30,000	3.5% of Kansas taxable income
Over \$30,000 but not over \$60,000	\$1,050 plus 6.25% of excess over \$30,000
Over \$60,000	\$2,925 plus 6.45% of excess over \$60,000

(2) *All other individuals.*

(A) *For tax year ~~1997~~ years 2002, 2003, 2004 and 2005:*

<i>If the taxable income is:</i>	<i>The tax is:</i>
Not over \$20,000 \$15,000	4.1% 3.6% of Kansas taxable income
Over \$20,000 \$15,000 but not over \$30,000	\$620 plus 7.5% \$540 plus 6.55% of excess over \$20,000 \$15,000
Over \$30,000	\$1,570 plus 7.75% \$1,522.50 plus 6.75% of excess over \$30,000

(B) *For tax year ~~1998~~ 2006, and all tax years thereafter:*

<i>If the taxable income is:</i>	<i>The tax is:</i>
Not over \$15,000	3.5% of Kansas taxable income
Over \$15,000 but not over \$30,000	\$525 plus 6.25% of excess over \$15,000
Over \$30,000	\$1,462.50 plus 6.45% of excess over \$30,000

(b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas taxable income of every nonresident individual, which tax shall be an amount equal to the tax computed under subsection (a) as if the nonresident were a resident multiplied by the ratio of modified Kansas source income to Kansas adjusted gross income.

(c) *Corporations.* A tax is hereby imposed upon the Kansas taxable income of every corporation doing business within this state or deriving income from sources within this state. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(1) The normal tax shall be in an amount equal to 4% of the Kansas taxable income of such corporation; and

(2) the surtax shall be in an amount equal to 3.35% of the Kansas taxable income of such corporation in excess of \$50,000.

(d) *Fiduciaries.* A tax is hereby imposed upon the Kansas taxable income of estates and trusts at the rates provided in paragraph (2) of subsection (a) hereof.

Sec. 19. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of ~~4.9%~~ 5.2% and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001. For the purposes of this subsection the term gross receipts does not include purchases of telephone, telegraph or telecommunications using a prepaid telephone calling card or prepaid authorization number. As used in this subsection, a prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed; and (3) the gross receipts from the provision of services taxable under this subsection which are billed on a combined basis with nontaxable services, shall be accounted for and the tax remitted as follows: The taxable portion of the selling price of those combined services shall include only those charges for taxable services if the selling price for the taxable services can be readily distinguishable in the retailer's books and records from the selling price for the nontaxable services. Otherwise, the gross receipts from the sale of both taxable and nontaxable services billed on a combined basis shall be deemed attributable to the taxable services included therein. Within 90 days of billing taxable services on a combined basis with nontaxable services, the retailer shall enter into a written agreement with the secretary identifying the methodology to be used in determining the taxable portion of the selling price of those combined services. The burden of proving that any receipt or charge is not taxable shall be upon the retailer. Upon request from the customer, the retailer shall disclose to the customer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on a combined basis;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is

exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building or facility damaged or destroyed by fire, flood, tornado, lightning, explosion or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 *et seq.*, and amendments thereto, or of any municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility; and

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property, except computer software described in subsection (s), which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) the gross receipts received from the sale of computer software, and the sale of the services of modifying, altering, updating or maintaining computer software. As used in this subsection, "computer software" means information and directions loaded into a computer which dictate different functions to be performed by the computer. Computer software includes any canned or prewritten program which is held or existing for general or repeated sale, even if the program was originally developed for a single end user as custom computer

software. The sale of computer software or services does not include: (1) The initial sale of any custom computer program which is originally developed for the exclusive use of a single end user; or (2) those services rendered in the modification of computer software when the modification is developed exclusively for a single end user only to the extent of the modification and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements and other billing documents provided to the end user. The services of modification, alteration, updating and maintenance of computer software shall only include the modification, alteration, updating and maintenance of computer software taxable under this subsection whether or not the services are actually provided;

(t) the gross receipts received for telephone answering services, including mobile phone services, beeper services and other similar services;

