

# Journal of the Senate

THIRTY-SIXTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, March 2, 2005—2:30 p.m.

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

Heavenly Father,

You tell us in the book of James, "Draw near to God, and He will draw near to you." (James 4:8)

It occurred to me some language used  
Each day in what we do  
Could easily be used  
When we draw near to You.

The first thing that You ask of us  
Is to commit ourselves to You.  
It seems to me that when we VOTE,  
A commitment is what we do.

We commit ourselves unto a law  
Whenever we vote "AYE".  
When we vote against it,  
We commit to seeing it die.

When we are speaking from the floor  
We always ADDRESS THE CHAIR.  
And each time we talk to You,  
We address the heavenly chair!

When we need the floor from someone else,  
Then we must appeal;  
And with courtesy ask the colleague,  
"WILL THE SENATOR YIELD?"

And when before the heavenly Chair  
We come and humbly kneel;  
You always ask of us, O God,  
"Will the pray-er yield?"

ROLL CALL is the very first thing  
We have when we appear.  
But FINAL ACTION is Your roll call:  
I pray we answer, "HERE!"

I pray in the Name of Jesus Christ,

AMEN

**POINT OF PERSONAL PRIVILEGE:**

Senator Vratil rose on a point of personal privilege to acknowledge members of the Farmers Insurance Group who were visiting the Senate.

**INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were introduced and read by title:

**SB 285.** An act concerning discrimination; relating to sexual orientation; amending K.S.A. 44-1001, 44-1002, 44-1004, 44-1005, 44-1006, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 and repealing the existing sections, by Committee on Federal and State Affairs.

**SB 286.** An act concerning state officers and employees; relating to salaries, compensation and certain expense allowances; establishing and implementing semimonthly payroll periods; making and concerning appropriations for the fiscal year ending June 30, 2006; amending K.S.A. 40-102, 46-137a, 46-137b, 75-5501, 75-5501a, 75-5502, 75-5505, 75-5506, 75-5507, 75-5509, 75-5510, 75-5511, 75-5512 and 75-5515 and K.S.A. 2004 Supp.74-4925, 75-3101, 75-3103, 75-3104, 75-3108, 75-3110 and 75-3111a and repealing the existing sections, by Committee on Ways and Means.

**REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2443, HB 2444** .

Commerce: **HB 2232, HB 2299.**

Elections and Local Government: **SB 282, SB 283, HB 2281.**

Financial Institutions & Insurance: **HB 2099, HB 2323, HB 2325, HB 2326, HB 2357, HB 2366.**

Judiciary: **Sub HB 2004, Sub HB 2038, Sub HB 2051, Sub HB 2087; HB 2128, HB 2152; Sub HB 2261; HB 2352, HB 2380, HB 2385; Sub HB 2457.**

Natural Resources: **HB 2115, HB 2253, HB 2390.**

Public Health and Welfare: **HB 2077.**

Transportation: **HB 2298, HB 2310, HB 2315, HB 2409.**

Utilities: **HB 2279, HB 2465.**

Ways and Means: **SB 284.**

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2477.**

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2477** was thereupon introduced and read by title.

**REPORT ON ENROLLED BILLS**

**SR 1824** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 2, 2005.

**REPORTS OF STANDING COMMITTEES**

Committee on **Assessment and Taxation** recommends **HB 2187** be passed.

Committee on **Federal and State Affairs** recommends **SB 211** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 211," as follows:

"Substitute for SENATE BILL No. 211

By Committee on Federal and State Affairs

"AN ACT concerning the Kansas national guard; providing for certain death benefits; amending K.S.A. 75-3713b and repealing the existing section."; and the substitute bill be passed.

The Committee on **Financial Institutions and Insurance** recommends **SB 103** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 103," as follows:

“Substitute for SENATE BILL No. 103

By Committee on Financial Institutions and Insurance

“AN ACT concerning insurance; relating to certain insurance policies issued to Kansas residents deployed in military service.”;  
and the substitute bill be passed.

Committee on **Judiciary** recommends **HB 2130** be amended on page 2, in line 33, after “jails” by inserting “, juvenile detention facilities”; in line 37, after “jails” by inserting “, juvenile detention facilities”; in line 40, after “jails” by inserting “, juvenile detention facilities”; and the bill be passed as amended.

#### COMMITTEE OF THE WHOLE

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

**SB 246** be amended by adoption of the committee amendments.

Senator Schodorf moved to amend **SB 246**, as amended by Senate Committee, on page 2, by striking all in lines 7 through 12; following line 12, by inserting:

“(11) multiply the remainder obtained under paragraph (10) by 85%.”;

On page 9, in line 12, by deleting the colon and inserting “, the amount of base state aid per pupil shall be \$4,013.”; by striking all in lines 13 through 18;

On page 12, in line 5, before the semicolon, by inserting “and multiply the computed enrollment by 0.3”; by striking all in lines 6 through 9; in line 23, after the semicolon, by inserting “and”; by striking all in lines 24 through 30; following line 30, by inserting:

“(2) multiply the number determined under (1) by .15. The product is the at-risk pupil weighting of the district.”;

On page 20, in line 14, by striking “: (i) 27% for school”; by striking all in lines 15 and 16 and inserting “27%.”

