

Journal of the House

FIFTY-FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, March 23, 2005, 10:00 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. Edmonds was excused on excused absence by the Speaker.

Prayer by the Rev. Clint Sprague, pastor, Life Church, Olathe, and guest of Rep. Schwab:

Father God, Maker of Heaven and Earth, the God who knows each of us by name, by word, and by our deeds. Today, we come before you grateful for life, acknowledging that you are the giver of life, and completely aware that without you not one of us would be here.

Lord, we are also grateful for the gifts and the callings that you have placed on our lives. And we acknowledge that we are all just stewards of the things that you have entrusted to us, so help us to serve faithfully, and to fulfill your purpose for us on earth.

Today, as we approach the Easter season, we take time to reflect on your amazing gift to all of humanity, in the person of Jesus Christ. Regardless of anyone's own personal belief system or faith, all of us can learn from the integrity, love, and sacrifice, which Jesus exemplified.

In John 15:12-13, Jesus said: This is My commandment, that you love one another as I have loved you. Greater love has no one than this, than to lay down one's life for his friends.

Father, help us to love people with that kind of pure love! A love that always has the best possible outcome in mind for those around us, and a love that is willing to pay the price to see that it comes to pass. Help us to see others with your eyes, rather than the eyes of selfish gain, and personal agendas. Help us to "lay our lives down" for those who need help the most...

When I think about this challenge to love in the context of this group of great leaders, I pray that you would give them insight and wisdom from above this day, as they make important decisions which affect so many people's lives.

James 3:17: But the wisdom that comes from above is first of all pure; then peace-loving, considerate, submissive, full of mercy and good fruit, impartial and sincere.

Father God, I pray for this house, its leaders, and those who serve them, that this wisdom from above will rule their hearts and minds today. For your glory, and for the good of those they serve, Amen.

The Pledge of Allegiance was led by Rep. Pilcher-Cook.

MESSAGES FROM THE SENATE

Announcing passage of **SB 267, SB 274.**

Announcing passage of **HB 2040, HB 2102, HB 2141, HB 2168, HB 2180, HB 2461.**

Announcing passage of **HB 2247**, as amended; **HB 2265**, as amended; **HB 2268**, as amended; **HB 2390**, as amended.

The Senate concurs in House amendments to **SB 152**.

The Senate concurs in House amendments to **H. Sub. for SB 153**.

Announcing rejection of **HB 2252**.

Also, the Senate nonconcur in House amendments to **SB 91**, requests a conference and has appointed Senators Barnett, V. Schmidt and Haley as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 266**, requests a conference and has appointed Senators Umbarger, Emler and Kelly as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **S. Sub. for HB 2016** and has appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2077** and has appointed Senators Barnett, V. Schmidt and Haley as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2109** and has appointed Senators Vratil, Donovan and Goodwin as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2122** and has appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2262** and has appointed Senators Vratil, D. Schmidt and Goodwin as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2314** and has appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2387** and has appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were thereupon introduced and read by title:

SB 267, SB 274.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 91**.

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 acceded to the request of the Senate for a conference on **SB 266**.

Speaker Mays thereupon appointed Reps. Neufeld, Landwehr and Feuerborn as conferees on the part of the House.

CONSENT CALENDAR

No objection was made to **SB 26, SB 110** appearing on the Consent Calendar for the first day.

No objection was made to **SB 46** 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 46, An act concerning canceled state warrants; relating to fees for reissuance; amending K.S.A. 46-921 and repealing the existing section, 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, 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, Huy, 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: Edmonds, Showalter.

The bill passed.

Sub. HB 2226, An act concerning the department of wildlife and parks; prescribing certain procedures for acquisition of land by such department, was considered on final action.

On roll call, the vote was: Yeas 71; Nays 52; Present but not voting: 0; Absent or not voting: 2.

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

Nays: Ballard, Burgess, Burroughs, Carlin, Colloton, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grange, Grant, Henderson, Henry, Holland, Humerickhouse, Huntington, Huy, Kelsey, Kirk, Kuether, Lane, Larkin, Loganbill, Long, Mah, McKinney, Menghini, M. Miller, Newton, Pauls, Peterson, Phelps, Pottorff, Powers, Ruff, Ruiz, Sawyer, B. Sharp, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Ward, Williams, Winn.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The substitute bill passed, as amended.

HB 2228, An act concerning state procurement; relating to state purchase of products by certain qualified vendors; amending K.S.A. 75-3317, 75-3319, 75-3321 and 75-3322 and K.S.A. 2004 Supp. 75-3320 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 5; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Larkin, Loganbill, Long, Loyd, Mah, 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: Carter, Hill, Kinzer, Light, Mast.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

HB 2301, An act creating the Senator Stan Clark pregnancy maintenance initiative program; making appropriations for the department of health and environment — division of health for the fiscal year ending June 30, 2006, was considered on final action.

On roll call, the vote was: Yeas 113; Nays 10; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Craft, Crow, Dahl, DeCastro, Decker, Dillmore, Faber, Feuerborn, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, 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, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Yoder.

Nays: Ballard, Cox, Davis, Faust-Goudeau, Flaharty, Henderson, Kuether, Ruiz, Wimm, Yonally.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

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, 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, 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, Huy, 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, Wimm, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed.

Sub. HB 2512. An act concerning the health care stabilization fund; relating to certain expenditures, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 1; 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, 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, Huy, 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, 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: O'Neal.

Absent or not voting: Edmonds, Showalter.

The substitute bill passed.

HB 2518, An act concerning military service; relating to health insurance of Kansas national guard members for periods of active duty; concerning certain wireless service plan contracts of military personnel called to duty; amending K.S.A. 2004 Supp. 79-32,213 and repealing the existing section, 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, 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, Huy, 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: Edmonds, Showalter.

The bill passed, as amended.

HB 2519, An act concerning the legislative post audit act; amending K.S.A. 2004 Supp. 46-1114 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 84; Nays 39; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Cox, Craft, Dahl, Decker, Faber, Flower, Freeborn, Gatewood, George, Goico, Gordon, Grange, Grant, Hayzlett, Henderson, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Long, Loyd, Mah, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Peck, Pilcher-Cook, Pottorff, Powell, Roth, Schwartz, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Watkins, Weber, Wilk, Williams, Yoder, Yonally.

Nays: Burroughs, Carlin, Colloton, Crow, Davis, DeCastro, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Hawk, Henry, Holland, Jack, Kirk, Kuether, Lane, Larkin, Loganbill, McKinney, Menghini, M. Miller, Newton, Pauls, Peterson, Phelps, Powers, Ruff, Ruiz, Sawyer, Schwab, B. Sharp, Thull, Treaster, Vickrey, Ward, Winn.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed.

SB 56, An act concerning motor-vehicle fuels; relating to retail pump labeling requirements; ethyl alcohol and other alcohol; amending K.S.A. 2004 Supp. 79-3408 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 110; Nays 13; 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, Davis, DeCastro, Decker, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Flower, Freeborn, Garcia, Gatewood, George, Goico,

Gordon, Grant, Hawk, Hayzlett, Henry, Holland, C. Holmes, M. Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, Mays, McCreary, McKinney, 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, Siegfried, Sloan, Storm, Svaty, Swenson, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yoder, Yonally.

Nays: Dahl, Faber, Grange, Henderson, Hill, Huebert, Huy, Landwehr, Mast, McLeland, S. Sharp, Shultz, Thull.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed.

SB 69, An act concerning the self-service storage act; relating to late fees; amending K.S.A. 58-814 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 109; Nays 14; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlson, Colloton, Cox, Craft, Dahl, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flower, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Knox, Krehbiel, Landwehr, Lane, Larkin, Light, Loganbill, Long, Mah, Mast, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Malley, 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, Swenson, Thull, Treaster, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Yonally.

Nays: Carlin, Carter, Crow, Davis, Flora, Hutchins, Kinzer, Kirk, Kuether, Loyd, Newton, O'Neal, Svaty, Yoder.

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The bill passed, as amended.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Gordon, the House concurred in Senate amendments to **HB 2140**. An act concerning the procedure for redevelopment districts to finance investigation and remediation of flood-plain conditions; qualifications; amending K.S.A. 2004 Supp. 12-1770a and 12-1771e and repealing the existing sections.

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, 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, Huy, 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: Edmonds, Showalter.

