

Journal of the House

FORTY-NINTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, March 21, 2005, 10:30 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 123 members present.
Rep. Showalter was excused on verified illness.
Rep. Huy was excused on excused absence by the Speaker.

Prayer by Chaplain Chamberlain:

Lord of life and giver of all that is good, we greet you this day as we celebrate the new life that spring brings. As the days grow longer and the sun warms us and nurtures the harvest of the field, we will ever praise you who are the source of life itself.

Lord, you grant authority to governments to be a blessing for your people. You bless the power and the justice that is administered. Through the oft-times messy and contentious work of legislatures the laws that govern your people are enacted. Through the ministry of judges the laws are enforced.

We pray today for wisdom on the part of all those who make decisions regarding our collective well-being. We pray for lawgivers and law-enforcers. May their enactment and administration of laws be for the common good of us all.

Especially we pray for this house and its leaders and servants as the number of days grows shorter and the needs grow larger. May the things that needlessly divide be put aside and may your wisdom and justice prevail. For we wish to live under law that is pleasing to you and a blessing to all. Amen.

The Pledge of Allegiance was led by Rep. Faust-Goudeau.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:
Appropriations: **Sub. SB 85**; **SB 243**.
Health and Human Services: **SB 217**.
Transportation: **SB 278**.
Select Committee of School Finance: **SB 277**.

MESSAGES FROM THE GOVERNOR

HB 2034, HB 2042, HB 2086, HB 2147, HB 2178, HB 2187, HB 2206, HB 2297 approved on March 21, 2005.

CONSENT CALENDAR

No objection was made to **SB 46** appearing on the Consent Calendar for the first day.
No objection was made to **SB 8** appearing on the Consent Calendar for the second day.
No objection was made to **SB 50** 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

SB 50, An act concerning members of the armed forces; relating to references to the soldiers and sailors civil relief act; amending K.S.A. 59-2208, 59-2223 and 60-203 and K.S.A. 2004 Supp. 58-665 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, 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, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, 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: Huy, Showalter.

The bill passed.

HB 2231, An act concerning crimes, punishment and criminal procedure; relating to the nonprison sanction of a certified drug abuse treatment program; amending K.S.A. 2004 Supp. 21-4603d and 21-4729 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 71; Nays 51; Present but not voting: 1; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Carlin, Carlson, Colloton, Cox, Craft, Faber, Faust-Goudeau, Flaharty, Flower, Freeborn, Garcia, Gatewood, George, Goico, Grange, Hawk, Henderson, Henry, Holland, M. Holmes, Horst, Huff, Humerickhouse, Huntington, Jack, D. Johnson, E. Johnson, Kiegerl, Kirk, Krehbiel, Light, Loganbill, Loyd, Mah, McCreary, Menghini, Merrick, M. Miller, Jim Morrison, Judy Morrison, Myers, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Peck, Pottorff, Roth, Ruff, Sawyer, Schwab, S. Sharp, Shultz, Siegfried, Sloan, Swenson, Treaster, Weber, Wilk, Williams, Winn, Yonally.

Nays: Burgess, Burroughs, Carter, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Feuerborn, Flora, Gordon, Grant, Hayzlett, Hill, C. Holmes, Huebert, Hutchins, Kelley, Kilpatrick, Kinzer, Knox, Kuether, Landwehr, Lane, Larkin, Long, Mast, Mays, McKinney, McLeland, F. Miller, Neufeld, Newton, Pauls, Peterson, Phelps, Pilcher-Cook, Powell, Powers, Ruiz, Schwartz, B. Sharp, Storm, Svaty, Thull, Vickrey, Ward, Watkins, Yoder.

Present but not voting: Kelsey.

Absent or not voting: Huy, Showalter.

The bill passed, as amended.

HB 2480, An act making and concerning appropriations for the fiscal year ending June 30, 2005, 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, was considered on final action.

On roll call, the vote was: Yeas 83; Nays 40; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Craft, Dahl, DeCastro, Decker, Edmonds, Faber, Flower, Freeborn, Garcia, George, Goico, Gordon, Grange, Hayzlett, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kil-

patrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Loganbill, Loyd, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Peck, Pilcher-Cook, Pottorff, Powell, Roth, Sawyer, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Sloan, Swenson, Watkins, Weber, Wilk, Yoder, Yonally.

Nays: Ballard, Burroughs, Carlin, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Gatewood, Grant, Hawk, Henderson, Henry, Holland, Kirk, Kuether, Lane, Larkin, Long, Mah, McKinney, Menghini, M. Miller, Pauls, Peterson, Phelps, Powers, Ruff, Ruiz, B. Sharp, Storm, Svaty, Thull, Treaster, Vickrey, Ward, Williams, Winn.

Present but not voting: None.

Absent or not voting: Huy, Showalter.

The bill passed, as amended.

HB 2496, An act concerning licensure and licenses; relating to the occupational therapy practice act; continuing education requirements; amending K.S.A. 48-3403 and 65-5402 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, 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, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, 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: Huy, Showalter.

The bill passed, as amended.

HB 2503, An act concerning abortion clinics; providing for regulation, licensing and standards for the operation thereof; providing penalties for violations and authorizing injunctive actions, was considered on final action.

On roll call, the vote was: Yeas 87; Nays 36; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlson, Carter, Colloton, Craft, Dahl, DeCastro, Decker, Dillmore, Edmonds, Faber, Feuerborn, Flower, Freeborn, Gatewood, George, Goico, Grange, Grant, Hayzlett, Henry, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Hutchins, Jack, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Landwehr, Larkin, Light, Long, Loyd, Mast, Mays, McCreary, McKinney, McLeland, Merrick, F. 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, Ruff, Schwab, Schwartz, B. Sharp, Shultz, Siegfried, Svaty, Swenson, Treaster, Vickrey, Watkins, Weber, Wilk, Williams, Yoder.

