

Journal of the House

TWENTIETH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
Topeka, KS, Monday, February 7, 2005, 11:00 a.m.

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

Prayer by Chaplain Chamberlain:

Lord of life and Author of grace; hear us as we gather today and as we lift your name in thanksgiving and praise.

We arose this morning with all the possibilities of the day before us. No history had yet been written. No intemperate word had been spoken, no unworthy thought had come to our mind. The only thing that was present was your grace and the gift of a new day of life.

The day is moving on and we pause now to reflect on its progress. Are we still pure in thought and in word? Have we departed from the grace that you gave us as this day began? As we look forward to the rest of this day, do we have hope that we will continue to live in your grace? Do we see the detours, the ditches and the distractions that draw us away from you and your will?

If we're not where you want us to be, O God, set us right again. If danger lies ahead, give us clear vision and protect us from evil. In all things, keep your commandments and your desires for us foremost in our minds, in our hearts, and in our lives. Amen.

The Pledge of Allegiance was led by Rep. Yoder.

**OFFICE OF THE GOVERNOR
STATE OF KANSAS
CERTIFICATE OF APPOINTMENT**

I, KATHLEEN SEBELIUS, Governor of the State of Kansas, hereby appoint and commission Charles B Roth as State Representative, District 71, and authorize this appointee to discharge the duties of this office upon fulfilling all legal requirements.

Signed this 4th day of February, 2005.

KATHLEEN SEBELIUS
Governor

**STATE OF KANSAS
OFFICE OF
SECRETARY OF STATE**

I, RON THORNBURGH, Secretary of State of the State of Kansas, do hereby certify that Charles B. Roth was appointed by the Governor effective February 7, 2005, for the unexpired term, Seventy-First House of Representative District, to fill the vacancy created by the death of Carol Edward Beggs.

IN TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed my official seal. Done at the city of Topeka this 7th day of February, A.D. 2005.

RON THORNBURGH
Secretary of State

The oath of office was administered to Representative-Elect Charles B. Roth by Kay McFarland, Chief Justice of the Supreme Court.

OATH OF OFFICE

State of Kansas, County of Shawnee, ss:

I do solemnly swear that I will support the constitution of the United States and the constitution of the state of Kansas, and faithfully discharge the duties of the office of Representative of the State of Kansas, so help me God. Subscribed and sworn to before me this 7th day of February, 2005.

KAY MCFARLAND
Chief Justice of the Supreme Court

Rep. Roth was accompanied to the House by his wife, Marcy; his mother, Pat; and Andy Lovan, Jennifer Roth, Chris Roth and Frank Roth.

The roll was called with 118 members present.

Reps. Goico and Holmes were excused on legislative business.

Reps. Faust-Goudeau, Henderson, Kilpatrick, Loganbill and Peterson were excused on excused absence by the Speaker.

Present later: Rep. Goico.

The House is now organized with 125 members.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were introduced and read by title:

HB 2310, An act relating to motor vehicles; concerning United States military veterans license plates; amending K.S.A. 2004 Supp. 8-1,146 and repealing the existing section, by Representative Burgess.

HB 2311, An act relating to medical care facilities; amending K.S.A. 65-431 and repealing the existing section, by Representative Holland.

HB 2312, An act concerning consumer protection; relating to advertising of certain live musical performances, by Committee on Commerce and Labor.

HB 2313, An act concerning crimes, punishment and criminal procedure; relating to restriction of driving privileges and ignition interlock devices; amending K.S.A. 8-1015 and repealing the existing section, by Committee on Corrections and Juvenile Justice.

HB 2314, An act concerning offender registration; relating to timing; amending K.S.A. 2004 Supp. 22-4906 and repealing the existing section, by Committee on Corrections and Juvenile Justice.

HB 2315, An act relating to motor vehicles; concerning permanent registration; amending K.S.A. 2004 Supp. 8-1,134 and repealing the existing section, by Committee on Transportation.

HB 2316, An act concerning workers compensation; relating to liability of employers and other employees; amending K.S.A. 44-501 and repealing the existing section, by Committee on Commerce and Labor.

HB 2317, An act concerning workers compensation; relating to compensation for certain disabilities; amending K.S.A. 44-510c, 44-510d, 44-510e and 44-510f and repealing the existing sections, by Committee on Commerce and Labor.

HOUSE CONCURRENT RESOLUTION No. 5010—

By Committee on Governmental Organization and Elections

A PROPOSITION to revise article 10 of the constitution of the state of Kansas, relating to redistricting of legislative districts, state board of education districts and congressional districts.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 10 of the constitution of the state of Kansas is hereby revised to read as follows:

“Article 10. — LEGISLATIVE, STATE BOARD OF EDUCATION
AND CONGRESSIONAL REDISTRICTING

“§ 4. **Redistricting required; basis.** (a) Kansas house of representatives districts, Kansas senate districts, state board of education districts and United States congress districts shall be redistricted in 2012 and every 10th year thereafter, as provided by this article.

(b) Redistricting of Kansas house of representatives districts, Kansas senate districts, state board of education districts and congressional districts shall be based upon the population of the state of Kansas as established by the most recent actual enumeration of population taken and published by the United States bureau of the census.