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

On roll call, the vote was: Yeas 27, Nays 11, Present and Passing 2, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Huelskamp, Jordan, McGinn, Morris, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Barone, Betts, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, Ostmeyer, Steineger.

Present and Passing: Journey, O'Connor.

The motion carried and the amendment was adopted.

Senator Apple further amended **SB 246**, as amended by Senate Committee, on page 22, following line 6, by inserting:

“New Sec. 12. (a) The provisions of this section shall apply to any school district which adopts a local option budget.

(b) In addition to the state aid provided to school districts under K.S.A. 72-6434, and amendments thereto, each school district shall be entitled to state aid in an amount determined by the state board pursuant to the provisions of this section. The state board shall:

- (1) Determine the amount of the local option budget of each school district;
  - (2) determine the assessed valuation of each school district;
  - (3) determine the number of mills necessary to be levied to fund the local option budget of each school district, but not more than 25%;
  - (4) subtract 19 from the number determined under (3);
  - (5) multiply the amount determined under (2) by the difference determined under (4).
- The product is the amount of state aid a district is entitled to receive under this section.”;

By renumbering sections accordingly

The following amendments to **SB 246** were rejected:

Senator Brungardt moved to amend **SB 246**, as amended by Senate Committee, on page 22, after line 12, by inserting the following:

“Sec.13. K.S.A. 2004 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110.  
 (a) *Resident Individuals*. Except as otherwise provided by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

(1) *Married individuals filing joint returns*.

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

(2) *All other individuals*.

(A) For tax year 1997:

If the taxable income is:	The tax is:
Not over \$20,000 .....	4.1% of Kansas taxable income
Over \$20,000 but not over \$30,000 .....	\$820 plus 7.5% of excess over \$20,000
Over \$30,000 .....	\$1,570 plus 7.75% of excess over \$30,000

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

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

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

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

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

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

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

(e) *In addition to the tax imposed pursuant to subsections (a) and (b), for tax year 2005, a surtax shall be imposed on resident individuals and nonresident individuals in the amount of 7.5% of the tax due pursuant to subsections (a) and (b), computed without regard to any applicable income tax credits.*”;

And by renumbering sections accordingly;

Also on page 22, in line 15, by striking “and” and inserting a comma; also in line 15, after “79-201x” by inserting “and 79-32,110”;

On page 1, in the title, in line 10, after “finance” by inserting “and revenue therefore”; in line 13, by striking “and” the first time it appears and inserting a comma; also in line 13, after “79-201x” by inserting “and 79-32,110”

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

On roll call, the vote was: Yeas 9, Nays 28, Present and Passing 3, Absent or Not Voting 0.

Yeas: Betts, Brungardt, Francisco, Goodwin, Haley, Hensley, Lee, Reitz, Wysong.

Nays: Allen, Apple, Barnett, Brownlee, Bruce, Donovan, Gilstrap, Huelskamp, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson.

Present and Passing: Barone, Emler, Kelly.

The motion failed and the amendment was rejected.

Senator Lee moved to amend **SB 246**, as amended by Senate Committee, on page 7, by striking all in lines 2 through 7;

- By relettering subsections accordingly;  
 Also on page 7, by striking all in lines 20 through 25;  
 By relettering subsections accordingly;  
 On page 8, by striking all in lines 20 through 43;  
 By striking all on pages 9 through 12;  
 On page 13, by striking all in lines 1 through 5;  
 By renumbering sections 9 and 10 as sections 4 and 5, respectively;  
 On page 20, by striking all in lines 14, 15 and 16; following line 16, by inserting:  
 “(B) “State prescribed percentage means 0% for school year 2005-2006 and 15% for school year 2006-2007 and each school year thereafter.”;
- On page 21, by striking all in lines 37 through 43;  
 On page 22, by striking all in lines 1 through 6;  
 By renumbering section 12 as section 6;  
 Also on page 22, following line 12, by inserting:  
 “Sec. 7. K.S.A. 72-983 is hereby amended to read as follows: 72-983. (a) In each school year, to the extent that appropriations are available, each school district which has provided special education or related services for an exceptional child whose IEP provides for services which cost in excess of \$25,000 for the school year is eligible to receive a grant of state moneys in an amount equal to 75% of that portion of the costs, incurred by the district in the provision of special education or related services for the child, that is in excess of \$25,000.
- (b) In order to be eligible for a grant of state moneys provided for by subsection (a), a school district shall submit to the state board of education an application for a grant, a description of the special education or related services provided, and the name or names of the child or children for whom provided. The application and description shall be prepared in such form and manner as the state board shall require and shall be submitted at a time to be determined and specified by the state board. Approval by the state board of applications for grants of state moneys is prerequisite to the award of grants.
- (c) Each school district which is awarded a grant under this section shall make such periodic and special reports of statistical and financial information to the state board as it may request.
- (d) All moneys received by a school district under authority of this section shall be deposited in the ~~general fund of the school district and transferred to its special education fund of the district.~~
- (e) The state board of education shall:
- (1) Prescribe and adopt criteria for identification and determination of excessive costs attributable to the provision of special education and related services for which an application for a grant of state moneys may be made under this section;
  - (2) approve applications of school districts for grants;
  - (3) determine the amount of grants and be responsible for payment of such grants to school districts; and
  - (4) prescribe all forms necessary for reporting under this section.
- (f) If the amount of appropriations for the payment of grants under this section is insufficient to pay in full the amount each school district is determined to be eligible to receive for the school year, the state board shall prorate the amount appropriated among all school districts which are eligible to receive grants of state moneys in proportion to the amount each school district is determined to be eligible to receive.
- New Sec. 8. (a) The amount of base state aid per pupil shall be determined as follows:
- (1) For districts with enrollment under 100, the amount of base state aid per pupil is \$12,400;
  - (2) For districts with enrollment over 99, but under 225, the state board shall:
    - (A) Determine the full-time equivalent enrollment of the district;
    - (B) subtract 100 from the number determined under (A);
    - (C) multiply the difference determined under (B) by 22.112;
    - (D) subtract the product determined under (C) from \$12,200. The difference is the amount of base state aid per pupil for such districts.
  - (3) For districts with enrollment over 224, but under 800, the state board shall:
    - (A) Determine the full-time equivalent enrollment of the district;