Nays: Ballard, Carlin, Cox, Crow, Davis, Faust-Goudeau, Flaharty, Flora, Garcia, Gordon, Hawk, Henderson, Hill, Holland, Huff, Huntington, D. Johnson, Kirk, Krehbiel, Kuether, Lane, Loganbill, Mah, Menghini, M. Miller, Peterson, Roth, Ruiz, Sawyer, S. Sharp, Sloan, Storm, Thull, Ward, Winn, Yonally.

Present but not voting: None.

Absent or not voting: Huy, Showalter.

The bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: I applaud the sponsors for their good intentions, but **HB 2503** misses the mark and I will vote no in favor of a better bill, **HB 2458**. There are nearly 200 unregulated facilities in Kansas that provide office-based surgeries and special procedures. Only seven of those facilities provide abortions. All Kansans, not just women, deserve safe health care. Furthermore, **HB 2503** requires procedures that will quickly become outdated. I urge you to do the right thing and vote no on **HB 2503**. Let's get a hearing for **HB 2458** and provide safe health care for all Kansans.—ANN MAH, JULIE MENGHINI, SYDNEY CARLIN

MR. SPEAKER: I vote NO on **HB 2503**. As state legislators, we are elected to uphold our state and federal laws. We are not physicians. The American College of Obstetricians and Gynecologists establish meticulous standards for their field. In 2002, guidelines for office-based surgery and special procedures were adopted by the KMS and the Board of Healing Arts. These guidelines, written by physicians, apply to all surgical clinics. If the guidelines are not working because they are not monitored properly, then we must address the oversight and management and apply the law where surgical procedures may harm our citizens.—LANA GORDON, TERRIE HUNTINGTON, STEPHANIE SHARP

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Hayzlett, the House nonconcurrred in Senate amendments to **HB 2109** and asked for a conference.

Speaker Mays thereupon appointed Reps. Hayzlett, Faber and Long as conferees on the part of the House.

On motion of Rep. Jim Morrison, the House nonconcurrred in Senate amendments to **HB 2077** and asked for a conference.

Speaker Mays thereupon appointed Reps. Jim Morrison, Mast and Kirk as conferees on the part of the House.

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

COMMITTEE OF THE WHOLE

On motion of Rep. Bethell, Committee of the Whole report, as follows, was adopted: Recommended that committee report to **HB 2485** be adopted; and the bill be passed as amended.

Committee report to **HB 2264** be adopted; and the bill be passed as amended.

On motion of Rep. Carter to adopt the Committee Report to **SB 102**, Rep. Ward requested a ruling on the Committee Report being germane to the bill. The Rules Chair ruled the Committee Report germane. Rep. Ward challenged the ruling, the question being "Shall the Rules Chair be sustained?" The Rules Chair was sustained.

The question reverted back to the motion of Rep. Carter to adopt the Committee Report to **SB 102**. Roll call was demanded.

On roll call, the vote was: Yeas 71; Nays 51; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Dahl, DeCastro, Decker, Edmonds, Faber, Flower, Freeborn, George, Goico, Gordon, Grange, Hayzlett, Hill, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Krehbiel, Landwehr, Light, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Oharah, Olson, Peck, Pilcher-Cook, Pottorff, Powell, Roth, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Sloan, Vickrey, Watkins, Weber, Wilk, Yoder.

Nays: Ballard, Burroughs, Carlin, Craft, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Holland, Huff, Kirk, Knox, Kuether, Lane, Larkin, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Judy Morrison, Otto, Owens, Pauls, Peterson, Phelps, Powers, Ruff, Ruiz, Sawyer, B. Sharp, Storm, Svaty, Swenson, Thull, Treaster, Ward, Williams, Winn, Yonally.

Present but not voting: None.

Absent or not voting: Huy, O'Malley, Showalter.

The motion prevailed and the Committee Report to **SB 102** was adopted.

Also, roll call was required on motion of Rep. Swenson to strike the enacting clause on **SB 102**.

On roll call, the vote was: Yeas 47; Nays 75; Present but not voting: 0; Absent or not voting: 3.

Yeas: Ballard, Burroughs, Carlin, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Holland, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Judy Morrison, Owens, Pauls, Peterson, Phelps, Powers, Ruff, Ruiz, Sawyer, B. Sharp, Storm, Svaty, Swenson, Thull, Treaster, Ward, Williams, Winn, Yonally.

Nays: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Craft, Dahl, DeCastro, Decker, Edmonds, Faber, Flower, Freeborn, George, Goico, Gordon, Grange, Hayzlett, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Oharah, Olson, Otto, Peck, Pilcher-Cook, Pottorff, Powell, Roth, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Sloan, Vickrey, Watkins, Weber, Wilk, Yoder.

Present but not voting: None.

Absent or not voting: Huy, O'Malley, Showalter.

The motion to strike the enacting clause did not prevail.

Also, on motion of Rep. Swenson to refer **SB 102** to Committee on Judiciary, the motion did not prevail.

Also, on motion of Rep. Swenson to strike **SB 102** from the calendar, the roll call was: Yeas 45; Nays 76; Present but not voting: 0; Absent or not voting: 4.

Yeas: Ballard, Burroughs, Carlin, Craft, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Holland, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Mah, McKinney, Menghini, Judy Morrison, Owens, Pauls, Peterson, Phelps, Powers, Ruff, Ruiz, Sawyer, B. Sharp, Storm, Svaty, Swenson, Thull, Treaster, Ward, Williams, Winn.