“§ 5. **Establishment of redistricting commission.** (a) A redistricting commission shall be established to recommend to the legislature redistricting plans for Kansas house of representatives districts, Kansas senate districts, state board of education districts and United States congress districts.

(b) The redistricting commission shall consist of five members. One member each shall be appointed by the president of the Kansas senate, the minority leader of the Kansas senate, the speaker of the Kansas house of representatives and the minority leader of the Kansas house of representatives. Such members shall be voting members and shall be appointed not later than the 10th legislative day of the regular legislative session in the year before the year when redistricting is required. The chairperson of the commission shall be selected by the voting members of the commission from among persons nominated pursuant to subsection (d). The legislature shall provide by law for legislative staff to call a meeting of the voting members of the commission for the purpose of selecting the chairperson. If the chairperson is not selected within 20 legislative days after the last of the four voting members is appointed, the chief justice of the Kansas supreme court, within 30 legislative days after the last of the four voting members is appointed, shall select the chairperson from among persons nominated pursuant to subsection (d). The chairperson shall be a nonvoting member of the commission.

(c) Each member of the redistricting committee shall be a qualified voter of the state of Kansas. A person shall not be eligible to serve as a member of the commission if such person:

(1) Holds or, within the preceding 24 months, has held any federal, state or local office;

(2) is a relative or employee of any Kansas legislator, member of the Kansas state board of education or representative for Kansas to the United States house of representatives;

(3) is or, within the preceding 24 months, has been a registered lobbyist registered in the state of Kansas; or

(4) is an officer of any political party.

(d) On or before the 10th legislative day of the regular legislative session in the year before the year when redistricting is required, the supreme court nominating commission shall nominate and submit to legislative staff, as provided by statute, six qualified voters of the state of Kansas from among whom the chairperson of the redistricting commission shall be selected. Not more than three of the nominees shall be members of any one political party.

(e) Any vacancy in the membership of the redistricting commission shall be filled in the same manner as the original appointment.

(f) The redistricting commission shall meet on call of the chairperson of the commission.

(g) Members of the redistricting commission shall receive compensation and reimbursement of expenses in the same manner and amounts as provided for leg-

islators attending meetings of the legislature. The legislature shall provide for legislative staff to staff the commission and shall provide for office space, equipment and materials adequate for the commission to carry out its duties.

(h) The terms of members of the redistricting commission shall expire on July 1 of the year when redistricting occurs pursuant to this article and the commission shall be inactive until reestablishment of the commission at the time of the next redistricting pursuant to this article.

“§ 6. **Commission procedure and recommendations.** (a) The redistricting commission shall establish such rules and procedures as necessary to carry out the commission’s functions. Such rules and procedures shall include rules requiring formal submission to the commission of all communications with commission members regarding matters before the commission. *Ex parte* communications with members of the commission in relation to the merits of matters before the commission shall be prohibited.

(b) All meetings of a majority of a quorum of the commission or subcommittees of the commission shall be open to the public.

(c) In recommending redistricting plans, the redistricting commission shall consider the following, in descending order from highest to lowest priority: Equality of population as required by law; protection of voting rights of racial, ethnic and language minority groups as required by law; preservation of political subdivisions; contiguity and compactness of districts; and avoidance of placing more than one incumbent in a district.

In recommending congressional redistricting plans, the commission shall not divide any city between two or more districts unless necessary to achieve equality of population as required by law or to protect voting rights of racial, ethnic and language minority groups, as required by law. In recommending Kansas house of representatives districts and Kansas senate districts, the commission shall ensure that the number of counties and cities divided between two or more districts is as small as possible and that, when such districts would divide political subdivisions, preference is given to dividing the most populous subdivisions.

(d) Except as expressly provided in this subsection, the commission shall not intentionally develop districts that favor or discriminate against any candidate, political party or other person or group of persons. To ensure compliance with the provisions of this subsection, political affiliation of voters, election results and demographic data other than that required to comply with federal law shall not be considered by the commission in recommending any redistricting plan.

“§ 7. **Proposed plans; legislative action; court review and action.** (a) Prior to release by the United States bureau of the census of the population data upon which redistricting is based, the redistricting commission shall meet for orientation, education and training of commission members. Within 30 days after such release of the population data, the commission shall establish a schedule of public hearings. Such hearings shall be held within 90 days after release of such data and at least one hearing shall be held in each state board of education district. On or before September 1 of the year before the year when redistricting is required, the commission shall make public an official report of the public hearing conducted by the commission.

(b) On or before December 1 of the year before the year when redistricting is required, the redistricting commission shall make public proposed plans for redistricting Kansas house of representatives districts, Kansas senate districts, Kansas state board of education districts and United States congress districts. On or before the first day of the regular legislative session in the year when redistricting is required, the redistricting commission shall introduce in the house of representatives a bill redistricting congressional districts in accordance with the plan proposed pursuant to subsection (a) and shall introduce in the senate a bill redistricting Kansas senate districts, Kansas house of representatives districts and state board of education districts in accordance with the plans proposed pursuant to subsection (a). Such bills shall not be subject to amendment by either house of the legislature and each such

bill shall be acted upon by each house not earlier than five legislative days nor later than 10 legislative days after such bill is introduced in such house.