(u) the gross receipts received from the sale of prepaid telephone calling cards or prepaid authorization numbers and the recharge of such cards or numbers. A prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed. If the sale or recharge of such card or number does not take place at the vendor's place of business, it shall be conclusively determined to take place at the customer's shipping address; if there is no item shipped then it shall be the customer's billing address; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*, and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*, and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 20. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) (1) The state treasurer shall credit $\frac{5}{100}$ s of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) *The state treasurer shall credit $\frac{5}{104}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.2%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce and housing to

be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

Sec. 21. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3633 is hereby amended to read as follows: 79-3633. As used in K.S.A. 79-3620 and 79-3632 to 79-3639 and amendments thereto, unless the context clearly indicates otherwise:

(a) "Income" means adjusted gross income determined under the Kansas income tax act without regard to the modifications specified by subsections (c)(i), (ii) regarding Kansas public employee retirement system retirement benefits, (vii), (ix) and (xii) of K.S.A. 79-32,117, and amendments thereto.

(b) "Household" means a claimant and all other persons for whom a personal exemption is claimed who together occupy a common residence.

(c) "Claimant" means a person who has filed a claim for a refund or credit under the provisions of this act and was, during the entire calendar year preceding the year in which the claim was filed for relief under this act, domiciled in this state, was a member of a household, had income of not more than ~~\$25,000~~ \$35,000 in the calendar year for which a claim is filed and was: (1) A person having a disability; (2) a person other than a person included under (1), who has attained 55 years of age in the calendar year for which a claim is filed or (3) a person other than a person included under (1) or (2) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year for which a claim is filed.

(d) "Head of household" means the person filing a claim under the provisions of this act.

(e) "Disability" means (1) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(f) "Blindness" means central visual acuity of $\frac{20}{200}$ or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of $\frac{20}{200}$ or less.

Sec. 22. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3635 is hereby amended to read as follows: 79-3635. (a) (1) A claimant shall be entitled to a refund of retailers' sales taxes paid upon food during the calendar year ~~1998~~ 2002 and each year thereafter in the amount hereinafter provided. There shall be allowed for each member of a household of a claimant having income of ~~\$12,500~~ \$17,500 or less, an amount equal to ~~\$60~~ \$70. There shall be allowed for each member of a household of a claimant having income of more than ~~\$12,500~~ \$17,500 but not more than ~~\$25,000~~ \$35,000, an amount equal to ~~\$30~~ \$35. There

shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of ~~\$30 or \$60~~ \$35 or \$70, as the case requires. All such claims shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or by a person or persons designated by the director.

(2) As an alternative to the procedure described by paragraph 1, for all taxable years commencing after December 31, ~~1997~~ 2001, there shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to ~~\$60 or \$30~~ \$35 or \$70, as the case requires, for each member of a household. There shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of ~~\$30 or \$60~~ \$35 or \$70, as the case requires. If the amount of such tax credit exceeds the claimant's income tax liability for such taxable year, such excess amount shall be refunded to the claimant.

(b) A head of household shall make application for refunds for all members of the same household upon a common form provided for the making of joint claims. All claims paid to members of the same household shall be paid as a joint claim by means of a single warrant.

(c) No claim for a refund of taxes under the provisions of K.S.A. 79-3632 *et seq.* shall be paid or allowed unless such claim is actually filed with and in the possession of the department of revenue on or before April 15 of the year next succeeding the year in which such taxes were paid. The director of taxation may: (1) Extend the time for filing any claim under the provisions of this act when good cause exists therefor; or (2) accept a claim filed after the deadline for filing in the case of sickness, absence or disability of the claimant if such claim has been filed within four years of such deadline.

(d) *In the case of all tax years commencing after December 31, 2002, the threshold income amounts prescribed in this section and subsection (c) of K.S.A. 79-3633, and amendments thereto, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.*

Sec. 23. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of ~~4.9%~~ 5.2%. Within a redevelopment district established pursuant to K.S.A. 2001 Supp. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 24. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

(b) A revolving fund, designated as "compensating tax refund fund" not to exceed \$10,000 shall be set apart and maintained by the director from compensating tax collections and estimated tax collections and held by the state treasurer for prompt payment of all compensating tax refunds. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) *The state treasurer shall credit $\frac{5}{104}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.2%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce and housing to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund created by subsection (d) of K.S.A. 79-3620, and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3620, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

Sec. 25. K.S.A. 2001 Supp. 79-32,205 is hereby amended to read as follows: 79-32,205.