Nays: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Dahl, DeCastro, Decker, Edmonds, Faber, Flower, Freeborn, George, Goico, Gordon, Grange, Hayzlett, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Loyd, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Oharah, Olson, Otto, Peck, Pilcher-Cook, Pottorff, Powell, Roth, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Sloan, Vickrey, Watkins, Weber, Wilk, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Huy, M. Miller, O'Malley, Showalter.

The motion to strike **SB 102** from the calendar did not prevail.

Also, on motion of Rep. Swenson to lay **SB 102** on the table, the motion did not prevail.

Also, on motion of Rep. Dillmore to amend **SB 102**, Rep. Carter rose on a point of order that the amendment was out of order. The Chair ruled the amendment out of order. Rep. Carter subsequently withdrew his point of order. The question then reverted back to motion of Rep. Dillmore to amend on page 3, by striking lines 26 through 33 and inserting:

"Section 1. K.S.A. 40-2255 is hereby amended to read as follows: 40-2255. (a) This act shall apply to individual contracts covering hospital, medical or surgical expenses, providing long-term care coverage, and medicare supplement policies, which are issued, amended, delivered or renewed on or after the effective date of this act but shall not apply to any block of long-term care coverage or medicare supplement business already in force in Kansas on such effective date.

(b) As used in this act:

(1) "Block of business" means a particular individual policy form or contract providing hospital, medical or surgical expense, long-term care or medicare supplement coverage issued by a carrier to one or more individuals which includes distinct benefits, services and terms.

(2) "Closed block of business" means a block of business which a carrier ceases to actively offer or sell to new applicants.

(3) "Carrier" means any insurance company, nonprofit medical and hospital service corporation, municipal group-funded pool, fraternal benefit society or health maintenance organization, as these terms are defined by the Kansas Statutes Annotated, that offers any individual hospital, surgical or medical expense, long-term care or medicare supplement policy and which is authorized to do business in this state. "Carrier" does not include those entities identified above with respect to the sale or issuance of policies or certificates covering only accident, credit, dental, disability income, hospital indemnity, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(4) "Commissioner" means the commissioner of insurance.

(c) No block of business shall be closed by a carrier unless:

(1) The carrier ~~permits existing contract holders to purchase a contract~~ *provides written notice of the carrier's decision to close a block of business to each existing policyholder or contract holder affected and offers each policyholder or contract holder affected an opportunity to purchase a policy or contract* from any block of business that is not closed and which provides comparable benefits, services and terms, with no additional underwriting requirement or waiting period. *Each policyholder or contract holder affected by the carrier's decision to close a block of business shall be permitted to purchase such policy or contract during the 60-day period commencing on the day following the date of the written notice;*

(2) The carrier pools the experience of the closed block of business with all appropriate blocks of business that are not closed for the purpose of determining the premium rate of any contract within the closed block, with no rate penalty or surcharge beyond that which reflects the experience of the combined pool; and

(3) if a carrier does not offer or sell any block of business which provides comparable benefits, services and terms comparable to the closed block of business, paragraphs (1) and (2) shall not apply. If a block of business providing benefits, services and terms comparable to the closed block of business becomes available within 24 months of the notice to the commissioner, such block shall be open to any contract holder in accordance with the provisions of paragraphs (1) and (2). The carrier shall provide notice to the commissioner in writing within 30 days of its decision to close a block of business or, in the absence of an actual decision to close a block of business, within 30 days of its determination that a block of business is within one of the presumptions set forth in subsection (d).

(d) Unless an insurer presents evidence satisfactory to the commissioner that such a presumption is or would be incorrect, a block of business shall be presumed closed if either of the following circumstances exist:

(1) There has been an overall reduction in that block of 12% in the number of in-force contracts for a period of 12 months; or

(2) that block has less than 500 in-force contracts in this state.

The presumption that applies in the circumstances of subsection (d)(2) shall not apply to a block of business initiated within the previous 24 months, but notification of that block of business shall be provided to the commissioner pursuant to subsection (e).

The fact that a block of business does not meet one of the presumptions set forth in this subsection shall not preclude a determination that it is closed as defined in paragraph (2) of subsection (b).

(e) A carrier shall notify the commissioner in writing within 30 days of its decision to close a block of business or, in the absence of an actual decision to close a block of business, within 30 days of its determination that a block of business is within one of the presumptions set forth in subsection (d). When the carrier decides to close a block of business, the written notice shall fully disclose all information required for compliance with subsection (c). When the carrier determines that a block of business is within a presumption of subsection (c), the written notice shall fully disclose all information required for compliance with a presumption of subsection (c). In the case of either notice, the carrier shall provide additional information within 15 business days after a request by the commissioner. This subsection

shall not apply to a carrier which does not have available a block of business which provides comparable benefits, services and terms comparable to the closed block of business and which has complied with the notice requirements pursuant to subsection (c)(3).

(f) A carrier shall preserve for a period of not less than five years in an identified location which is readily accessible for review by the commissioner, all books and records relating to any action taken by a carrier pursuant to subsection (c).

(g) No carrier shall offer or sell any contract, or provide misleading information about the active or closed status of a block of business, for the purpose of evading this act.

Sec. 2. K.S.A. 40-2255 is hereby repealed.”;

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

AN ACT concerning health insurance; relating to notice when a block of business is closed; amending K.S.A. 40-2255 and repealing the existing section.”;

Roll call was demanded.

On roll call, the vote was: Yeas 53; Nays 66; Present but not voting: 0; Absent or not voting: 6.

Yeas: Ballard, Burgess, Burroughs, Carlin, Craft, Crow, Davis, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Holland, Huebert, Kirk, Knox, Kuether, Lane, Larkin, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Owens, Pauls, Peterson, Phelps, Pottorff, Powers, Ruff, Ruiz, Sawyer, B. Sharp, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Williams, Winn.