(c) If a bill introduced pursuant to subsection (b) is not enacted, the redistricting commission, within 21 legislative days after rejection of the bill by either house of the legislature or veto of the bill by the governor, shall introduce another bill redistricting such districts. Either the house of representatives or the senate may transmit to the commission a letter stating the reasons why the bill was not enacted and the commission shall take such reasons into consideration in introducing a bill pursuant to this subsection, subject to the requirements of subsection (c) of section 6. Any such letter shall be signed by both the speaker of the house of representatives and the minority leader of the house of representatives or both the senate president and the minority leader of the senate. Introduction of a bill pursuant to this subsection shall be in the same house as introduction of the original bill pursuant to subsection (b). Such bill shall not be subject to amendment by either house and shall be acted upon by each house not earlier than five legislative days nor later than 10 legislative days after the bill is introduced in such house.

(d) If a bill introduced pursuant to subsection (c) is not enacted, the redistricting commission, within 21 legislative days after rejection of the bill by either house of the legislature or veto of the bill by the governor, shall introduce another bill redistricting such districts. Either the house of representatives or the senate may transmit to the commission a letter stating the reasons why the bill was not enacted but the commission shall not be required to take such reasons into consideration in introducing a bill pursuant to this subsection. Any such letter shall be signed by both the speaker of the house of representatives and the minority leader of the house of representatives or both the senate president and the minority leader of the senate. Introduction of a bill pursuant to this subsection shall be in the same house as introduction of the original bill pursuant to subsection (b). Such bill shall be subject to amendment by each house, subject to the requirements of subsection (c) of section 6. Such bill shall be acted upon by each house not earlier than seven legislative days nor later than 21 legislative days after the bill is introduced in such house.

(e) Redistricting bills shall be published in the Kansas register immediately upon final passage and approval by the governor. The districts enacted shall be effective for the next following regular election and thereafter until again such districts are redistricted, except that the senate districts shall be effective for the next following regular election at which all senators are elected.

(f) If no bill becomes law to redistrict any districts as required by this article or if a law redistricting any districts as required by this article is declared invalid by the Kansas supreme court, the supreme court shall redistrict such districts in accordance with law, making as little change as practicable in the existing districts and taking into consideration only the requirements of this constitution and federal law. The legislature shall make staff and technical resources available to the supreme court for use in redistricting such districts.

(g) The Kansas supreme court shall have original jurisdiction in all proceedings concerning the validity of any law redistricting any districts as required by this article. The redistricting commission or the attorney general may file an action in the Kansas supreme court to determine the validity of any law redistricting any districts as required by this article.

“§ 8. **Implementing legislation.** The legislature may enact legislation, not in conflict with the provisions of this article, as reasonably necessary to implement such provisions.”

Sec. 2. The following statement shall be printed on the ballot with the revision as a whole:

“Explanatory statement. This revision of article 10 of the state constitution would govern redistricting of legislative, state board of education and congressional districts. Under the revision a redistricting commission would be established to recommend redistricting plans to the legislature. The legislature would enact a plan which would be subject to review by the state supreme court. There would

be strict deadlines for legislative action and if no plan is adopted by the deadline, the state supreme court would redistrict the districts. Redistricting would be based on the most recent census taken by the U.S. bureau of the census without adjustment.

“A vote for this proposition would change the procedure for redistricting of legislative, state board of education and congressional districts and the population data on which legislative and state board of education redistricting is based.”

“A vote against this proposition would continue the current procedures and basis for redistricting.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2006 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to committees as indicated:

Appropriations: **HB 2301, HB 2306.**

Commerce and Labor: **HB 2299.**

Committee of the Whole: **SCR 1603.**

Corrections and Juvenile Justice: **HB 2302, HB 2303, HB 2304.**

Federal and State Affairs: **HB 2300; SB 65.**

Governmental Organization and Elections: **HB 2309.**

Insurance: **HB 2305.**

Judiciary: **HB 2307.**

Taxation: **HB 2308; HCR 5009.**

CHANGE OF REFERENCE

Speaker Mays announced the withdrawal of **HB 2262** from Committee on Judiciary and referral to Committee on Corrections and Juvenile Justice.

MESSAGE FROM THE GOVERNOR

February 3, 2005

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

Enclosed herewith is Executive Directive No. 05-356 for your information.

EXECUTIVE DIRECTIVE No. 05-356

Authorizing Pay Differentials and Activation Payments for Employees
of the State of Kansas Activated in the Reserve Components

KATHLEEN SEBELIUS
Governor

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

COMMUNICATIONS FROM STATE OFFICERS

From Roger Werholtz, Secretary of Corrections, in accordance with the provisions of K.S.A. 2003 supp. 60-4117, report for the Kansas Department of Corrections State Forfeiture Fund for the period of December 1, 2003 through December 1, 2004.

The complete report is kept on file and open for inspection in the office of the Chief Clerk.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Aurand, **HR 6012**, by Reps. Mays and McKinney, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 6012—

A RESOLUTION relating to assignment of seats of the House of Representatives.

Be it resolved by the House of Representatives of the State of Kansas: That the members of the 2005 regular session shall occupy the same seats assigned pursuant to 2005 House Resolution No. 6002 with the following exceptions: Roth, seat No. 62; Weber, seat No. 105.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Kuether, **HR 6013**, by Reps. Kuether, Burgess, Flora, Gordon, Hutchins, Kirk, Lane, Mah and Mays, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 6013—

A RESOLUTION congratulating and commending Washburn University on the occasion of the school's 140th anniversary.