On motion of Rep. Jim Morrison, the House concurred in Senate amendments to **HB 2153**, An act concerning the secretary of aging; relating to the long-term care ombudsman; amending K.S.A. 2004 Supp. 75-7306 and 75-7310 and repealing the existing sections.

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, 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, Huy, 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: Edmonds, Showalter.

On motion of Rep. Vickrey to concur in Senate amendments to **HCR 5004**, Rep. Holland made a substitute motion to nonconcur and that a conference committee be appointed. The motion did not prevail.

The question reverted back to the motion of Rep. Vickrey and the House concurred in Senate amendments to **HCR 5004**, A concurrent resolution urging Congress to modify the provisions of the National Voter Registration Act of 1993 to simplify the procedure for removal of voters from voter registration lists.

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, Faber, Flower, Freeborn, George, Goico, Gordon, Grange, Hayzlett, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Long, 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, Powers, Roth, Schwab, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Swenson, Vickrey, Watkins, Weber, Wilk, Yoder, Yonally.

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

Present but not voting: None.
Absent or not voting: Edmonds, Showalter.

On motion of Rep. Hayzlett, the House concurred in Senate amendments to **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.

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, 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, Huy, 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: Edmonds, Showalter.

On motion of Rep. Hayzlett, the House concurred in Senate amendments to **HB 2409**. An act relating to roads and highways; designating part of United States highway 54 as the Veterans Memorial highway; designating part of K-10 highway as the Governor John Anderson, Jr. highway; amending K.S.A. 2004 Supp. 68-1029 and repealing the existing section.

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, 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, Huy, 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: Edmonds, Showalter.

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

COMMITTEE OF THE WHOLE

On motion of Rep. Novascone, Committee of the Whole report, as follows, was adopted: Recommended that **HB 2338**; **SB 256** be passed.

HB 2506, **HB 2300**; **Sub. HB 2012**; **SB 13**, **SB 192** be passed over and retain a place on the calendar.

Committee report to **HB 2374** be adopted; and the bill be passed as amended.

Committee report to **HB 2406** be adopted; also, on motion of Rep. Loyd be amended on page 1, in line 14, after "more" by inserting "contiguous"; in line 37, after the period, by inserting "Except as otherwise provided by this act, the sales tax authorized by this section shall be administered, collected and subject to the provisions of K.S.A. 12-187 to 12-197, and amendments thereto."; in line 42, by striking all after "(c)"; by striking all in line 43;

On page 2, by striking all in lines 1 and 2; in line 3, by striking "(d)"; and the bill be passed as amended.

Committee report to **SB 37** be adopted; and the bill be passed as amended.

Committee report to **SB 126** be adopted; and the bill be passed as amended.

Committee report to **SB 138** be adopted; also, on motion of Rep. Colloton be amended on page 3, preceding line 16, by inserting the following:

"Sec. 2. (a) Sections 2 through 9 shall be known and may be cited as the mathematics and science teacher service scholarship program.

(b) The provisions of this act shall expire on June 30, 2010.

Sec. 3. As used in sections 2 through 9, and amendments thereto:

(a) "Executive officer" means the chief executive officer of the state board of regents appointed under K.S.A. 74-3203a, and amendments thereto;

(b) "qualified student" means a person who: (1) Is a resident of the state of Kansas; (2) has been accepted for admission to or is enrolled full-time in an approved course of instruction leading to licensure as a teacher in the disciplines of mathematics or science for any of the grades six through 12; and (3) has qualified for the award of a scholarship under the mathematics and science teacher service scholarship program on the basis of having demonstrated scholastic ability, or who has previously so qualified and remains qualified for renewal of the scholarship on the basis of remaining in good standing and making satisfactory progress toward completion of the requirements of the course of instruction in which enrolled.

Sec. 4. (a) There is hereby established the mathematics and science teacher service scholarship program. The number of new scholarships awarded each year shall not exceed 50. A scholarship may be awarded under such program to any qualified student and may be renewed for each such student who remains qualified for the scholarship. Determination of the students qualified for such scholarships shall be made by the executive officer. Scholastic ability shall be determined on the basis of cumulative college grade point average and any other indicator of scholastic ability which the state board of regents determines to be demonstrative of potential for successful completion of a course of instruction leading to licensure as a teacher. To the extent practicable and consistent with qualification factors, preference shall be given to students who have received at least 60 credit hours in an approved course of instruction leading to licensure as a teacher in the disciplines of mathematics or science for any of the grades six through 12.

(b) A scholarship awarded under the program shall provide for payment to a qualified student of \$2500 each semester or its equivalent. A qualified student may be awarded a scholarship for not more than two academic years of study.

Sec. 5. (a) An applicant for designation as a qualified student and for the award of a scholarship under the mathematics and science teacher service scholarship program shall provide to the executive officer, on forms supplied by the executive officer, information required by the executive officer.

(b) As a condition to awarding a scholarship under this act, the executive officer and the applicant shall enter into an agreement which shall require the applicant to:

(1) Complete the required course of instruction leading to licensure as a teacher in the disciplines of mathematics or science for any of the grades six through 12;

(2) engage in teaching in Kansas in the disciplines of mathematics or science for any of the grades six through 12 and comply with such other terms and conditions as may be specified by such agreement;

(3) commence teaching on a full-time basis in Kansas in an accredited public or private school in accordance with the agreement and continue teaching on a full-time basis for a period of not less than four years or commence teaching on a part-time basis in Kansas in an accredited public or private school in accordance with the agreement and continue teaching on such a part-time basis for a period of time that is equivalent to teaching on a full-time basis for a period of not less than four years, as determined by the state board of regents;

(4) commence teaching in Kansas on a full-time or part-time basis within six months after licensure and continue teaching for the period of time required by the agreement;

(5) maintain records and make reports to the executive officer as required by the executive officer to document the satisfaction of the obligations under this act and the agreement; and

(6) upon failure to satisfy an agreement to engage in teaching for the required period of time under any such agreement, repay to the state amounts as provided in section 6, and amendments thereto.

Sec. 6. (a) Except as provided in section 7, and amendments thereto, upon the failure of any person to satisfy the obligation under any agreement entered into pursuant to the mathematics and science teacher service scholarship program, such person shall pay to the executive officer an amount equal to the total amount of money received by such person

pursuant to such agreement plus accrued interest at a rate which is equivalent to the interest rate applicable to loans made under the federal PLUS program at the time such person first entered into an agreement plus five percentage points. Amounts of payment under this section shall be adjusted proportionately for full years of the obligation that have been satisfied. Installment payments of any such amounts may be made in accordance with the provisions of the agreement entered into by the scholarship recipient or if no such provisions exist in such agreement, in accordance with rules and regulations of the state board of regents, except that such installment payments shall commence six months after the date of the action or circumstances that cause the failure of the person to satisfy the obligations of such agreements, as determined by the executive officer based upon the circumstances of each individual case. Amounts paid under this section to the executive officer shall be deposited in the mathematics and science teacher service scholarship repayment fund in accordance with section 9, and amendments thereto.

(b) The state board of regents is authorized to turn any repayment account arising under the mathematics and sciences teacher service scholarship program over to a designated loan servicer or collection agency, the state not being involved other than to receive payments from the loan servicer or collection agency at the interest rate prescribed under this section.

Sec. 7. (a) Except as otherwise specified in the agreement, an obligation under any agreement entered into under the teacher service scholarship program shall be postponed: (1) During any required period of active military service; (2) during any period of service as a part of volunteers in service to America (VISTA); (3) during any period of service in the peace corps; (4) during any period of service commitment to the United States public health service; (5) during any period of religious missionary work conducted by an organization exempt from tax under section 501(c)(3) of the federal internal revenue code as in effect on December 31, 2000; (6) during any period of time the person obligated is unable because of temporary medical disability to teach; (7) during any period of time the person obligated is enrolled and actively engaged on a full-time basis in a course of study leading to a degree in the field of education which is higher than that formerly attained; (8) during any period of time the person obligated is on job-protected leave under the federal family and medical leave act of 1993; or (9) during any period of time the state board of regents determines that the person obligated is unable because of special circumstances to teach. Except for clauses (6), (8) and (9), an obligation under any agreement entered into as provided in the mathematics and science teacher service scholarship program shall not be postponed more than five years from the time the obligation was to have been commenced under such agreement. An obligation under any agreement entered into as provided in the mathematics and science teacher service scholarship program shall be postponed under clause (6) during the period of time the medical disability exists. An obligation under any agreement entered into as provided in the mathematics and science teacher service scholarship program shall be postponed under clause (8) during the period of time the person obligated remains on FMLA leave. An obligation to engage in teaching in accordance with an agreement under the mathematics and science teacher service scholarship program shall be postponed under clause (9) during the period of time the state board of regents determines that the special circumstances exist. The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for determination of the existence of special circumstances causing an inability to teach, and shall determine the documentation required to prove the existence of such circumstances.