(a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to ~~10%~~ 15% for tax year ~~1998~~ 2002, and all tax years thereafter, of the amount of the earned income credit allowed against such taxpayer's federal income tax liability pursuant to section 32 of the federal internal revenue code for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

(b) If the amount of the credit allowed by subsection (a) exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.

(c) The provisions of this section shall be applicable to all taxable years commencing after December 31, 1997.

Sec. 26. K.S.A. 2001 Supp. 17-7503, 17-7504, 17-7505, 17-76,139, 79-32,110 and 79-32,205 are hereby repealed.

Sec. 27. On and after June 1, 2002, K.S.A. 79-3310, 79-3312, 79-3371, 79-3378 and 79-41a02 and K.S.A. 2001 Supp. 41-501, 79-3311, 79-3603, 79-3620, 79-3633, 79-3635, 79-3703, 79-3710, 79-4101 and 79-41a03 are hereby repealed.

Sec. 28. This act shall take effect and be in force from and after its publication in the Kansas register.;

In the title, in line 9, by striking all after "ACT"; in line 10, by striking all before the period and inserting "relating to state government financing; providing tax revenue enhancements therefor; amending K.S.A. 79-3310, 79-3312, 79-3371, 79-3378 and 79-41a02 and K.S.A. 2001 Supp. 17-7503, 17-7504, 17-7505, 17-76,139, 41-501, 79-32,110, 79-32,205, 79-3311, 79-3603, 79-3620, 79-3633, 79-3635, 79-3703, 79-3710, 79-4101 and 79-41a03 and repealing the existing sections"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HB 2819** be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2819," as follows:

"SENATE Substitute for HOUSE BILL No. 2819
By Committee on Federal and State Affairs

"AN ACT concerning operating standards for abortion clinics; relating to the powers and duties of the secretary of health and environment.;"
and the substitute bill be passed.

Also **HB 2020**, as amended by House Committee of the Whole, be amended on page 1, by striking all in lines 16, 17 and 18;

By relettering subsections (b) through (d) as (a) through (c), respectively;

Also on page 1, in line 36, by striking “as specified by ANSI A117.1, 4.3”; in line 37, by striking all after “shall”; by striking all in line 38; in line 41, by striking all after “shall”; in line 42, by striking all before “have”;

On page 2, in line 4, following the period by inserting “The threshold of such doors shall not exceed ½ inch or, in the case of a sliding door, ¾ inch.”; in line 5, following “doorways” by inserting “located on the same floor on which the accessible entrance is located”; in line 7, following “doors” by inserting “located on the same floor on which the accessible entrance is located”; in line 9, by striking all after “opening”; in line 10, by striking “4.13.5”; in line 11, following “dwelling” by inserting “located on the same floor on which the accessible entrance is located”; in line 13, by striking all before “ramped” and inserting “. Such route shall have”; in line 14, by striking all after “thresholds”; in line 15, by striking all before the last period; in line 16, by striking “the walls” and inserting “bathroom walls located on the same floor on which the accessible entrance is located”; in line 17, by striking all before the second comma; in line 20, by striking “dwellings contain”; in line 21, following “controls” by inserting “, located on the same floor on which the accessible entrance is located, be placed”; also in line 21, by striking all after “locations”; in line 22, by striking “A117.1, 4.25” and inserting “which shall be no less than 15 inches nor more than 48 inches from the floor”;

On page 3, in line 33, by striking “shall” and inserting “may”; in line 36, by striking “subsection (a) of”;

On page 4, in line 21, by striking “2001” and inserting “2002”; and the bill be passed as amended.

HB 2736, as amended by House Committee of the Whole, be amended on page 2, in line 24, by striking all after “than”; by striking all in line 25; in line 26, by striking all before the period and inserting “\$250,000”; and the bill be passed as amended.