WHEREAS, Washburn University was incorporated on February 6, 1865, as Lincoln College; and

WHEREAS, The charter of Lincoln College afforded all individuals, without distinction of race or gender, the advantages of a liberal education, thus fitting them for positions of responsibility and usefulness; and

WHEREAS, Lincoln College was renamed Washburn College to honor a major donor, Ichabod Washburn of Worcester, Massachusetts, who became the inspiration for the school's mascot, The Ichabod, one of the most unique in the nation; and

WHEREAS, Washburn College was a private college until 1941, when the citizens of Topeka endorsed the school by voting to establish a municipal university governed by a local board of regents; and

WHEREAS, Washburn University has received state funds since 1961 and has been coordinated by the Kansas Board of Regents since 1991. Today it is a publicly funded, independently governed, state coordinated university; and

WHEREAS, The Washburn campus was severely damaged in a tornado in 1966 but was reconstructed through the dedication of faculty, staff, students, alumni and friends and today boasts modern facilities which encompass more than one million square feet; and

WHEREAS, The academic programs have evolved to meet the needs of the students, with the School of Law established in 1903; the College Arts and Sciences, which evolved from the College of Liberal Arts, in 1971; the School of Business in 1971; the School of Nursing in 1974; and the School of Applied Studies in 1983; and

WHEREAS, The university boasts more than 30,000 alumni, with Washburn graduates residing in every county in Kansas and in every state in the United States; and

WHEREAS, Washburn has produced many leaders among its alumni including the first woman treasurer of the United States, a candidate for United States President and the first nobel laureate to graduate from a Kansas university; and

WHEREAS, The enrollment of Washburn University has increased 25 percent in the past five years, with a record enrollment of 7,400 for the fall 2004 semester; and

WHEREAS, Washburn offers more than 190 programs leading to certification, associate, bachelor, master's and juris doctor degrees through the College of Arts and Sciences and the Schools of Applied Studies, Business, Law and Nursing; and

WHEREAS, Washburn is home to the Mulvane Art Museum, the oldest accredited art museum west of the Mississippi River, and KTWU, the first public television station in Kansas; and

WHEREAS, Washburn University has received a top 10 rating among midwestern public master's level universities in the U.S. News & World Report's America's Best College ranking for each of the past four years: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That Washburn University be congratulated and commended for a 140 year tradition of providing quality education; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide five enrolled copies of this resolution to Dr. Jerry B. Farley, President, Washburn University, 1700 SW College Ave., Topeka, KS 66621.

INTRODUCTION OF GUESTS

Rep. Kuether introduced Dr. Jerry Farley, President of Washburn University; Tom Ellis, Special Assistant to President Farley; Amanda Millard and Peggy Clark, University Relations; and James McClinton, Mayor of Topeka and a member of the Washburn Board of Regents. They were representing the university as the 140th anniversary celebration begins.

CONSENT CALENDAR

No objection was made to **HB 2086** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2086. An act concerning home health agencies; relating to surveys; amending K.S.A. 65-5104 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 0; Present but not voting: 0; Absent or not voting: 7.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Gordon, Grange, Grant, Hawk, Hayzlett, Henry, Hill, Holland, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Long, Loyd, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Showalter, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Faust-Goudeau, Goico, Henderson, C. Holmes, Kilpatrick, Loganbill, Peterson.

The bill passed.

On motion of Rep. Aurand, the House resolved into Committee of the Whole, with Rep. Hayzlett in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that on motion of Rep. Sawyer to amend **SCR 1603**, the motion was withdrawn.

Also, on motion of Rep. Dahl to amend **SCR 1603**, the motion did not prevail. Also, on further motion of Rep. Dahl to amend, the motion did not prevail, and **SCR 1603** be adopted as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **HB 2152** be amended on page 1, in line 17, after "or" by inserting "a tobacco product manufacturer who is"; and the bill be passed as amended.

Committee on **Taxation** recommends **SB 23**, as amended by Senate Committee, be amended on page 8, after line 11, by inserting the following:

"Section 1. K.S.A. 2004 Supp. 8-135 is hereby amended to read as follows: 8-135. (a) Upon the transfer of ownership of any vehicle registered under this act, the registration of the vehicle and the right to use any license plate thereon shall expire and thereafter there

shall be no transfer of any registration, and the license plate shall be removed by the owner thereof. Except as provided in K.S.A. 8-172, and amendments thereto, and 8-1,147, and amendments thereto, it shall be unlawful for any person, other than the person to whom the license plate was originally issued, to have possession thereof. When the ownership of a registered vehicle is transferred, the original owner of the license plate may register another vehicle under the same number, upon application and payment of a fee of \$1.50, if such other vehicle does not require a higher license fee. If a higher license fee is required, then the transfer may be made upon the payment of the transfer fee of \$1.50 and the difference between the fee originally paid and that due for the new vehicle.