(b) An obligation under any agreement entered into as provided in the mathematics and science teacher service scholarship program shall be satisfied: (1) If the obligation has been completed in accordance with the agreement; (2) if the person obligated dies; (3) if, because of permanent physical disability, the person obligated is unable to satisfy the obligation; (4) if the person obligated fails to satisfy the requirements for a graduation from a teacher education program in the disciplines of mathematics or science in any of the grades six through 12 after making the best effort possible; (5) if the person obligated fails to satisfy all requirements for licensure to teach in Kansas or has been denied licensure after applying for a license to teach and making the best effort possible to obtain such license; or (6) if the person obligated is unable to obtain employment as a teacher in the disciplines of mathematics or science in any of the grades six through 12 after making the best effort possible

to obtain such employment and the person obligated otherwise completes the terms, conditions and obligations of the agreement.

Sec. 8. The state board of regents shall adopt rules and regulations for administration of the mathematics and science teacher service scholarship program and shall establish terms, conditions and obligations which shall be incorporated into the provisions of any agreement entered into between the executive officer and an applicant for the award of a scholarship under the program. The terms, conditions and obligations shall be consistent with the provisions of law relating to the program and shall include, but not be limited to, the circumstances under which eligibility for financial assistance under the program may be terminated, the amount of financial assistance to be provided, the circumstances under which obligations may be discharged or forgiven, the amount of money required to be repaid because of failure to satisfy the obligations under an agreement and the method of repayment.

Sec. 9. (a) There is hereby created in the state treasury the mathematics and science teacher service scholarship program fund. The executive officer shall remit all moneys received under such program, which are paid because of nonattendance or discontinuance by scholarship recipients, 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 mathematics and science teacher service scholarship program fund. All expenditures from such fund shall be for scholarships awarded under the mathematics and science teacher service scholarship program and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive officer or by a person designated by the executive officer.

(b) There is hereby created in the state treasury the mathematics and science teacher service scholarship repayment fund. The executive officer shall remit all moneys received under the mathematics and science teacher service scholarship program, which are for payment of amounts pursuant to section 5, and amendments thereto, 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 mathematics and science teacher service scholarship repayment fund. All expenditures from such fund shall be for scholarships awarded under the mathematics and science teacher service scholarship program and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive officer or by a person designated by the executive officer.”;

By renumbering the remaining section accordingly;

In the title, by striking all in lines 14 and 15 and inserting: “AN ACT concerning mathematics and science teachers; providing a tax credit against the income tax liability of certain business firms; establishing the mathematics and science teacher service scholarship act.”; and **SB 138** be passed as amended.

On motion of Rep. Powell to amend **SB 158**, Rep. Wilk requested a ruling on the amendment being germane to the bill. Rep. Powell subsequently withdrew his amendment, and the bill be passed.

Committee report to **SB 209** be adopted; and the bill be passed as amended.

On motion of Rep. Watkins to amend **SB 63**, Rep. Huy requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane. Rep. Watkins challenged the ruling, the question being “Shall the Rules Chair be sustained?” The Rules Chair was sustained.

Also, on motion of Rep. Svaty to amend **SB 63**, Rep. Huy requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. The question reverted back to the motion of Rep. Svaty and the bill be amended on page 1, in line 13, before “Section” by inserting “New”; following line 33, by inserting:

“Sec. 2. K.S.A. 66-104 is hereby amended to read as follows: 66-104. (a) The term “public utility,” as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the trans-

mission of telegraph messages in or through any part of the state, or the conveyance of oil and gas through pipelines in or through any part of the state, except pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil, and all companies for the production, transmission, delivery or furnishing of heat, light, water or power. No cooperative, cooperative society, nonprofit or mutual corporation or association which is engaged solely in furnishing telephone service to subscribers from one telephone line without owning or operating its own separate central office facilities, shall be subject to the jurisdiction and control of the commission as provided herein, except that it shall not construct or extend its facilities across or beyond the territorial boundaries of any telephone company or cooperative without first obtaining approval of the commission. As used herein, the term "transmission of telephone messages" shall include the transmission by wire or other means of any voice, data, signals or facsimile communications, including all such communications now in existence or as may be developed in the future.

(b) The term "public utility" shall also include that portion of every municipally owned or operated electric or gas utility located outside of and more than three miles from the corporate limits of such municipality, but nothing in this act shall apply to a municipally owned or operated utility, or portion thereof, located within the corporate limits of such municipality or located outside of such corporate limits but within three miles thereof except as provided in K.S.A. 66-131a, and amendments thereto.

(c) Except as herein provided, the power and authority to control and regulate all public utilities and common carriers situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, shall be vested exclusively in such city, subject only to the right to apply for relief to the corporation commission as provided in K.S.A. 66-133, and amendments thereto, and to the provisions of K.S.A. 66-104e, and amendments thereto. A transit system principally engaged in rendering local transportation service in and between contiguous cities in this and another state by means of street railway, trolley bus and motor bus lines, or any combination thereof, shall be deemed to be a public utility as that term is used in this act and, as such, shall be subject to the jurisdiction of the commission.

(d) The term "public utility" shall not include any activity of an otherwise jurisdictional corporation, company, individual, association of persons, their trustees, lessees or receivers as to the marketing or sale of compressed natural gas for end use as motor vehicle fuel.

(e) At the option of an otherwise jurisdictional entity, the term "public utility" shall not include any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility which:

- (1) Is newly constructed and placed in service on or after January 1, 2001; and
- (2) is not in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) any cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or (C) a municipally owned or operated electric utility.

(f) Additional generating capacity achieved through efficiency gains by refurbishing or replacing existing equipment at generating facilities placed in service before January 1, 2001, shall not qualify under subsection (e).

(g) *For purposes of the authority to appropriate property through eminent domain, the term "public utility" shall not include any activity for the siting or placement of wind powered electrical generators or turbines, including the towers.*

Sec. 3. K.S.A. 66-104 is hereby repealed.”;

By renumbering section 2 accordingly;

In the title, in line 10, after "thereof" by inserting “; amending K.S.A. 66-104 and repealing the existing section”; and **SB 63** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2398**, **HB 2399**; **SB 118** be passed.

Committee on **Corrections and Juvenile Justice** recommends **Sub. SB 77** be amended on page 2, in line 2, after "revenue," by inserting "Kansas human rights commission,;" in line 20, by striking "officers" and inserting "agencies";

On page 3, in line 22, by striking all after “the” and inserting “Kansas commission on peace officers’ standards and training.”; by striking all in line 23; in line 24, by striking “designee” and inserting “The commission”; in line 25, by striking all before “designee” and inserting “commission’s”; in line 29, by striking all after “complaint” and inserting “as provided for in subsection (a)”; by striking all in lines 35 through 43; and the substitute bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 151** be amended on page 1, in line 24, by striking “trafficking”, where it appears for the second time, and inserting “:

(1) Trafficking”;

Also on page 1, in line 26, by striking “(1)” and inserting “(A)”; in line 28, by striking “(2)” and inserting “(B)”; in line 30, by striking “(3)” and inserting “(C)”; also in line 30, after “death” by inserting “; or

(2) recruiting, harboring, transporting, providing or obtaining, by any means, a person under 18 years of age knowing that the person, with or without force, fraud, threat or coercion, will be used to engage in forced labor, involuntary servitude or sexual gratification of the defendant or another”;

Also on page 1, in the title, in line 9, after “ACT” by inserting “concerning crimes, punishment and criminal procedure.”; and the bill be passed as amended.

Committee on **Governmental Organization and Elections** recommends **HB 2529** be passed.

Committee on **Governmental Organization and Elections** recommends **HB 2484** be amended on page 1, by striking all of lines 24 to 27; after line 27, by inserting:

“(b) A city may require any producer, grower or agent or employee of such grower engaged in the sale of agricultural, farm, garden or aquacultural products grown by such growers within this state to obtain a peddler’s, vendor’s or transient merchant’s license or permit. Such license or permit shall be valid for a period of time of not less than 60 days from the date of issuance.”; and the bill be passed as amended.