Your Committee on Public Health and Welfare begs leave to submit the following report:

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

By the Governor:

University of Kansas Hospital Authority: K.S.A. Supp. 76-3304

Eric T. Jager, term expires March 15, 2005

Charles T. Sunderland, term expires March 15, 2005

Committee on **Ways and Means** recommends **HB 2575**, as amended by House Committee, be amended on page 1, after line 16, by inserting the following:

“Section 1. K.S.A. 2001 Supp. 39-1811 is hereby amended to read as follows: 39-1811.

(a) In carrying out the provisions of subsection (b)(2) of K.S.A. 39-1804, and amendments thereto, the secretary shall ensure annually that all available state funds appropriated for community developmental disability services are used as match or certified match to secure federal financial participation to the maximum extent feasible.

(b) In addition, the secretary shall ensure that funding provided to any community developmental disability organization or any affiliate thereof by any taxing subdivision of the state is utilized as certified match for federal financial participation to the maximum extent feasible. Any public funding identified under this section shall be retained at the local level and the authority for the use of such revenues shall be subject to the statutory authority under which such funds are collected and expended and to any agreements entered into by the local authority with the community service provider or community developmental disability organization to which such funds have been granted, appropriated or otherwise transferred. No community developmental disability organization or affiliate shall use any funding received pursuant to this section to supplant funds previously received from any taxing subdivision of the state. In the event that such funding provided by any taxing subdivision of the state becomes unavailable for any reason, the state shall have no obligation, except as otherwise provided by law, to provide funding in the amount no longer available in order to retain the same level of federal financial participation.

(c) All actions of the secretary to maximize the availability of federal financial participation shall be in accordance with applicable federal statutes and regulations.

(d) Except as otherwise provided in this section, revenue derived from the maximization of federal financial participation shall be used exclusively (1) to increase the ~~regular~~

~~nonspecialized tier~~ reimbursement rate above the state fiscal year 2001 levels for the home and community based services developmental disabilities waiver for day, residential, and individual and family supports, provided on or after July 1, 2001, based on an apportionment agreed to by the secretary and the community developmental disability organizations; or (2) for other medicaid reimbursable services for persons with developmental disabilities based upon an agreement entered into by the secretary and community developmental disability organizations by written contract. The secretary shall not be required to utilize more than \$15,000,000 in funding provided to community developmental disability organizations and their affiliates by any taxing subdivision of the state as match for additional federal financial participation in any state fiscal year.

(e) The secretary shall require that the council of community members in each service area convene representatives of the community developmental disability organization, community service providers, families, consumers and other community stakeholders to develop and implement community capacity building plans annually, to improve the quality and efficiency of service delivery. Each such local plan shall: (1) Identify strengths within the local service area, including natural and community supports; (2) identify barriers to meeting the independence, productivity, integration and inclusion goals of the developmental disabilities reform act; and (3) identify key goals that will be addressed in the service area to develop and maintain such community capacity.

(f) ~~The secretary shall report regularly to the SRS oversight committee during the interim period prior to the 2002 regular session of the legislature and shall report to the legislature on or before the 15th day of each regular session on the results of plans to maximize federal financial participation and on the results of community capacity building plans developed and implemented within each service area.~~

(g) This section shall be construed to be part of and supplemental to the developmental disabilities reform act.”;

And by renumbering the remaining sections accordingly;

On page 2, in line 13, by striking “2000” and inserting “2001”;

On page 3, in line 13, by striking “2000” and inserting “2001”; in line 25, by striking “2000” and inserting “2001”; also in line 25, after “Supp.” by inserting “39-1811.”;

In the title, on page 1, in line 12, before “amending” by inserting “relating to federal financial participation for community developmental disability services;” also in line 12, by striking “2000” and inserting “2001”; in line 13, before “74-5502” by inserting “39-1811.”; and the bill be passed as amended.