Nays: Aurand, Beamer, Bethell, Brown, Brunk, Carlson, Carter, Colloton, Cox, Dahl, DeCastro, Decker, Edmonds, Flower, Freeborn, George, Gordon, Grange, Hayzlett, Hill, C. Holmes, M. Holmes, Horst, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Krehbiel, Landwehr, Light, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O’Neal, Oharah, Olson, Otto, Peck, Pilcher-Cook, Powell, Roth, Schwab, Schwartz, S. Sharp, Siegfried, Watkins, Weber, Wilk, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Goico, Huff, Huy, O’Malley, Showalter, Shultz.

The motion of Rep. Dillmore did not prevail.

Also, on motion of Rep. O’Neal, **SB 102** be amended on page 3, after line 31, by inserting the following:

“Sec. 2. K.S.A. 60-3804 is hereby amended to read as follows: 60-3804. In determining damages in an action for personal injury or death, the trier of fact ~~shall~~ *may* determine the net collateral source benefits received and the net collateral source benefits reasonably expected to be received in the future. If the action for personal injury or death is tried to a jury, *and the jury makes such determination*, the jury will be instructed to make such determination by itemization of the verdict.

Sec. 3. K.S.A. 60-3805 is hereby amended to read as follows: 60-3805. (a) *In the event the trier of fact makes a net collateral source benefit determination*, the amount of the judgment shall be reduced by the court by the amount of net collateral source benefits received, or reasonably expected to be received in the future but only to the extent that such benefits exceed the aggregate amount by which:

(1) Such judgment was reduced pursuant to subsection (a) of K.S.A. 60-258a, and amendments thereto;

(2) the claimant’s ability to recover such judgment was limited by the application of subsections (c) and (d) of K.S.A. 60-258a, and amendments thereto, other than by virtue of claimant’s settlement with or decision not to assert a legally enforceable claim against a named or an unnamed party;

(3) the amount to which the claimant’s ability to recover such judgment was limited by the insolvency or bankruptcy of a person; and

(4) the award of damages has been reduced because of a statutory limit upon the recovery of damages.

(b) If there is no amount falling within subsections (a)(1) through (a)(4) then the court shall reduce the judgment by the full amount of the net collateral source benefits.”;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 32, by striking “is” and inserting “, 60-3804 and 60-3805 are”;
 In the title, in line 12, after “60-3802” by inserting “, 60-3804 and 60-3805”; in line 13,
 by striking “section” and inserting “sections”;

Also, on motion of Rep. McKinney, pursuant to House Rule 2301(e), to postpone action
 on **SB 102** until the first order of business on General Orders on March 22, the motion did
 not prevail.

Also, roll call was demanded on motion to recommend **SB 102** favorably for passage.

On roll call, the vote was: Yeas 65; Nays 55; Present but not voting: 0; Absent or not
 voting: 5.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Carlson, Carter, Cox, Dahl, DeCastro,
 Decker, Edmonds, Faber, Freeborn, George, Goico, Grange, Hayzlett, Hill, C. Holmes,
 M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E.
 Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Knox, Krehbiel, Landwehr, Light, Mast, Mays,
 McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Myers, Neufeld, Newton, Novas-
 cone, O’Neal, Oharah, Olson, Otto, Peck, Pilcher-Cook, Powell, Roth, Schwab, Schwartz,
 S. Sharp, Shultz, Siegfried, Vickrey, Watkins, Weber, Wilk.

Nays: Ballard, Burgess, Burroughs, Carlin, Colloton, Craft, Crow, Davis, Dillmore, Faust-
 Goudeau, Feuerborn, Flaharty, Flora, Flower, Garcia, Gatewood, Grant, Hawk, Henderson,
 Henry, Holland, Huff, Kinzer, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Loyd, Mah,
 McKinney, Menghini, M. Miller, Judy Morrison, Owens, Pauls, Phelps, Pottorff, Powers,
 Ruff, Ruiz, Sawyer, B. Sharp, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Ward, Williams,
 Winn, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Gordon, Huy, O’Malley, Peterson, Showalter.

The motion prevailed, and **SB 102** be passed as amended.

On motion of Rep. McKinney to amend **SB 58**, the motion did not prevail. Also, on
 motion of Rep. Huebert to amend, the motion was withdrawn; and the bill be passed.

REPORTS OF STANDING COMMITTEES

Committee on **Economic Development** recommends **HB 2012** be amended by sub-
 stituting a new bill to be designated as “Substitute for HOUSE BILL No. 2012,” as follows:
 “Substitute for HOUSE BILL No. 2012

By Committee on Economic Development

“AN ACT regarding tax increment financing; clarification of statutes; amending K.S.A. 12-
 1774a and 12-1777 and K.S.A. 2004 Supp. 12-1770a, 12-1771, 12-1771b, 12-1772, 12-
 1773, 12-1774, 12-1780b and 12-1780c and repealing the existing sections.”; and the
 substitute bill be passed.

(**Sub. HB 2012** was thereupon introduced and read by title.)

Committee on **Insurance** recommends **SB 100** be amended on page 1, by striking all in
 lines 14 through 43;

By striking all on pages 2 and 3 and inserting:

“Section 1. K.S.A. 39-935 is hereby amended to read as follows: 39-935. (a) Inspections
 shall be made and reported in writing by the authorized agents and representatives of the
 licensing agency and state fire marshal, and of the county, city-county and multicounty health
 departments as often and in the manner and form prescribed by the rules and regulations
 promulgated under the provisions of this act. Access shall be given to the premises of any
~~adult care home nursing facility that provides skilled nursing care, nursing facility for mental~~
~~health that provides skilled nursing care or assisted living facility~~ at any time upon presenting
 adequate identification to carry out the requirements of this section and the provisions and
 purposes of this act, and failure to provide such access shall constitute grounds for denial
 or revocation of license. A copy of any inspection reports required by this section shall be
 furnished to the applicant, except that a copy of the preliminary inspection report signed
 jointly by a representative of the ~~adult care home nursing facility that provides skilled~~
~~nursing care, nursing facility for mental health that provides skilled nursing care or assisted~~
~~living facility~~ and the inspector shall be left with the applicant when an inspection under
 this section is completed. This preliminary inspection report shall constitute the final record
 of deficiencies assessed against the ~~adult care home nursing facility that provides skilled~~

nursing care, nursing facility for mental health that provides skilled nursing care or assisted living facility during the inspection, all deficiencies shall be specifically listed and no additional deficiencies based upon the data developed at that time shall be assessed at a later time. An exit interview shall be conducted in conjunction with the joint signing of the preliminary inspection report.