Committee on **Governmental Organization and Elections** recommends **Sub. SB 143** be amended on page 10, after line 38, by inserting the following:

“Sec. 15. K.S.A. 25-1308 is hereby amended to read as follows: 25-1308. (a) The secretary of state shall examine and approve the kinds or makes of voting machines, and no kind or make of voting machine shall be used at any election where voting machines are authorized to be used unless and until it shall have been approved by the secretary of state and a statement thereof is filed in the office of the secretary of state.

(b) (1) *No electronic or computerized voting machine shall be approved for use in this state unless such electronic voting machine provides for a paper record of each electronically generated ballot that can be reviewed and corrected by the voter at the time the vote is cast.*

(2) *No direct recording voting system purchased after May 1, 2006, may be used in this state unless such voting system has an accessible voter verified paper audit trail.*

(3) *Nothing in this subsection shall be construed as prohibiting the use of a direct recording voting system which does not have an accessible voter verified paper audit trail so long as such system was purchased prior to May 1, 2006.*

(4) *No voter verified paper audit trail required under this subsection shall be used for the purposes of determining the outcome of any election conducted in the state of Kansas.*

(5) *As used in this subsection:*

(A) *“Accessible” means that the information provided on the paper record from the voter verified paper audit trail mechanism is provided or conveyed to voters via both a visual and a nonvisual method, such as through an audio component; and*

(B) *“voter verified paper audit trail” means a component of a direct recording electronic voting system that prints a contemporaneous paper record copy of each electronic ballot and allows each voter to confirm such voter’s selections before the voter casts such voter’s ballot.*

Sec. 16. K.S.A. 25-1310 is hereby amended to read as follows: 25-1310. (a) A kind or make of voting machine approved by the secretary of state:

(1) *Must be so constructed as to provide facilities for voting for the candidates for nomination or election of at least seven different political parties or organizations;*

(2) must permit a voter to vote for any person for any office although not nominated as a candidate by any political party or organization;

(3) must provide for voting on constitutional amendments, propositions or questions;

(4) must be so constructed that as to primaries where candidates are nominated by political parties it can be so locked from the outside that the voter can vote only for the candidates of the political party with which such voter is affiliated or, if not affiliated, according to such voter's declaration when applying to vote;

(5) must be so constructed as to prevent voting for more than one person for the same office except where the voter is lawfully entitled to vote for more than one person for that office;

(6) must afford the voter an opportunity to vote for any or all persons for an office as such voter is by law entitled to vote for and no more, and at the same time preventing such voter from voting for the same person twice for the same office;

(7) must be so constructed that in presidential elections the presidential electors of any political party for presidential and vice-presidential candidates may be voted upon at the same time;

(8) must provide facilities for "write-in" votes;

(9) must provide for voting in absolute secrecy in voting, except as to persons entitled to assistance;

(10) must be so constructed as to accurately account for every vote cast upon it;

(11) be provided with a "protective counter" or "protective device" whereby any operation of the machine before or after the election will be detected;

(12) be provided with a counter which will show at all times during the election how many persons have voted; and

(13) be provided with a mechanical model illustrating the manner of voting on the machine, suitable for the instruction of voters. Voting machines approved by the state executive council shall continue on the approved list of voting machines.

(b) In addition to the requirements of subsection (a), each electronic or computerized voting machine approved by the secretary of state shall meet the requirements of subsection (b) of K.S.A. 25-1308, and amendments thereto.

New Sec. 17. No funds received by the secretary of state from any source whatsoever shall be used for the initial purchase, upgrade, retrofit or equipping of any direct recording voting system, or any equipment related thereto, unless such voting system includes or is equipped with an accessible voter verified paper audit trail as defined in K.S.A. 25-1308, and amendments thereto.;

And by renumbering sections accordingly;

On page 1, in line 10, after "K.S.A." by inserting "25-1308, 25-1310, "; in line 13, by striking "25-1308, "; also in line 13, by striking "25-1310, "; and the substitute bill be passed as amended.

Committee on **Health and Human Services** recommends **SB 92, SB 254** be passed.

Committee on **Health and Human Services** recommends **SB 10** be amended on page 2, in line 25, by striking all after "prescribed"; by striking all in line 26; in line 27, by striking all before the semicolon; and the bill be passed as amended.

Committee on **Insurance** recommends **SB 175, SB 268** be passed.

Committee on **Transportation** recommends **HB 2106** be passed.

Committee on **Transportation** recommends **SB 81** be amended on page 1, in line 37, by striking all following "(c)"; by striking all in lines 38 through 40 and inserting "From and after the effective date of this act, and prior to July 1, 2006, a law enforcement officer shall issue a warning citation to anyone violating subsection (a)(3)."; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 94** be amended on page 1, in line 40, by striking " , as defined in the project contract documents"; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 234** be amended on page 1, in line 28, preceding "lessor" where it appears for the first time by inserting "the"; in line 30, following the period, by inserting "Bulk motor vehicle fuel purchases by the lessor or on behalf of the lessor for use in vehicles leased to the state of Kansas, or any agency thereof, shall not be

more than 10 cents per gallon more on fuel blends containing at least 10% ethanol than the current price per gallon of regular fuel.”; in line 32, by striking “Individual” and inserting “Where available under current state purchasing agreements, and identified at the point of sale, individual”; also in line 32, by striking “state-owned”; in line 33, preceding “shall” by inserting “owned, rented or leased by the state or any agency thereof.”; and the bill be passed as amended.

MESSAGE FROM THE SENATE

Announcing passage of **SB 84**; **Sub. SB 257**; **Sub. SB 260**; **SB 269**, **SB 275**, **SB 276**, **SB 288**.

Announcing passage of **HB 2125**, **HB 2160**, **HB 2205**.

Announcing passage of **HB 2082**, as amended; **HB 2155**, as amended; **HB 2326**, as amended; **HB 2336**, as amended.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were thereupon introduced and read by title:

SB 84; **Sub. SB 257**; **Sub. SB 260**; **SB 269**, **SB 275**, **SB 276**, **SB 288**.

On motion of Rep. Aurand, the House recessed until 2:00 p.m.

AFTERNOON SESSION

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

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

COMMITTEE OF THE WHOLE

On motion of Rep. Novascone, Committee of the Whole report, as follows, was adopted: Recommended that **SB 107**

SB 48, **SB 215**, **SB 147**, **SB 82** be passed over and retain a place on the calendar.

Committee report to **SB 192** be adopted; also, on motion of Rep. McCreary to amend, Rep. Huff requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane; and the bill be passed as amended.

Committee report to **SB 42** be adopted; and the bill be passed as amended.

Roll call was demanded on motion of Rep. Kuether to amend **HB 2300** on page 1, in line 19, by striking all after “a”; in line 20, by striking all before the period and inserting “viable fetus at that stage of gestation when, in the best medical judgment of the attending physician, the fetus is capable of sustained survival outside the uterus without the application of extraordinary medical means”;

On roll call, the vote was: Yeas 37; Nays 83; Present but not voting: 0; Absent or not voting: 5.

Yeas: 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, Pottorff, Ruiz, Sawyer, B. Sharp, Sloan, Storm, Thull, Treaster, Ward, Winn, Yonally.

Nays: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlson, Carter, Craft, Dahl, DeCastro, Decker, Faber, Feuerborn, Flower, Freeborn, Gatewood, George, Goico, Grange, Grant, Hayzlett, Henry, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Hutchins, Huy, 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’Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Phelps, Pilcher-Cook, Powell, Powers, Roth, Ruff, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Svaty, Swenson, Vickrey, Watkins, Weber, Wilk, Williams, Yoder.

Present but not voting: None.

Absent or not voting: Colloton, Dillmore, Edmonds, O'Malley, Showalter.

The motion of Rep. Kuether did not prevail.

Also, on motion of Rep. Burroughs to amend **HB 2300**, the motion did not prevail, and the bill be passed.

Committee report to **SB 30** be adopted; also, on motion of Rep. Neufeld to refer the bill to Committee on Appropriations, the motion did not prevail; and the bill be passed as amended.

Committee report to **SB 154** be adopted; and the bill be passed as amended.

Committee report to **SB 108** be adopted; and the bill be passed as amended.

Committee report to **SB 55** be adopted; and the bill be passed as amended.

Committee report to **SB 4** be adopted; and the bill be passed as amended.