(b) Subject to the provisions of subsection (a) of K.S.A. 8-198, and amendments thereto, upon the transfer or sale of any vehicle by any person or dealer, or upon any transfer in accordance with K.S.A. 2004 Supp. 59-3511, and amendments thereto, the new owner thereof, within 30 days, inclusive of weekends and holidays, from date of such transfer shall make application to the division for registration or reregistration of the vehicle, but no person shall operate the vehicle on any highway in this state during the thirty-day period without having applied for and obtained temporary registration from the county treasurer or from a dealer. After the expiration of the thirty-day period, it shall be unlawful for the owner or any other person to operate such vehicle upon the highways of this state unless the vehicle has been registered as provided in this act. For failure to make application for registration as provided in this section, a penalty of \$2 shall be added to other fees. When a person has a current motorcycle or passenger vehicle registration and license plate, including any registration decal affixed thereto, for a vehicle and has sold or otherwise disposed of the vehicle and has acquired another motorcycle or passenger vehicle and intends to transfer the registration and the license plate to the motorcycle or passenger vehicle acquired, but has not yet had the registration transferred in the office of the county treasurer, such person may operate the motorcycle or passenger vehicle acquired for a period of not to exceed 30 days by displaying the license plate on the rear of the vehicle acquired. If the acquired vehicle is a new vehicle such person also must carry the assigned certificate of title or manufacturer's statement of origin when operating the acquired vehicle, except that a dealer may operate such vehicle by displaying such dealer's dealer license plate.

(c) Certificate of title: No vehicle required to be registered shall be registered or any license plate or registration decal issued therefor, unless the applicant for registration shall present satisfactory evidence of ownership and apply for an original certificate of title for such vehicle. The following paragraphs of this subsection shall apply to the issuance of a certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt salvage vehicle, as defined in K.S.A. 8-197, and amendments thereto, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 8-198, and amendments thereto, and to any electronic certificate of title, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 2004 Supp. 8-135d, and amendments thereto, or with rules and regulations adopted pursuant to K.S.A. 2004 Supp. 8-135d, and amendments thereto.

The provisions of paragraphs (1) through (14) shall apply to any certificate of title issued prior to January 1, 2003, which indicates that there is a lien or encumbrance on such vehicle.

(1) An application for certificate of title shall be made by the owner or the owner's agent upon a form furnished by the division and shall state all liens or encumbrances thereon, and such other information as the division may require. Notwithstanding any other provision of this section, no certificate of title shall be issued for a vehicle having any unreleased lien or encumbrance thereon, unless the transfer of such vehicle has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the division. In the case of members of the armed forces of the United States while the United States is engaged at war with any foreign nation and for a period of six months next following the cessation of hostilities, such application may be signed by the owner's spouse, parents, brother or sister. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of such vehicle, or otherwise entitled to have the same registered in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title. The certificate of title shall be in a form approved by the division, and shall contain a statement

of any liens or encumbrances which the application shows, and such other information as the division determines.

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. This assignment shall contain a statement of all liens or encumbrances on the vehicle at the time of assignment. The certificate of title shall also contain on the reverse side blank spaces so that an abstract of mileage as to each owner will be available. The seller at the time of each sale shall insert *and certify* the mileage *and the purchase price* on the form filed for application or reassignment of title, and the division shall insert such mileage on the certificate of title when issued to purchaser or assignee. The signature of the purchaser or assignee is required on the form filed for application or reassignment of title, acknowledging the odometer *and purchase price* certification made by the seller, except that vehicles which are 10 model years or older and trucks with a gross vehicle weight of more than 16,000 pounds shall be exempt from the mileage acknowledgment requirement of the purchaser or assignee. Such title shall indicate whether the vehicle for which it is issued has been titled previously as a nonhighway vehicle or salvage vehicle. In addition, the reverse side shall contain two forms for reassignment by a dealer, stating the liens or encumbrances thereon. The first form of reassignment shall be used only when a dealer sells the vehicle to another dealer. The second form of reassignment shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle. The reassignment by a dealer shall be used only where the dealer resells the vehicle, and during the time that the vehicle remains in the dealer's possession for resale, the certificate of title shall be dormant. When the ownership of any vehicle passes by operation of law, or repossession upon default of a lease, security agreement, or executory sales contract, the person owning such vehicle, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the vehicle. When a vehicle is registered in another state and is repossessed in another state, the owner of such vehicle shall not be entitled to obtain a valid Kansas title or registration, except that when a vehicle is registered in another state, but is financed originally by a financial institution chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration. In addition to any other fee required for the issuance of a certificate of title, any applicant obtaining a certificate of title for a repossessed vehicle shall pay a fee of \$3.

(3) Dealers shall execute, upon delivery to the purchaser of every new vehicle, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the division. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the division. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new vehicle, sold in this state, a certificate of title shall be issued if there is also an application for registration, except that no application for registration shall be required for a travel trailer used for living quarters and not operated on the highways.

(4) The fee for each original certificate of title shall be \$10 in addition to the fee for registration of such vehicle, trailer or semitrailer. The certificate of title shall be good for the life of the vehicle, trailer or semitrailer while owned or held by the original holder of the certificate of title.