(b) The authorized agents and representatives of the licensing agency shall conduct at least one unannounced inspection of each ~~adult care home nursing facility that provides skilled nursing care, nursing facility for mental health that provides skilled nursing care or assisted living facility~~ within 15 months of any previous inspection for the purpose of determining whether the ~~adult care home nursing facility that provides skilled nursing care, nursing facility for mental health that provides skilled nursing care or assisted living facility~~ is complying with applicable statutes and rules and regulations relating to the health and safety of the residents of the ~~adult care home nursing facility that provides skilled nursing care, nursing facility for mental health that provides skilled nursing care or assisted living facility~~. The statewide average interval between inspections shall not exceed 12 months.

(c) Every ~~adult care home nursing facility that provides skilled nursing care, nursing facility for mental health that provides skilled nursing care or assisted living facility~~ shall post in a conspicuous place a notice indicating that the most recent inspection report and related documents may be examined in the office of the administrator of the ~~adult care home nursing facility that provides skilled nursing care, nursing facility for mental health that provides skilled nursing care or assisted living facility~~. Upon request, every ~~adult care home nursing facility that provides skilled nursing care, nursing facility for mental health that provides skilled nursing care or assisted living facility~~ shall provide to any person a copy of the most recent inspection report and related documents, provided the person requesting such report agrees to pay a reasonable charge to cover copying costs.

(d) *Each nursing facility that provides skilled nursing care, nursing facility for mental health that provides skilled nursing care or assisted living facility shall establish and maintain a risk management program in accordance with the provisions of K.S.A. 65-4922a and amendments thereto. Any reports and records reviewed, obtained or prepared by the department on aging in connection with any reportable incidents referred for investigation and analysis under such risk management program, including any reports and records reflecting the results of an inspection or survey under this chapter or in accordance with the regulations, guidelines and procedures issued by the United States secretary of health and human services under Titles XVIII and XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, shall not be admissible in any civil action under the laws of the state of Kansas. However, nothing in this section shall prohibit the use and admissibility in evidence of one or more excerpts from any survey or inspection report that is relevant and substantially relates to the allegations asserted by the named plaintiff, if the court determines on the record, following a hearing outside the presence of the jury, that every such excerpt is relevant, substantially related to the plaintiff's allegations and otherwise admissible under the rules of evidence set forth in article 4, chapter 60 of the Kansas Statutes Annotated and amendments thereto.*

Sec. 2. K.S.A. 39-935 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.;

In the title, by striking all in lines 9 through 11 and inserting: "AN ACT concerning certain adult care homes; related to certain nursing facilities and assisted living facilities; relating to risk assessment plans and inspection reports; amending K.S.A. 39-935 and repealing the existing section.;" and the bill be passed as amended.

Committee on **Taxation** recommends **SB 158** be passed.

Committee on **Taxation** recommends **HB 2131** be amended on page 1, in line 20, by striking "Commencing" and by inserting "Except as provided in section 12, and amendments thereto, commencing";

On page 8, in line 42, by striking "The" and by inserting "Except as provided in section 12, and amendments thereto, the";

On page 9, in line 38, by striking "The" and by inserting "Except as provided in section 12, and amendments thereto, the";

On page 10, in line 27, by striking “The” and by inserting “Except as provided in section 12, and amendments thereto, the”;

On page 12, in line 35, by striking “The” and by inserting “Except as provided in section 12, and amendments thereto, the”;

On page 13, in line 24, by striking “The” and by inserting “Except as provided in section 12, and amendments thereto, the”;

On page 14, in line 13, by striking “The” and by inserting “Except as provided in section 12, and amendments thereto, the”;

On page 16, in line 43, by striking “The” and by inserting “Except as provided in section 12, and amendments thereto, the”;

On page 17, after line 23, by inserting the following:

“New Sec. 12. Commencing on the effective date of this act, and ending on the date that legislation enacted by the United States Congress becomes effective that authorizes the secretary of revenue to require some out-of-state remote sellers lacking physical presence in this state to collect and remit state and local sales or use tax, for any retailer who is sourcing taxable retail sales of such retailer pursuant to the destination based sourcing provisions contained in K.S.A. 12-191 and K.S.A. 2004 Supp. 79-3670, 79-3671, 79-3672 and 79-3673, and amendments thereto, prior to the effective date of this act, such retailer may elect to continue to apply such destination based sourcing provisions or apply the origin based sourcing provisions contained in this act.”;

And by renumbering sections accordingly; and the bill be passed as amended.

Committee on **Taxation** recommends **SB 37** be amended on page 26, in line 35, by striking “the entire”; in line 36, by striking “amount” and inserting “37.5% of such moneys in the state treasury to the credit of the annual report filing fee fund, and deposit the remainder of such moneys”; in line 36, after the period by inserting “There is hereby created the annual report filing fee fund. All expenditures from the annual report filing fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of state or a person or persons designated by the secretary of state.”; after line 36, by inserting the following:

“New Sec. 30. Notwithstanding any provision of law to the contrary, the secretary of state shall not charge a fee pursuant to K.S.A. 75-438, and amendments thereto, to any professional corporation, domestic or foreign corporation, corporation organized not-for-profit, domestic or foreign limited liability company, domestic or foreign limited partnership, domestic or foreign limited liability partnership or any other entity pursuant to statute for filing such entity’s annual report with the secretary of state as provided by law.