Committee report to **SB 116** be adopted; also, on motion of Rep. Jim Morrison be amended on page 3, by striking all in lines 9 through 19;

On page 1, in the title, in line 18, by striking "authorizing the state pro-"; by striking all in lines 19 and 20; in line 21, by striking all before "amending"; and the bill be passed as amended.

Committee report to **SB 36** be adopted; also, on motion of Rep. Pauls to amend, the motion did not prevail, and the bill be passed as amended.

Committee report to **SB 181** be adopted; also, roll call was demanded on motion of Rep. Yonally to amend on page 1, by striking all in lines 35 through 43;

On page 2, by striking all in lines 1 through 9;

On roll call, the vote was: Yeas 61; Nays 62; Present but not voting: 0; Absent or not voting: 2.

Yeas: Ballard, Burroughs, Carlin, Colloton, Cox, Craft, Crow, Davis, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Hill, Holland, Huff, Huntington, Kirk, Kuether, Lane, Larkin, Light, Loganbill, Long, Loyd, Mah, McKinney, Menghini, M. Miller, Newton, Novascone, O'Malley, Owens, Pauls, Peterson, Phelps, Pottorff, Powers, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Storm, Svaty, Swenson, Thull, Treaster, Vickrey, Ward, Williams, Winn, Yoder, Yonally.

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

Present but not voting: None.

Absent or not voting: Edmonds, Showalter.

The motion of Rep. Yonally did not prevail; and **SB 181** be passed as amended.

Committee report to **SB 74** be adopted; also, on motion of Rep. Sawyer to amend, the motion did not prevail. Also, on motion of Rep. Horst to amend, the motion did not prevail. Also, on motion of Rep. Menghini to amend, the motion did not prevail. Also, on motion of Rep. Burgess to amend, the motion did not prevail.

Also, on motion of Rep. Grant to refer **SB 74** to Committee on Commerce and Labor, the motion did not prevail, and the bill be passed as amended.

Committee report to **SB 119** be adopted; and the bill be passed as amended.

Committee report to **SB 13** be adopted; also, on motion of Rep. Kelley be amended on page 5, in line 5, by striking all after "number"; by striking all in lines 6 and 7; in line 8, by striking all before the semicolon;

Also, on motion of Rep. Goico, **SB 13** be amended on page 3, in line 43, by striking "B" and inserting "A";

On page 6, in line 33, by striking "B" and inserting "A";

On page 8, in line 3, by striking "B" and inserting "A";

On page 11, in line 17, by striking "B" and inserting "A";

Also, on motion of Rep. Holland to amend **SB 13**, Rep. Owens requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane.

The question reverted back to the motion of Rep. Holland to amend, which did not prevail; and the bill be passed as amended.

Committee report to **SB 258** be adopted; and the bill be passed as amended.

Committee report to **SB 100** be adopted; also, on motion of Rep. Kirk be amended on page 3, by striking all in lines 24 and 25; in line 26, by striking all preceding “at” and inserting “adult care home”; in line 32, by striking “nurs-”; by striking all in line 33; in line 34, by striking all preceding “and” and inserting “adult care home”; by striking all in lines 38 and 39; in line 40, by striking all preceding “during” and inserting “adult care home”;

On page 4, by striking all in lines 4 and 5; in line 6, by striking all preceding “within” and inserting “adult care home”; in line 7, by striking “nursing facility”; by striking all in line 8; in line 9, by striking all preceding “is” and inserting “adult care home”; in line 11, by striking “nursing facility that”; by striking all in line 12; in line 13, by striking all preceding the period and inserting “adult care home”; in line 15, by striking all following “Every”; by striking all in line 16; in line 17, by striking all preceding “shall” and inserting “adult care home”; by striking all in lines 20 and 21; in line 22, by striking all preceding the period and inserting “adult care home”; also in line 22, by striking “nursing facility that”; by striking all in line 23; in line 24, by striking all preceding “shall” and inserting “adult care home”; in line 30, by striking “shall” and inserting “may”; also in line 30, by striking “in”; by striking all in line 31; in line 32, by striking “thereto” and inserting “which shall consist of: (1) A system for investigation and analysis of the frequency and causes of reportable incidents within the facility; (2) measures to minimize the occurrence of reportable incidents and the resulting injuries within the facility; and (3) a reporting system based upon the duty of all health care providers staffing the facility and all agents and employees of the facility directly involved in the delivery of health care services to report reportable incidents to the chief of the medical staff, chief administrative officer or risk manager of the facility”; in line 34, by striking “and analysis”; in line 40, by striking all after “Kansas”; by striking all in lines 41 through 43;

On page 5, in line 1, by striking “if” and inserting “unless”; in line 2, by striking “every such excerpt is relevant,”; and inserting “the proffered evidence excerpted from any report, record, inspection or survey is relevant and”; in line 5, after the period, by inserting “This subsection shall not be construed to limit or impair a person’s or entity’s discovery of or access to any such report, record, inspection or survey under state or federal law; limit or impair the authority of the department on aging to investigate complaints or reportable incidents under state or federal law; or diminish or expand the department on aging’s discovery of or access to quality assessment and assurance committee records under state or federal law.”; and **SB 100** be passed as amended.

Committee report to **SB 161** be adopted; and the bill be passed as amended.

Committee report to **SB 75** be adopted; and the bill be passed as amended.

Committee report to **SB 142** be adopted; also, on motion of Rep. Lane to amend, the motion did not prevail. Also, on motion of Rep. Sawyer to amend, the motion did not prevail, and the bill be passed as amended.

Committee report to **SB 39** be adopted; also, on motion of Rep. Kelley be amended on page 1, in line 14, after “K.S.A.” by inserting “2004 Supp.”;

On page 2, in line 21, after “K.S.A.” by inserting “2004 Supp.”;

In the title, in line 11, after “K.S.A.” by inserting “2004 Supp.”; and the bill be passed as amended.

Committee report to **SB 139** be adopted; also, on motion to recommend the bill favorably for passage, the motion did not prevail.

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **SB 27** be amended on page 3, in line 14, by striking “dispense,”; in line 17, after “(1)” by inserting “(A)”; also in line 17, by striking “dispensed,”; in line 18, after “pharmacy”, where it appears for the second time, by inserting “intern or student”; in line 19, by striking “clerk”; also in line 19, by striking all after “pharmacist”; in line 20, by striking “nician”; in line 21, by striking “(2)” and inserting “(B)”; in line 23, by striking “written”; also in line 23, by striking all after “log”; by striking all in line 24; in line 25, by striking “substance”; also in line 25, by striking

“, receipt book”; also in line 25, after “database” by inserting “required by the board”; in line 27, before the period, by inserting “; or

(2) there is a lawful prescription”;

On page 4, in line 25, by striking “Ephedrine” and inserting “ephedrine”; in line 28, by striking “Pseudoephedrine” and inserting “pseudoephedrine”; in line 32, by striking “Ephedrine” and inserting “ephedrine”; also in line 32, by striking “Pseudoephedrine” and inserting “pseudoephedrine”;

On page 5, in line 32, by striking all after “(d)” by striking all lines 33 through 39 and inserting “It shall be unlawful for any person to purchase, receive or otherwise acquire more than three packages of any controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto, within any seven-day period.”;

On page 6, in line 1, by striking “an accredited” and inserting “a licensed”; in line 2, by striking “subsection (a), (b) or (c)” and inserting “this section”; in line 3, by striking all after “felony.”; by striking all in lines 4 and 5; in line 9, by striking “state board of pharmacy” and inserting “Kansas bureau of investigation”; in line 10, by striking “Kansas bureau of investigation and”; in line 16, after “(2)” by inserting “consult with the state board of pharmacy to”; in line 17, by striking all after “for”; striking all in lines 18 and 19; in line 20, by striking “mers” and inserting “liquid, capsule and gel capsule form of ephedrine and pseudoephedrine”;

On page 7, in line 7, by striking “an accredited” and inserting “a licensed”; in line 22, by striking “an accredited” and inserting “a licensed”; following line 37, by inserting:

“Sec. 9. K.S.A. 21-2501a is hereby amended to read as follows: 21-2501a. (a) All law enforcement agencies having responsibility for law enforcement in any political subdivision of this state, on forms approved by the attorney general, shall maintain a permanent record of all felony and misdemeanor offenses reported or known to have been committed within their respective jurisdictions.