(5) Upon sale and delivery to the purchaser of every vehicle subject to a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and when so completed, the purchaser shall execute the notice, in a form prescribed by the division, describing the vehicle and showing the name and address of the secured party and of the debtor and other information the division requires. The dealer or secured

party, within 20 days of the sale and delivery, may mail or deliver the notice of security interest, together with a fee of \$2.50, to the division. The notice of security interest shall be retained by the division until it receives an application for a certificate of title to the vehicle and a certificate of title is issued. The certificate of title shall indicate any security interest in the vehicle. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the vehicle described on the date of such mailing or delivery. The county treasurers shall mail a copy of the title application to the Kansas lienholder. Each county treasurer shall charge the Kansas lienholder a \$1.50 service fee for processing and mailing a copy of the title application to the Kansas lienholder.

(6) It shall be unlawful for any person to operate in this state a vehicle required to be registered under this act, or to transfer the title to any such vehicle to any person or dealer, unless a certificate of title has been issued as herein provided. In the event of a sale or transfer of ownership of a vehicle for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the vehicle, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the division and printed thereon and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery. The agreement of the parties shall be executed on a form provided by the division. The requirements of this paragraph concerning delivery of an assigned title are satisfied if the transferor mails to the transferee by restricted mail the assigned certificate of title within the 30 days, and if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title if the transferor has made application therefor to the division. The buyer shall then present such assigned certificate of title to the division at the time of making application for registration of such vehicle. A new certificate of title shall be issued to the buyer, upon payment of the fee of \$10. If such vehicle is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. When a person acquires a security agreement on a vehicle subsequent to the issuance of the original title on such vehicle, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in form prescribed by the division. Upon such surrender such person shall immediately deliver the certificate of title, application, and a fee of \$10 to the division. Upon receipt thereof, the division shall issue a new certificate of title showing the liens or encumbrances so created, but not more than two liens or encumbrances may be shown upon a title. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder within 10 days after written demand by restricted mail, shall furnish to the holder of the title a release of lien or execute such a release in the space provided on the title. For failure to comply with such a demand the lienholder shall be liable to the holder of the title for \$100 and also shall be liable for any loss caused to the holder by such failure. When the indebtedness to a lienholder, whose name is shown upon a title, is collected in full, such lienholder, within 30 days, shall furnish notice to the holder of title that such indebtedness has been paid in full and that such title may be presented to the lienholder at any time for release of lien.

(7) It shall be unlawful for any person to buy or sell in this state any vehicle required to be registered, unless, at the time of delivery thereof or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery, there shall pass between the parties a certificate of title with an assignment thereof. The sale of a vehicle required to be registered under the laws of this state, without assignment of the certificate of title, is fraudulent and void, unless the parties shall agree that the certificate of title with assignment thereof shall pass between them at a time other than the time of

delivery, but within 30 days thereof. The requirements of this paragraph concerning delivery of an assigned title shall be satisfied if ~~(i)~~ (A) the seller mails to the purchaser by restricted mail the assigned certificate of title within 30 days, or ~~(ii)~~ (B) if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such seller shall be deemed to have possession of the certificate of title if such seller has made application therefor to the division, or ~~(iii)~~ (C) if the transferor is a dealer and has assigned a title pursuant to paragraph (9) of this subsection (c).

(8) In cases of sales under the order of a court of a vehicle required to be registered under this act, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such motor vehicle and for registering the same. Any such purchaser shall be allowed 30 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title and for the registering of such motor vehicle.

(9) Any dealer who has acquired a vehicle, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to obtain a Kansas certificate of title therefor during the time such vehicle remains in such dealer's possession and at such dealer's place of business for the purpose of sale. The purchaser or transferee shall present the assigned title to the division of vehicles when making application for a certificate of title as provided in subsection (c)(1).

(10) Motor vehicles may be held and titled in transfer-on-death form.

(11) Notwithstanding the provisions of this act with respect to time requirements for delivery of a certificate of title, or manufacturer's statement of origin, as applicable, any person who chooses to reaffirm the sale in writing on a form approved by the division which advises them of their rights pursuant to paragraph (7) of subsection (c) and who has received and accepted assignment of the certificate of title or manufacturer's statement of origin for the vehicle in issue may not thereafter void or set aside the transaction with respect to the vehicle for the reason that a certificate of title or manufacturer's statement of origin was not timely delivered, and in such instances the sale of a vehicle shall not be deemed to be fraudulent and void for that reason alone.

(12) The owner of any vehicle assigning a certificate of title in accordance with the provisions of this section may file with the division a form indicating that such owner has assigned such certificate of title. Such forms shall be furnished by the division and shall contain such information as the division may require. Any owner filing a form as provided in this paragraph shall pay a fee of \$10. The filing of such form shall be prima facie evidence that such certificate of title was assigned and shall create a rebuttable presumption. If the assignee of a certificate of title fails to make application for registration, an owner assigning such title and filing the form in accordance with the provisions of this paragraph shall not be held liable for damages resulting from the operation of such vehicle.

(13) Application for a certificate of title on a boat trailer with a gross weight over 2,000 pounds shall be made by the owner or the owner's agent upon a form to be furnished by the division and shall contain such information as the division shall determine necessary. The division may waive any information requested on the form if it is not available. The application together with a bill of sale for the boat trailer shall be accepted as prima facie evidence that the applicant is the owner of the boat trailer, provided that a Kansas title for such trailer has not previously been issued. If the application and bill of sale are used to obtain a certificate of title for a boat trailer under this paragraph, the certificate of title shall not be issued until an inspection in accordance with subsection (a) of K.S.A. 8-116a, and amendments thereto, has been completed.