Sec. 31. K.S.A. 2004 Supp. 79-5401 is hereby amended to read as follows: 79-5401. (a) (1) For any foreign or domestic for profit corporation, or professional corporation or association, duly registered and authorized to do business in Kansas by the secretary of state and which has taxable equity attributable to Kansas of \$100,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .125% of such entity’s taxable equity attributable to Kansas, except that such annual franchise tax for any such entity shall not exceed \$20,000.

(2) For any foreign or domestic limited liability company, foreign or domestic limited partnership or foreign or domestic limited liability partnership duly registered and authorized to do business in Kansas by the secretary of state and which has 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 of \$100,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .125% 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 which has 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 of \$100,000 or more, .125% 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 such annual franchise tax for any such entity shall not exceed \$20,000.

(3) For any business trust duly registered and authorized to do business in Kansas by the secretary of state *and* which has corpus as shown on its balance sheet at the end of the

preceding taxable year as required to be reported to the secretary of revenue of \$100,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .125% of the corpus as shown on its balance sheet at the end of the preceding taxable year as required to be reported to the secretary of revenue or in the case of a foreign business trust which has a corpus which is located in or which it uses or intends to use in this state as shown on its balance sheet at the end of the preceding taxable year as required to be reported to the secretary of revenue of \$100,000 or more, .125% of that portion of the corpus which is located in or which it uses or intends to use in this state as shown on its balance sheet at the end of the preceding taxable year as required to be reported to the secretary of revenue, except that the annual franchise tax for any such entity shall not exceed \$20,000. Such balance sheet shall be as of the end of the tax period, certified by the trustee, fairly and truly reflecting the trust assets and liabilities and specifically setting out its corpus, and, in the case of a foreign business trust, fairly and truly reflecting an allocation of its moneys and other assets as between those located, used or to be used, in this state and those located, used or to be used elsewhere.

(b) (1) Every corporation or association, business trust, limited liability company, limited partnership or limited liability partnership subject to taxation under this act, regardless of whether such entity has a franchise tax liability, shall make a return, stating specifically such information as may be required by the forms, rules and regulations of the secretary of revenue, which return shall include a balance sheet listing all assets and liabilities as of the end of the tax year, as reported in the federal income tax return on form 1120 or, if no such federal return is required to be filed, such balance sheet information as otherwise required by the secretary, and such further information showing the allocation or apportionment calculations in computing the amount of the franchise tax. The return of a corporation or association shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer so authorized to act. The fact that an individual's name is signed on a return shall be *prima facie* evidence that such individual is authorized to sign such return on behalf of such corporation. In cases where receivers, trustees in bankruptcy or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns shall be collected in the same manner as if collected from the corporation for which the return is made. The returns of a limited liability partnership shall be signed by a partner of the limited liability partnership. The returns of a limited liability company shall be signed by a member of the limited liability company.

(2) All returns shall be filed in the office of the director of taxation on or before the 15th day of the fourth month following the close of the taxable year, except as provided in subsection (b) (3).

(3) The director of taxation may grant a reasonable extension of time for filing returns in accordance with rules and regulations of the secretary of revenue. Whenever any such extension of time to file is requested by a taxpayer and granted by the director, no penalty authorized by K.S.A. 79-3228, and amendments thereto, shall be imposed if 90% of the liability is paid on or before the original due date.

(c) (1) All taxes imposed under the provisions of the Kansas franchise tax act shall be paid on the 15th day of the fourth month following the close of the taxable year. When the tax as shown to be due on a return is less than \$5, such tax shall be canceled and no payment need be remitted by the taxpayer.

(2) The director of taxation may extend the time for payment of the tax, or any installment thereof, for a reasonable period of time not to exceed six months from the date fixed for payment thereof. Such extension may exceed six months in the case of a taxpayer who is abroad. Interest shall be charged at the rate prescribed by K.S.A. 79-2968, and amendments thereto, for the period of such extension.

(d) The provisions of K.S.A. 79-3226, 79-3228, 79-3228a, 79-3229, 79-3230, 79-3233, 79-3233a, 79-3233b, 79-3233g, 79-3233h, 79-3233i, 79-3234, 79-3235 and 79-3236, and amendments thereto, shall apply to the administration and enforcement of this section.

(e) All taxes paid pursuant to the provisions of this act shall be rounded off to the nearest \$1, and unless other disposition is specifically provided by law, the taxes collected under

the provisions of this act and all overpayments which may not be refunded under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. The secretary of revenue shall not refund any overpayment of franchise taxes which is equal to \$5 or less, shall not credit any domestic corporation or foreign corporation, association, business trust, limited liability company, limited partnership or limited liability partnership with any amount which may not be refunded under this section, and shall not require reimbursement for any underpayment of franchise taxes which is less than \$5. Franchise tax refunds shall be paid to the claimant from the income tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation, but no warrant issued hereunder shall be drawn in an amount less than \$5. No interest shall be allowed on any payment made to a claimant pursuant to this act.