(b) All law enforcement agencies having the responsibility of maintaining a permanent record of offenses shall file with the Kansas bureau of investigation, on a form approved by the attorney general, a report on each offense for which a permanent record is required within 72 hours after such offense is reported or known to have been committed.

(c) *It is hereby made the duty of every sheriff, police department or countywide law enforcement agency in the state to report within 30 days, on forms approved by the attorney general, any methamphetamine laboratory seizures or dump sites and any theft or attempted theft of anhydrous ammonia that occurs in such agency’s jurisdiction.*”;

And by renumbering sections accordingly;

Also on page 7, in line 38, after “K.S.A.” by inserting “21-2501a.”;

On page 1, in the title, in line 16, after “K.S.A.” by inserting “21-2501a.”; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 72** be amended on page 2, after line 35, by inserting the following:

“Sec. 2. K.S.A. 2004 Supp. 19-4444 is hereby amended to read as follows: 19-4444. (a) *Except as provided by subsection (b), the agency shall approve all expenditures to be made by and claims to be paid on behalf of such agency and the law enforcement department and shall certify the same to the board of county commissioners of the county to be allowed from the funds provided for the operation of such agency and department, except that*

(b) (1) *If a person is stopped by or is in the custody of a law enforcement officer, as defined in K.S.A. 22-2202, and amendments thereto, who is an employee of the state and such person is injured by the officer while acting within the scope of such officer’s authority, costs incurred for medical care and treatment of the person shall be paid by the state if such care and treatment is required due to the injury and a determination has been made that the person has no other resources. When such medical expenses have been paid by the state, the state may seek reimbursement of such expenses from the prisoner. If the state determines that the prisoner is covered under a current individual or group accident and health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract, then the state may require the prisoner or the provider rendering*

health care services to the prisoner to submit a claim for such health care services rendered in accordance with the prisoner's policy or contract.

(2) All other costs incurred by the agency or department for medical care and treatment of prisoners held within the county shall be paid from the county general fund when a determination has been made that the prisoner has no other resources. When medical expenses have been paid out of the county general fund of any county in this state adopting the provisions of K.S.A. 19-4424 *et seq.*, and amendments thereto, for a prisoner held within such county, the county may seek reimbursement of such expenses from the prisoner. If the county determines that a prisoner of the county jail is covered under a current individual or group accident and health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract, then the county may require the prisoner of such county jail or the provider rendering health care services to the prisoner to submit a claim for such health care services rendered in accordance with the prisoner's policy or contract.

Sec. 3. K.S.A. 2004 Supp. 19-1910 is hereby amended to read as follows: 19-1910. (a) When a prisoner is committed to a county jail in a criminal action, the board of county commissioners shall allow the sheriff reasonable charges for maintaining such prisoner.

(b) (1) If a person is stopped by or is in the custody of a law enforcement officer, as defined in K.S.A. 22-2202, and amendments thereto, who is an employee of the state and such person is injured by the officer while acting within the scope of such officer's authority, costs incurred for medical care and treatment of the person shall be paid by the state if such care and treatment is required due to the injury and a determination has been made that the person has no other resources. When such medical expenses have been paid by the state, the state may seek reimbursement of such expenses from the prisoner. If the state determines that the prisoner is covered under a current individual or group accident and health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract, then the state may require the prisoner or the provider rendering health care services to the prisoner to submit a claim for such health care services rendered in accordance with the prisoner's policy or contract.

(2) All other costs incurred by the county for medical care and treatment of prisoners held within the county shall be paid from the county general fund when a determination has been made that the prisoner has no other resources. When medical expenses have been paid out of the county general fund of any county in this state for a prisoner held within such county, the county may seek reimbursement of such expenses from the prisoner. If the county determines that a prisoner of the county jail is covered under a current individual or group accident and health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract, then the county may require the prisoner of such county jail or the provider rendering health care services to the prisoner to submit a claim for such health care services rendered in accordance with the prisoner's policy or contract.

~~(b)~~ (c) When a prisoner is delivered to a county jail pursuant to K.S.A. 75-5217 and amendments thereto, the costs of holding such prisoner shall be paid as provided in K.S.A. 19-1930 and amendments thereto.

Sec. 4. K.S.A. 2004 Supp. 21-4603d is hereby amended to read as follows: 21-4603d. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense;

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In

felony cases except for violations of K.S.A. 8-1567 and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502 and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape, as defined in K.S.A. 21-3809 and amendments thereto or aggravated escape, as defined in K.S.A. 21-3810 and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson under K.S.A. 21-3718 or 21-3719, and amendments thereto, if the defendant is convicted of such crime; ~~or~~ repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; *or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county.* Such repayment of the amount of any such costs and expenses incurred by a *county*, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the *county*, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 2004 Supp. 22-4529 and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 2004 Supp. 20-369, and amendments thereto;

(11) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10);

or

(12) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 2004 Supp. 60-4301 *et seq.* and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719 and amendments thereto to collect the restitution on behalf of the victim. The administrative judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502 and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony or while the offender is on probation, assignment to a community correctional services program, parole, conditional release, or postrelease supervision for a felony, a new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, a new sentence may be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608 and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 2004 Supp. 21-4729, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 2004 Supp. 21-4729, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendment thereto or a community intermediate sanction center. Pursuant to this paragraph the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or a community intermediate sanction center and the defendant meets all of the conservation camp's or a community intermediate sanction center's placement criteria unless the court states on the record the reasons for

not placing the defendant in a conservation camp or a community intermediate sanction center.

(h) The court in committing a defendant to the custody of the secretary of corrections shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate: (1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, or for an offense which is classified in gridblocks 4-E or 4-F of the sentencing guidelines grid for drug crimes and such offense does not meet the requirements of K.S.A. 2004 Supp. 21-4729, and amendments thereto, and (2) otherwise meets admission criteria of the camp. If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 21-4611 and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-462S, prior to its repeal, the provisions of this section shall not apply.

(n) Except as provided by subsection (f) of K.S.A. 21-4705, and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 65-4160 or 65-4162, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 2004 Supp. 21-4729, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 2004 Supp. 75-52,144, and amendments thereto, including but not limited to, an approved after-care plan. If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to revocation of probation and the defendant shall serve the underlying prison sentence as established in K.S.A. 21-4705, and amendments thereto. For

those offenders who are convicted on or after the effective date of this act, upon completion of the underlying prison sentence, the defendant shall not be subject to a period of post-release supervision. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 36, after “Supp.” by inserting “19-1910, 19-4444,”; also in line 36, after “21-3707” by inserting “and 21-4603d”; also in line 36, by striking “is” and inserting “are”;

On page 1, in the title, in line 10, by striking all after the semicolon; in line 11, by striking “checks;”; also in line 11, after “Supp.” by inserting “19-1910, 19-4444,”; also in line 11, after “21-3707” by inserting “and 21-4603d”; also in line 12, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 19** be amended on page 1, following line 34, by inserting:

“Sec. 2. K.S.A. 2004 Supp. 46-1106 is hereby amended to read as follows: 46-1106. (a)

(1) A financial-compliance audit shall be conducted each year of the general purpose financial statements prepared by the division of accounts and reports for its annual financial report. This audit shall be conducted in accordance with generally accepted governmental auditing standards. The resulting written audit report shall be issued as soon after the end of the fiscal year as is practicable.

(2) In addition, separate written audit reports on the financial management practices of the office of the state treasurer and the pooled money investment board shall be prepared addressing the adequacy of financial management practices and compliance with applicable state laws. The separate audit of the pooled money investment board also shall include a comparative investment performance review and an analysis of the investment program, including an evaluation of investment policies and practices and of specific investments in the pooled money investment portfolio. The analysis of the specific investments in the pooled money investment portfolio shall review whether such investments meet the investment priorities of safety, liquidity and performance. The performance of such investments shall be measured by comparison to an appropriate market index.

(3) Copies of the reports of audits conducted pursuant to this subsection (a) shall be furnished to the governor, director of accounts and reports, director of the budget, each state agency, the legislative post audit committee and other persons or agencies as may be required by law or by the specifications of the audit.

(4) Any additional costs associated with preparing the separate additional reports on the office of the state treasurer and the pooled money investment board shall be borne by the office of the state treasurer and the pooled money investment board in accordance with K.S.A. 46-1121, and amendments thereto.