(14) In addition to the two forms for reassignment under paragraph (2) of subsection (c), a dealer may attach one additional reassignment form to a certificate of title. The director of vehicles shall prescribe and furnish such reassignment forms. The reassignment form shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle only when the two reassignment forms under paragraph (2) of subsection (c) have already been used. The fee for a reassignment form shall be \$6.50. A dealer may purchase reassignment forms in multiples of five upon making proper application and the payment of required fees.

(15) A first stage manufacturer, as defined in K.S.A. 8-2401, and amendments thereto, who manufactures a motor vehicle in this state, and who sells such motor vehicles to dealers located in a foreign country, may execute a manufacturers statement of origin to the division of vehicles for the purpose of obtaining an export certificate of title. The motor vehicle issued an export certificate of title shall not be required to be registered in this state. An export certificate of title shall not be used to register such vehicle in the United States.”;

And by renumbering sections accordingly;

On page 14, after line 9, by inserting the following:

“Sec. 3. K.S.A. 79-3604 is hereby amended to read as follows: 79-3604. The tax levied under the Kansas retailers’ sales tax act shall be paid by the consumer or user to the retailer and it shall be the duty of each and every retailer in this state to collect from the consumer or user, the full amount of the tax imposed or an amount equal as nearly as possible or practicable to the average equivalent thereof. Such tax shall be a debt from the consumer or user to the retailer, when so added to the original purchase price, and shall be recoverable at law in the same manner as other debts, except that the tax levied on isolated or occasional sales of motor vehicles or trailers within the state and upon the sales of taxable tangible personal property or services when the director shall determine the same to be necessary as hereinafter provided shall be paid and collected as herein provided for.

The tax on such isolated or occasional sales shall be paid to the director of taxation by the purchaser of the motor vehicle or trailer or to the county treasurer upon application for certificate of registration or ownership. *The purchaser shall sign and present to the county treasurer or director of taxation a statement specifying the true and correct selling price of the motor vehicle or trailer and containing a warning to the purchaser of the consequences of making false statements or information or presenting falsified documents related thereto. Such statement shall be in a form promulgated by the director of taxation.* If payment is made to the director of taxation, the director shall issue a receipt therefor. If the sales tax is not paid to the director of taxation, the county treasurer ~~shall~~, upon application for certificate of registration or ownership, *shall* collect such sales tax payment from the applicant ~~and, in addition thereto~~. *The county treasurer shall charge the applicant a collection service fee of \$.50, and shall give the applicant a receipt showing the tax and fee paid in full. The county treasurer shall transmit monthly all such sales tax moneys collected to the director of taxation and shall place the fees collected in the special fund provided in K.S.A. 8-145 and amendments thereto, to be used for the purpose of paying necessary extra help and expenses.*

Whenever the director of taxation ~~shall determine~~ *determines* that in the retail sale of any tangible personal property or services because of the nature of the operation of the business including the turnover of independent contractors, the lack of a place of business in which to display a registration certificate or keep records, the lack of adequate records or because such retailers are minors or transients there is a likelihood that the state will lose tax funds due to the difficulty of policing such business operations, it shall be the duty of the vendor to such person to collect the full amount of the tax imposed by this act and to make a return and payment of the tax to the director of taxation in like manner as that provided for the making of returns and the payment of taxes by retailers under the provisions of this act. The director shall notify the vendor or vendors to such retailer of the duty to collect and make a return and payment of the tax.

In the event the full amount of the tax provided by this act is not paid to the retailer by the consumer or user, the director of taxation may proceed directly against the consumer or user to collect the full amount of the tax due on the retail sale.”;

And by renumbering sections accordingly;

Also on page 14, in line 10, before “K.S.A.” by inserting “K.S.A. 79-3604 and”; also in line 10, before “79-3603” by inserting “8-135 and”; also in line 10, by striking “is” and inserting “are”;

On page 1, in the title, in line 12, before “sales” by inserting “verification;”; in line 13, before “amending” by inserting “motor vehicle certificate of title;”; also in line 13, before “K.S.A.” by inserting “K.S.A. 79-3604 and”; in line 14, before “79-3603” by inserting “8-135 and”; also in line 14, by striking “section” and inserting “sections”; and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were thereupon introduced and read by title:

HB 2318, An act concerning the workers compensation act; relating to medical compensation; amending K.S.A. 2004 Supp. 44-510h and repealing the existing section, by Committee on Commerce and Labor.

HB 2319, An act concerning the developmental disabilities reform act; relating to intake and service referral functions and treatment and care service functions; amending K.S.A. 39-1801, 39-1803, 39-1804, 39-1805 and 39-1806 and repealing the existing sections, by Committee on Appropriations.

HB 2320, An act concerning the Kansas judicial center; providing for a seal of justice in the supreme court courtroom; authorizing certain gifts and donations, by Committee on Appropriations.

HB 2321, An act concerning certain municipalities; relating to user fees and charges, by Committee on Governmental Organization and Elections.