(f) As used in this section: (1) "Act" means the Kansas franchise tax act;

(2) "net book value as calculated on an income tax basis located in or used in this state" means the net book value of a limited liability company multiplied by a percentage which is the average of the following three percentages: (A) The average value of the limited liability company's real and tangible personal property owned or rented and used in this state during the ~~next preceding~~ tax period divided by the average total value of the limited liability company's real and tangible personal property owned or rented and used during the ~~next preceding~~ tax period; (B) the total amount of compensation paid by the limited liability company in this state during the ~~next preceding~~ tax period divided by the total amount of compensation paid everywhere by the limited liability company during the ~~next preceding~~ tax period; and (C) the total sales of the limited liability company in this state during the ~~next preceding~~ tax period divided by the total sales of the limited liability company everywhere during the ~~next preceding~~ tax period. If a limited liability company has no real and tangible property owned or rented and used, compensation paid or sales made for the ~~preceding~~ tax period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity;

(3) "net capital accounts located in or used in this state" means the net capital accounts of a limited partnership or limited liability partnership as stated on the federal income tax return multiplied by a percentage which is the average of the following three percentages: (A) The average value of such entity's real and tangible personal property owned or rented and used in this state during the ~~next preceding~~ tax period divided by the average total value of such entity's real and tangible personal property owned or rented and used during the ~~next preceding~~ tax period; (B) the total amount of compensation paid by such entity in this state during the ~~next preceding~~ tax period divided by the total amount of compensation paid everywhere by such entity during the ~~next preceding~~ tax period; and (C) the total sales of such entity in this state during the ~~next preceding~~ tax period divided by the total sales of such entity everywhere during the ~~next preceding~~ tax period. If such entity has no real and tangible personal property owned or rented and used, compensation paid or sales made for the ~~preceding~~ tax period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity;

(4) "shareholder's equity" means the sum of: (1) Paid-in capital stock, except that paid-in capital stock shall not include any capital stock issued by a corporation and reacquired by such corporation through gift, purchase or otherwise and available for resale or retirement; (2) capital paid in, in excess of par; and (3) retained earnings, all as stated on such corporation's federal income tax return;

(5) "shareholder's equity attributable to Kansas" means the shareholder's equity of a corporation multiplied by a percentage which is the average of the following three percentages: (A) The average value of the corporation's real and tangible personal property owned or rented and used in this state during the ~~next preceding~~ tax period divided by the average total value of the corporation's real and tangible personal property owned or rented and used during the ~~next preceding~~ tax period; (B) the total amount of compensation paid by the corporation in this state during the ~~next preceding~~ tax period divided by the total amount of compensation paid everywhere by the corporation during the ~~next preceding~~ tax period; and (C) the total sales of the corporation in this state during the ~~next preceding~~ tax

period divided by the total sales of the corporation everywhere during the ~~next preceding~~ tax period. If a corporation has no real and tangible personal property owned or rented and used, compensation paid or sales made for the ~~preceding tax~~ period, then the average percentage shall be determined by using only those percentages for property, compensation and sales which reflect property or activity; and

(6) "taxable equity attributable to Kansas" means shareholder's equity attributable to Kansas.

(g) The provisions of this section shall apply to all tax years commencing after December 31, 2003.

(h) The provisions of this section shall be known and may be cited as the Kansas franchise tax act.;"

And by renumbering sections accordingly;

On page 27, in line 1, by striking "and" and inserting a comma; also in line 1, after "75-446" by inserting "and 79-5401";

On page 1, in the title, in line 10, after "fees" by inserting "and taxes and annual report fees"; in line 15, by striking "and" the first time it appears and inserting a comma; also in line 15, after "75-446" by inserting "and 79-5401"; and the bill be passed as amended.

Committee on **Taxation** recommends **SB 138** be amended on page 1, in line 16, by striking all after "years"; in line 17, by striking "2004" and inserting "2005, 2006 and 2007"; in line 18, by striking "(d)" and inserting "(f)"; in line 28, after "year" by inserting ", and of that amount, except as otherwise provided, no more than \$125,000 of credits shall be allowed for business firms located in any one congressional district per fiscal year. The secretary of revenue shall establish by the adoption of rules and regulations a procedure to allow reallocation of unused tax credits by one congressional district to a congressional district which has or will use all of its allocated tax credits in that fiscal year and has additional tax credit allowance requests pending. The secretary of revenue shall approve all such credits in advance on a first-come, first-serve basis pursuant to subsection (d)"; in line 35, after the period, by inserting "No credit shall be allowed pursuant to this section to a business firm that enters into a partnership agreement with a school district in which the teacher employed by the business firm is a household or family member of any owner, director, officer or employee of such business firm.;" after line 35, by inserting the following:

"(d) Prior to a business firm claiming this tax credit, the secretary of revenue shall require each business firm to submit for approval the following information on forms as prescribed by the secretary: (1) Each partnership agreement; (2) the salary amount paid to each teacher during the taxable year by such business firm pursuant to such partnership agreement and for which the tax credit is sought; and (3) such further information as the secretary may require to administer this provision.;"

Also on page 1, in line 36, by striking "(d)" and by inserting "(e)";

On page 2, in line 5, by striking "(d)" and by inserting "(f)"; also in line 5, after the period by inserting "Such agreement shall contain a description of the duties of the position the teacher shall be performing, sufficient to establish that such position satisfies the criteria set forth in subsection (f)."; in line 11, by striking "(e)" and inserting "(f)"; in line 16, after the period by inserting "If a teacher entering into a partnership agreement voluntarily leaves the employ of the school district to be employed by the business firm during the term of the agreement or within one year after the agreement is completed or terminated, the business firm shall repay to the state all credits claimed pursuant to this section. Such payment shall be due as part of the tax liability of the business entity for the tax year in which the teacher is no longer employed by the school district.;" after line 16, by inserting the following:

"(g) The secretary of revenue shall submit an annual report to the chairperson of the legislative educational planning committee regarding utilization of the credits claimed pursuant to this act, for purposes of evaluation of the program by such committee. Such report shall be due on or before the first day of the legislative session, commencing with the 2007 legislative session and ending with the 2009 legislative session.;" and the bill be passed as amended.