(b) Including financial-compliance audit work conducted as part of the audit conducted pursuant to subsection (a), financial-compliance audit work shall be conducted at each state agency at least once every three years as directed by the legislative post audit committee. Written reports on the results of such auditing shall be furnished to the governor, director of accounts and reports, director of the budget, the state agency which is audited, the legislative post audit committee and such other persons or agencies as may be required by law or by the specifications of the audit.

(c) Books and accounts of the state treasurer and the director of accounts and reports, including the bond register of the state treasurer, may be examined monthly if the legislative post audit committee so determines, and such examination may include detailed checking of every transaction or test checking.

Any person receiving tax information under the provisions of subsection (a) or (b) shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

(d) The post auditor shall report immediately in writing to the legislative post audit committee, governor and attorney general whenever it appears in the opinion of the post auditor that there may have occurred any violation of penal statutes or any instances of misfeasance, malfeasance or nonfeasance by a public officer or employee disclosed by any audit or audit

work conducted under the legislative post audit act. The post auditor shall furnish the attorney general all information in the possession of the post auditor relative to any report referred to the attorney general. The attorney general shall institute and prosecute civil proceedings against any such delinquent officer or employee, or upon such officer or employee's official bond, or both, as may be needed to recover for the state any funds or other assets misappropriated. The attorney general shall also prosecute such ouster and criminal proceedings as the evidence in the case warrants. Any person receiving tax information under the provisions of this subsection shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

(e) The post auditor shall immediately report to the committee on surety bonds and insurance when any audit or audit work conducted under the legislative post audit act discloses a shortage in the accounts of any state agency, officer or employee.

(f) In the discharge of the duties imposed under the legislative post audit act, the post auditor may require state agencies to preserve and make available their accounts, records, documents, vouchers, requisitions, payrolls, canceled checks or vouchers and coupons, and other evidence of financial transactions.

(g) In the discharge of the duties imposed under the legislative post audit act, the post auditor or firm conducting a financial-compliance audit or conducting *any* other ~~financial-compliance audit~~ or audit work shall have access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, of any person or state agency subject to the legislative post audit act or in the custody of any such person or state agency. Except as otherwise provided in this subsection, the post auditor or firm conducting a financial-compliance audit or other ~~financial-compliance audit~~ or audit work *under the legislative post audit act* and all employees and former employees of the division of post audit or firm performing a financial-compliance audit or other ~~financial-compliance audit~~ or audit work shall be subject to the same duty of confidentiality imposed by law on any such person or state agency with regard to any such books, accounts, records, files, documents and correspondence, and any information contained therein, and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality. The duty of confidentiality imposed on the post auditor and on firms conducting financial-compliance audits or *any* other ~~financial-compliance audits~~ or audit work *under the legislative post audit act* and all employees of the division of post audit and all employees of such firms shall be subject to the provisions of subsection (d), and the post auditor may furnish all such books, accounts, records, files, documents and correspondence, and any information contained therein to the attorney general pursuant to subsection (d). Upon receipt thereof, the attorney general and all assistant attorneys general and all other employees and former employees of the office of attorney general shall be subject to the same duty of confidentiality with the exceptions that any such information contained therein may be disclosed in civil proceedings, ouster proceedings and criminal proceedings which may be instituted and prosecuted by the attorney general in accordance with subsection (d), and any such books, accounts, records, files, documents and correspondence furnished to the attorney general in accordance with subsection (d) may be entered into evidence in any such proceedings. Nothing in this subsection shall be construed to supersede any requirement of federal law.

(h) Any firm or firms which develop information in the course of conducting a financial-compliance audit or other ~~financial-compliance audit~~ or audit work *under the legislative post audit act* which the post auditor is required to report under subsection (d) or (e) shall immediately report such information to the post auditor. The post auditor shall then make the report required in subsection (d) or (e).";

By renumbering sections accordingly;

Also on page 1, in line 41, by striking "is" and inserting "and K.S.A. 2004 Supp. 46-1106 are";

In the title, in line 11, following the semicolon, by inserting "access to information and records for audits;"; in line 12, following "46-1119" by inserting "and K.S.A. 2004 Supp. 46-1106"; also in line 12, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Insurance** recommends **Sub. SB 103** be amended on page 3, by striking all in lines 14 and 15 and inserting:

“Sec. 8. K.S.A. 40-284 is hereby amended to read as follows: 40-284. (a) No automobile liability insurance policy covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state, unless the policy contains or has endorsed thereon, a provision with coverage limits equal to the limits of liability coverage for bodily injury or death in such automobile liability insurance policy sold to the named insured for payment of part or all sums which the insured or the insured’s legal representative shall be legally entitled to recover as damages from the uninsured owner or operator of a motor vehicle because of bodily injury, sickness or disease, including death, resulting therefrom, sustained by the insured, caused by accident and arising out of ownership, maintenance or use of such motor vehicle, or providing for such payment irrespective of legal liability of the insured or any other person or organization. No insurer shall be required to offer, provide or make available coverage conforming to this section in connection with any excess policy, umbrella policy or any other policy which does not provide primary motor vehicle insurance for liabilities arising out of the ownership, maintenance, operation or use of a specifically insured motor vehicle.

(b) Any uninsured motorist coverage shall include an underinsured motorist provision which enables the insured or the insured’s legal representative to recover from the insurer the amount of damages for bodily injury or death to which the insured is legally entitled from the owner or operator of another motor vehicle with coverage limits equal to the limits of liability provided by such uninsured motorist coverage to the extent such coverage exceeds the limits of the ~~bodily injury coverage carried by the owner or operator of the other motor vehicle~~ *amount of liability proceeds actually available to an injured insured.*

(c) The insured named in the policy shall have the right to reject, in writing, the uninsured motorist coverage required by subsections (a) and (b) which is in excess of the limits for bodily injury or death set forth in K.S.A. 40-3107 and amendments thereto. A rejection by an insured named in the policy of the uninsured motorist coverage shall be a rejection on behalf of all parties insured by the policy. Unless the insured named in the policy requests such coverage in writing, such coverage need not be provided in any subsequent policy issued by the same insurer for motor vehicles owned by the named insured, including, but not limited to, supplemental, renewal, reinstated, transferred or substitute policies where the named insured had rejected the coverage in connection with a policy previously issued to the insured by the same insurer.

(d) Coverage under the policy shall be limited to the extent that the total limits available cannot exceed the highest limits of any single applicable policy, regardless of the number of policies involved, persons covered, claims made, vehicles or premiums shown on the policy or premiums paid or vehicles involved in an accident.

(e) Any insurer may provide for the exclusion or limitation of coverage:

(1) When the insured is occupying or struck by an uninsured automobile or trailer owned or provided for the insured’s regular use;

(2) when the uninsured automobile is owned by a self-insurer or any governmental entity;

(3) when there is no evidence of physical contact with the uninsured motor vehicle and when there is no reliable competent evidence to prove the facts of the accident from a disinterested witness not making claim under the policy;

(4) to the extent that workers’ compensation benefits apply;

(5) when suit is filed against the uninsured motorist without notice to the insurance carrier; and

(6) to the extent that personal injury protection benefits apply.

(f) An underinsured motorist coverage insurer shall have subrogation rights under the provisions of K.S.A. 40-287 and amendments thereto. If a tentative agreement to settle for liability limits has been reached with an underinsured tortfeasor, written notice must be given by certified mail to the underinsured motorist coverage insurer by its insured. Such written notice shall include written documentation of pecuniary losses incurred, including copies of all medical bills and written authorization or a court order to obtain reports from all employers and medical providers. Within 60 days of receipt of this written notice, the

underinsured motorist coverage insurer may substitute its payment to the insured for the tentative settlement amount. The underinsured motorist coverage insurer is then subrogated to the insured's right of recovery to the extent of such payment and any settlement under the underinsured motorist coverage. If the underinsured motorist coverage insurer fails to pay the insured the amount of the tentative tort settlement within 60 days, the underinsured motorist coverage insurer has no right of subrogation for any amount paid under the underinsured motorist coverage.

Sec. 9. K.S.A. 40-284 is hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, in line 10, following “service” by inserting “; relating to uninsured motorist coverage; amending K.S.A. 40-284 and repealing the existing section”; and the substitute bill be passed as amended.