HB 2322, An act concerning insurance; enacting the insurance unfair trade practices act; amending K.S.A. 40-2,108, 40-1612, 40-2209o, 40-2215, 40-2442 and 40-3909 and K.S.A. 2004 Supp. 40-4909, 40-4910 and 40-5014 and repealing the existing sections; also repealing K.S.A. 40-2401, 40-2402, 40-2403, 40-2404a, 40-2405, 40-2406, 40-2407, 40-2408, 40-2411, 40-2412, 40-2413, 40-2414, 40-2415, 40-2416, 40-2417, 40-2418, 40-2419, 40-2420 and 40-2421 and K.S.A. 2004 Supp. 40-2404, by Committee on Insurance.

HB 2323, An act concerning insurance companies; relating to statutory changes for compatibility with the Kansas corporation code; amending K.S.A. 40-305 and 40-502 and K.S.A. 2004 Supp. 40-306 and repealing the existing sections, by Committee on Insurance.

HB 2324, An act concerning crimes and punishment; relating to harassment of neighborhood watch groups, by Representative Flaharty.

HB 2325, An act relating to insurance; pertaining to guaranteed investment contracts and related types of insurance contracts; amending K.S.A. 40-401, 40-436 and 40-3641 and repealing the existing sections, by Committee on Insurance.

HB 2326, An act concerning insurance; pertaining to the Kansas Insurance Guaranty Association; relating to claims; amending K.S.A. 40-2903, 40-2906, 40-2909, 40-2910 and 40-3641 and repealing the existing sections, by Committee on Insurance.

HB 2327, An act concerning crimes and punishment; relating to the juvenile justice authority and the testing of juvenile offenders for infectious diseases; amending K.S.A. 65-6015 and 65-6017 and repealing the existing sections, by Committee on Corrections and Juvenile Justice.

HB 2328, An act concerning juvenile offenders; relating to commitment to juvenile facilities; amending K.S.A. 38-1671 and repealing the existing section, by Committee on Corrections and Juvenile Justice.

HB 2329, An act concerning law enforcement; relating to the capitol area security patrol; amending K.S.A. 74-2105, 74-2106, 74-2107, 75-4503a, 75-4504 and 75-4509 and K.S.A. 2004 Supp. 74-5602, 75-4503, 75-4506, 75-4508 and 75-4510a and repealing the existing sections, by Committee on Health and Human Services.

HB 2330, An act concerning the radiologic technologists practices act; amending K.S.A. 2004 Supp. 65-7303, 65-7304, 65-7306, 65-7310, 65-7314 and 65-7315 and repealing the existing sections, by Committee on Health and Human Services.

HB 2331, An act concerning school districts; relating to the provision of special education and related services; amending K.S.A. 72-962, 72-963, 72-963a, 72-964, 72-965, 72-966, 72-971, 72-973, 72-974, 72-984, 72-985, 72-986, 72-987, 72-988, 72-990, 72-993, 72-994 and 72-996 and repealing the existing sections; also repealing K.S.A. 72-991 and 72-992, by Committee on Education.

HB 2332, An act relating to schools; concerning school finance adjustments relating to pupils attending school in a school district where the pupils do not reside; amending K.S.A. 72-6412 and 72-6442 and repealing the existing sections, by Committee on Education.

HB 2333, An act relating to out-of-state pupils; amending K.S.A. 72-6757 and K.S.A. 2004 Supp. 72-6407 and repealing the existing sections, by Committee on Education.

HB 2334, An act concerning schools; establishing the special needs scholarship program, by Committee on Education.

HB 2335, An act relating to schools; concerning state general fund revenues targeted for teacher salary increases on a merit and market rate basis; relating to site councils; amending K.S.A. 2004 Supp. 72-6439 and repealing the existing section, by Representative Huebert.

HB 2336, An act concerning the regulation of optometrists; amending K.S.A. 2004 Supp. 65-1505 and 65-1509 and repealing the existing sections, by Committee on Health and Human Services.

HB 2337, An act relating to crimes and punishments; creating the crime of illegal importation of prescription drugs; providing for penalties, exceptions and definitions, by Committee on Health and Human Services.

HB 2338, An act concerning the state historical society; authorizing a competitive grant program for recording experiences of state veterans of World War II; concerning appropriations for the fiscal years ending June 30, 2006, and June 30, 2007, for the state historical society, by Representatives McKinney and Merrick, Ballard, Burroughs, Carlin, Carlson, Craft, Crow, Davis, DeCastro, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Garcia, Goico, Gordon, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, M. Holmes, Horst, Huff, Humerickhouse, Huy, D. Johnson, E. Johnson, Kelley, Kinzer, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Mah, McCreary, Menghini, F. Miller, Jim Morrison, Judy Morrison, Myers, Novascone, Oharah, Olson, Otto, Owens, Pauls, Phelps, Powers, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Showalter, Shultz, Siegfried, Storm, Svaty, Thull, Treaster, Vickrey, Ward, Williams, Winn and Yonally.

COMMITTEE ASSIGNMENTS

Rep. Roth is appointed to Committee on Education and Committee on Corrections and Juvenile Justice. Also, Rep. Roth will replace Rep. Horst on Committee on Economic Development.

Rep. Cox will replace Rep. Landwehr as a member of the Joint Committee on Pensions, Investments and Benefits.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Tuesday, February 8, 2005.

JANET E. JONES, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