Committee on **Taxation** recommends **SB 209** be amended on page 1, after line 16, by inserting the following:

“Section 1. K.S.A. 2004 Supp. 12-17,141 is hereby amended to read as follows: 12-17,141. As used in K.S.A. 2004 Supp. 12-17,140 through 12-17,149, and amendments thereto: (a) “Acquire” means the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means and may include the acquisition of existing property and projects already owned by a municipality.

(b) “Act” means the provisions of K.S.A. 2004 Supp. 12-17,140 through 12-17,149, and amendments thereto.

(c) “Bonds” means special obligation bonds or special obligation notes payable solely from the sources described in K.S.A. 2004 Supp. 12-17,147, and amendments thereto, issued by a municipality in accordance with the provisions of this act.

(d) “Consultant” means engineers, architects, planners, attorneys and other persons deemed competent to advise and assist the governing body in planning and making of projects.

(e) “Cost” means: (1) All costs necessarily incurred for the preparation of preliminary reports, the preparation of plans and specifications, the preparation and publication of notices of hearings, resolutions, ordinances and other proceedings, necessary fees and expenses of consultants, interest accrued on borrowed money during the period of construction and the amount of a reserve fund for the bonds, together with the cost of land, materials, labor and other lawful expenses incurred in planning and doing any project and may include a charge of not to exceed 5% of the total cost of a project or the cost of work done by the municipality to reimburse the municipality for the services rendered by the municipality in the administration and supervision of such project by its general officers; and (2) in the case of property and projects already owned by the municipality and previously financed by the issuance of bonds, “cost” means costs authorized by K.S.A. 10-116a and amendments thereto.

(f) “District” means a transportation development district created pursuant to this act.

(g) “Governing body” means the governing body of a city or the board of county commissioners of a county.

(h) “Municipality” means any city or county.

(i) “Newspaper” means the official newspaper of the municipality.

(j) “Owner” means the owner or owners of record, whether resident or not, of real property within the district.

(k) “Project” means any project or undertaking, whether within or without the district, to improve, construct, reconstruct, maintain, restore, replace, renew, repair, install, furnish, equip or extend any bridge, street, road, highway access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail or other mass transit facility or any other transportation related project or infrastructure *including, but not limited to, utility relocation; sanitary and storm sewers and lift stations; drainage conduits, channels and levees; street light fixtures, connection and facilities; underground gas, water, heating and electrical services and connections located within or without the public right-of-way; sidewalks and pedestrian underpasses or overpasses; and water main and extensions.*

(l) “Transportation development district sales tax” means the tax authorized by K.S.A. 2004 Supp. 12-17,145, and amendments thereto.”;

And by renumbering sections accordingly;

On page 4, in line 31, after “Supp.” by inserting “12-17,141.”;

On page 1, in the title, in line 13, after “Supp.” by inserting “12-17,141.”; and the bill be passed as amended.

Committee on **Utilities** recommends **HR 6024** be adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6026—

By Committee on Utilities

A RESOLUTION urging the State Corporation Commission to initiate a proceeding regarding local telephone service competition in certain areas.

Be it resolved by the House of Representatives of the State of Kansas: That the State Corporation Commission is urged to initiate, not later than 30 days following receipt of the enrolled copy of this resolution, a proceeding to evaluate the development and status of local service competition in areas of the state served by local exchange carriers that have elected price cap regulation pursuant to subsection (b) of K.S.A. 66-2005, and amendments thereto; and

Be it further resolved: That the State Corporation Commission is requested, in such proceeding, to:

(1) Review guidelines established pursuant to subsection (n) of K.S.A. 66-2005, and amendments thereto, for reducing regulation prior to price deregulation of price cap regulated services, and modify such guidelines where appropriate;

(2) develop recommendations for the adoption of objective criteria under which the existence of competition provides adequate protection for consumers, permitting price deregulation of services or baskets of services; and

(3) establish processes for periodic review of competition in markets where price deregulation has been approved and for reimposition of price regulation where competition shall have ceased to provide adequate protection for consumers; and

Be it further resolved: That, in such proceeding the Commission is urged to consider the extent to which competitive, technological and regulatory neutrality consistent with the public interest may be assured in the provision of local service; and

Be it further resolved: That, not later than the first day of the 2006 legislative session, the Commission is requested to prepare and submit a report to the chairperson of the standing Committee on Utilities of the Senate and the chairperson of the standing Committee on Utilities of the House of Representatives of the Commission's findings under subsection (a) and to include in such report an analysis of the status of local service competition in areas of the state served by local exchange carriers that have elected price cap regulation pursuant to subsection (b) of K.S.A. 66-2005, and amendments thereto, and recommendations for the adoption of objective criteria under which price deregulation may be authorized in a manner which will protect consumers, safeguard universal service, ensure that consumers may reap the benefits of competition, maximize the use of market forces and promote development of the telecommunications infrastructure throughout the state; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to the State Corporation Commission.

APPOINTMENT OF SELECT COMMITTEE

In accordance with House Rule 1103, the Select Committee on Healthcare is established. Members of the committee are: Neufeld, Chair; Jim Morrison, Vice Chair; Landwehr, Mast, Shultz, Carter; Feuerborn, Ranking Minority Member; Kirk and Dillmore.

COMMITTEE ASSIGNMENT

Rep. Carlin will replace Rep. Showalter on the Committee on Health and Human Services.

REPORT ON ENROLLED BILLS

HB 2031, HB 2183, HB 2323, HB 2325, HB 2327 reported correctly enrolled, properly signed and presented to the governor on March 21, 2005.

On motion of Rep. Aurand, the House adjourned until 10:30 a.m., Tuesday, March 22, 2005.

CHARLENE SWANSON, *Journal Clerk.*JANET E. JONES, *Chief Clerk.*