Committee on **Insurance** recommends **SB 176** be amended on page 7, following line 36, by inserting:

“Sec. 9. K.S.A. 40-905 is hereby amended to read as follows: 40-905. (a) (1) Whenever any policy of insurance or an increase in the amount of coverage in an existing policy of insurance shall be written to insure any improvements upon real property in this state against loss by fire, tornado, windstorm or lightning, and the property insured shall be wholly destroyed, without criminal fault on the part of the insured or the insured's assigns, the amount of insurance written in such policy shall be taken conclusively to be the true value of the property insured, and the true amount of loss and measure of damages, and the payment of money as a premium for insurance shall be prima facie evidence that the party paying for such insurance is the owner of the property insured.

(2) *Improvements on real property shall not be required to be insured for more than the reasonably estimated replacement cost of such improvements. Nothing herein shall prohibit a policy or endorsement to a policy as described in this subsection from containing an inflation guard provision or similar provision. Nothing in this section shall be deemed to create a private cause of action. For the purposes of this paragraph, “improvements on real property” means a fixture, building or other structure attached to real property and intended as a permanent addition to such real property.*

(b) The provisions of subsection (a) shall not apply to:

(1) New policies of fire insurance or existing policies of fire insurance where there has been an increase in the amount of coverage of 25% or more, until such policies have been in effect for at least 60 days. If there is a total loss by fire within the sixty-day period and the insurer pays less than the face value of the policy, the insurer shall refund the difference in premium between the amount of insurance purchased and the premium applicable for the amount of the loss actually paid. This paragraph shall not apply to a loss by fire caused by lightning.

(2) Builder's risk policies of insurance covering property in the process of being constructed. The value of the property insured shall be the actual value of the property at the time of the loss.

Sec. 10. 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 or-

ganization, 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. 11. K.S.A. 2004 Supp. 40-2258 is hereby amended to read as follows: 40-2258. (a) An accident and sickness insurer which offers coverage through a group policy providing hospital, medical or surgical expense benefits pursuant to K.S.A. 40-2209 and amendments thereto which includes mental health benefits shall be subject to the following requirements:

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

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

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

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

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

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

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

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

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

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

(f) In the case of a group policy providing hospital, medical or surgical expense benefits that offers an eligible employee, member or dependent two or more benefit package options under the policy, subsections (a) and (b) shall be applied separately with respect to each such option.

(g) As used in this section:

(1) "Aggregate lifetime limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount

that may be paid with respect to such benefits under the policy with respect to an eligible employee, member or dependent;

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

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

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

(h) This section shall be effective for group policies providing hospital, medical or surgical expense benefits which are entered into or renewed after January 1, 1998. This section shall not apply to benefits for services furnished on or after December 31, ~~2004~~ 2005.

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

By renumbering the remaining sections accordingly;

Also on page 7, in line 37, following “K.S.A.” by inserting “40-905, 40-2255,”; in line 38, preceding “are” by inserting “and 40-2258”;

In the title, in line 10, by striking “amending K.S.A.” and inserting “relating to limiting the insurance value of improvements on real property to the replacement cost thereof; relating to notice when a block of business is closed; relating to HIPAA compliance; amending K.S.A. 40-905, 40-2255,”; in line 12, before “and” by inserting “and 40-2258”; and the bill be passed as amended.

Committee on **Insurance** recommends **SB 178** be amended on page 1, in line 14, by striking all following “1.”; by striking all in lines 15 through 43;

By striking all on pages 2 through 8;

On page 9, by striking all in lines 1 through 14 and inserting: “(a) The marketing, sale, offering for sale, issuance, making, proposing to make and administration of a service contract shall not be construed to be the business of insurance and shall be exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(b) For the purposes of this section, “service contract” means a contract or agreement for a separate or additional consideration, for any specified duration, to service, repair, replace or maintain all or any part of any structural component, appliance or utility system of any residential property, consumer good or other property; or to indemnify for service, repair, replacement or maintenance for consumer good or other property, due to a defect in materials, workmanship, normal wear and tear; or as a result of power surges or as a result of accidental damage from the handling of property damaged by power surges with or without additional provision for indemnity payments when service repair or replacement is not reasonably, commercially or economically feasible. Service contract also includes any nonconsumer commercial service contract. Service contract does not include an automobile club service as defined in K.S.A. 40-2507, and amendments thereto.

(c) (1) No service contract which is exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto, pursuant to this section shall contain any provision for consequential damages unless such consequential damages are caused by the failure of service, repair, replacement or maintenance rendered under the service contract.

(2) No service contract which is exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto, pursuant to this section shall contain any provision, except as exempt by this section, which would otherwise be covered by a contract of property or liability insurance issued in this state.”;

Also on page 9, in line 15, by striking “13.” and inserting “2.”;

In the title, in line 10, by striking all following “contracts”; in line 11, by striking all preceding the period; 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 bill and concurrent resolution were thereupon introduced and read by title:

HB 2531, An act establishing the Kansas health policy authority; prescribing powers, duties and functions therefor; establishing a division of health policy and finance and a director of health policy and finance within the department of administration and transferring certain powers, duties and functions thereto; amending K.S.A. 39-7,116, 39-7,121, 65-6801, 65-6804, 65-6805, 65-6806, 65-6807 and 65-6809 and K.S.A. 2004 Supp. 39-7,118, 39-7,119, 39-7,120, 39-7,121a, 39-7,121d, 39-7,121e and 65-6803 and repealing the existing sections; also amending sections 9 through 21 of this act and repealing the existing sections; also repealing K.S.A. 65-6808 and sections 7 and 8 of this act, by Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION No. 5017—

By Representatives McCreary and McKinney

A CONCURRENT RESOLUTION designating the Anthony 9/11 memorial as the official Kansas “9/11 memorial” for 2005 and 2006.

WHEREAS, The 2,300 people of Anthony (located 60 miles southwest of Wichita) were moved by the tragedy of September 11, 2001, to express both their grief and the resounding spirit of Americans and Kansans following the events of that date; and

WHEREAS, The people of Anthony resolved to express their emotions in the very personal act of adopting, and providing support and comfort to the widow and four children (ages 6 months to 6 years) of New York Fire Department firefighter Joe Spor, Jr., who was killed in the collapse of the twin towers; and

WHEREAS, The people of Anthony also adopted Joe Spor’s Bronx fire station; and

WHEREAS, The people of Anthony, knowing the loss of a husband, father and friend is not soon relieved or easily borne, committed to providing ongoing comfort and support to the Spor family and the firefighters of the Bronx fire station, and did so through daily communication and the purposeful building of a bond of connection and friendship; and

WHEREAS, The people of Anthony chose to further express their emotions and to safeguard the memory of those lost lives and heroes of 9/11, as well as those in uniform today, by erecting a memorial in Anthony; and

WHEREAS, That memorial, built of Kansas limestone and brick, is unique and moving in its incorporation of three steel beams from the remains of the World Trade Center, a block of limestone from the face of the damaged Pentagon building and soil from the Pennsylvania crash site of Flight 93; and

WHEREAS, The memorial located in Anthony is being funded entirely through personal and private giving; and

WHEREAS, The Anthony memorial has attracted national attention and has been visited by individuals from across the United States, and several foreign countries; and

WHEREAS, The Anthony memorial serves as a place of connection between the survivors of the 9/11 tragedy and all those who support them, and a place of connection between all those who have committed to never forgetting the sacrifice of those who died: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the Anthony structure erected in memory of the September 11, 2001, tragedy is hereby designated as the official Kansas 9/11 memorial for 2005 and 2006.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Wilk, the House nonconcurred in Senate amendments to **HB 2082** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Wilk, Huff and Thull as conferees on the part of the House.

On motion of Rep. Decker, the House nonconcurred in Senate amendments to **HB 2247** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. Decker, O'Neal and Larkin as conferees on the part of the House.

On motion of Rep. O'Neal, the House nonconcurred in Senate amendments to **HB 2268** and asked for a conference.

Speaker pro tem Merrick thereupon appointed Reps. O'Neal, Jack and Pauls as conferees on the part of the House.

REPORT ON ENGROSSED BILLS

Sub. HB 2226; HB 2301, HB 2347, HB 2518 reported correctly engrossed March 22, 2005.

Also, **HB 2140, HB 2228, HB 2315, HB 2374, HB 2406, HB 2409** reported correctly engrossed March 23, 2005.

HB 2153 reported correctly re-engrossed on March 23, 2005.

REPORT ON ENGROSSED RESOLUTIONS

HCR 5004 reported correctly re-engrossed March 23, 2005.

On motion of Rep. Aurand, the House adjourned until 10:00 a.m., Thursday, March 24, 2005.

JANET E. JONES, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