Also **HB 2896**, as amended by House Committee, be amended on page 2, after line 23, by inserting the following:

“New Sec. 2. (a) In addition to any other excise tax imposed by law, there is hereby imposed for the purpose of providing funds for the Kansas sports hall of fame a surcharge of \$.50 added to the sale price of each ticket which is sold for state championship high school men’s and women’s basketball, football and women’s volleyball. Annually, on or before August 1, the state board of education shall designate men’s and women’s basketball, football and women’s volleyball state championship athletic events or contests to collect such surcharge. In the case of a season ticket, the surcharge imposed by this section shall be computed on the basis of \$.50 for the season ticket. Each activity card or ticket, which is issued to students of a high school upon paying a nonoptional activity fee charged and collected by the high school and which provides admission to activities or events in addition to high school athletic events or contests, is exempt from the surcharge imposed by this section.

(b) The surcharge collected shall be disbursed by each high school to the Kansas sports hall of fame surcharge fund within 30 days of the designated state championship athletic event or contest. Each high school shall determine its policy concerning the withholding of sales tax, and shall indicate on a report form provided by the board, whether sales tax has been withheld.

(c) If the surcharge established in subsection (a) is not paid to the Kansas sports hall of fame surcharge fund on January 15 or July 15, the Kansas sports hall of fame board shall notify the commissioner of education. The commissioner of education shall determine the amount of money which should have been paid to the fund by designating men’s and

women's basketball, football and women's volleyball state championship athletic events or contests for the time period for which the surcharge was not paid. Such amount as determined by the commissioner of education shall be withheld from the next scheduled payment of general state aid to the school district in which the high school is located that has failed to remit the surcharge established in (a). Upon receipt of each such certification, the director of accounts and reports shall transfer the amount certified from the specified general fees fund or any other state general fund account of each high school into the Kansas sports hall of fame surcharge fund. As part of the certification, the commissioner of education shall designate the appropriate state general fund account. All moneys from the Kansas sports hall of fame surcharge fund shall be paid to the Kansas sports hall of fame.

Sec. 3. K.S.A. 2001 Supp. 74-2906a is hereby amended to read as follows: 74-2906a.

(a) (1) There is hereby created the state of Kansas sports hall of fame board of trustees, hereinafter referred to as the board of trustees, which board shall be composed of seven members appointed by the governor, *except as otherwise provided in this section*.

(2) *Within 60 days following the effective date of this act, the governor shall appoint four additional members to the board of trustees, as follows:*

(A) *The executive director of the Kansas state high school activities association, or such executive director's designee; and*

(B) *three members who shall represent the interests of postsecondary educational institutions under the supervision of the state board of regents.*

(3) *Each member appointed pursuant to subsection (a) (2) shall be appointed for one term of four years and no successor shall be appointed for such members appointed pursuant to subsection (a)(2).*

(b) ~~Upon~~ *Except as otherwise provided by this section, upon the expiration of the term of office of any member, a successor shall be appointed for a term of four years. All vacancies in office of members so appointed shall be filled by appointment for the unexpired term of the member creating the vacancy.*

(c) The board of trustees shall organize annually by electing one of its members as chairperson and one as vice-chairperson. Meetings of the board of trustees shall be held upon call of the chairperson, or may be called by a majority of the board of trustees.

(d) The board of trustees shall have such powers and duties as are provided by law. Members of the board of trustees attending meetings of such board of trustees, or attending a subcommittee meeting thereof authorized by such board of trustees, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.

(e) The board of trustees may employ such professional and clerical personnel, on a part-time or full-time basis, as may be necessary in its judgment, and all such personnel shall be in the classified service under the Kansas civil service act.

(f) Whenever the Kansas all-sports hall of fame board of trustees, or words of like effect, is referred to or designated by any appropriations act or other act of the legislature, or any statute, contract or other document, such reference or designation shall be deemed to apply to the state of Kansas sports hall of fame board of trustees which is created by this act.

Sec. 4. K.S.A. 2001 Supp. 74-2906a is hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title on page 1, in line 13, before the period by inserting “; concerning state of Kansas sports hall of fame board of trustees membership; amending K.S.A. 2001 Supp. 74-2906a and repealing the existing section”; and the bill be passed as amended.

REPORT ON ENROLLED BILLS

SCR 1626 reported correctly enrolled, properly signed and presented to the Secretary of the State on April 11, 2002.

On motion of Senator Oleen the Senate adjourned until 11:00 a.m., Friday, April 12, 2002.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