(B) subtract 225 from the number determined under (A);  
 (C) multiply the difference determined under (B) by 4.5843;  
 (D) subtract the product determined under (C) from \$9636. The difference is the amount of base state aid per pupil for such districts.

(4) For districts with enrollment over 799, but under 1350, the state board shall:

(A) Determine the full-time equivalent enrollment of the district;  
 (B) subtract 800 from the number determined under (A);  
 (C) multiply the difference determined under (B) by 1.1527;  
 (D) subtract the product determined under (C) from \$7000. The difference is the amount of base state aid per pupil for such districts.

(5) For districts with enrollment over 1349, the amount of base state aid per pupil is \$6366.

(b) The amount of base state aid per pupil is subject to reduction commensurate with any reduction under K.S.A. 75-6704, and amendments thereto, in the amount of the appropriation from the state general fund for general state aid. If the amount of appropriations for general state aid is insufficient to pay in full the amount each district is entitled to receive for any school year, the amount of base state aid per pupil for such school year is subject to reduction commensurate with the amount of the insufficiency.

Sec. 9. K.S.A. 72-6410 is hereby amended to read as follows: 72-6410. (a) "State financial aid" means an amount equal to the product obtained by multiplying base state aid per pupil by the adjusted enrollment of a district.

(b) "Base state aid per pupil" means an amount of state financial aid per pupil. ~~Subject to the other provisions of this subsection, the amount of base state aid per pupil is \$3,690. The amount of base state aid per pupil is subject to reduction commensurate with any reduction under K.S.A. 75-6704, and amendments thereto, in the amount of the appropriation from the state general fund for general state aid. If the amount of appropriations for general state aid is insufficient to pay in full the amount each district is entitled to receive for any school year, the amount of base state aid per pupil for such school year is subject to reduction commensurate with the amount of the insufficiency determined under section 8, and amendments thereto.~~

(c) "Local effort" means the sum of an amount equal to the proceeds from the tax levied under authority of K.S.A. 72-6431, and amendments thereto, and an amount equal to any unexpended and unencumbered balance remaining in the general fund of the district, except amounts received by the district and authorized to be expended for the purposes specified in K.S.A. 72-6430, and amendments thereto, and an amount equal to any unexpended and unencumbered balances remaining in the program weighted funds of the district, except any amount in the vocational education fund of the district if the district is operating an area vocational school, and an amount equal to any remaining proceeds from taxes levied under authority of K.S.A. 72-7056 and 72-7072, and amendments thereto, prior to the repeal of such statutory sections, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district under the provisions of subsection (a) of K.S.A. 72-1046a, and amendments thereto, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district pursuant to contracts made and entered into under authority of K.S.A. 72-6757, and amendments thereto, and an amount equal to the amount credited to the general fund in the current school year from amounts distributed in such year to the district under the provisions of articles 17 and 34 of chapter 12 of Kansas Statutes Annotated and under the provisions of articles 42 and 51 of chapter 79 of Kansas Statutes Annotated, and an amount equal to the amount of payments received by the district under the provisions of K.S.A. 72-979, and amendments thereto, and an amount equal to the amount of a grant, if any, received by the district under the provisions of K.S.A. 72-983, and amendments thereto, and an amount equal to 75% of the federal impact aid of the district.

(d) "Federal impact aid" means an amount equal to the federally qualified percentage of the amount of moneys a district receives in the current school year under the provisions of title I of public law 874 and congressional appropriations therefor, excluding amounts received for assistance in cases of major disaster and amounts received under the low-rent

housing program. The amount of federal impact aid defined herein as an amount equal to the federally qualified percentage of the amount of moneys provided for the district under title I of public law 874 shall be determined by the state board in accordance with terms and conditions imposed under the provisions of the public law and rules and regulations thereunder.

Sec. 10. K.S.A. 72-6411 is hereby amended to read as follows: 72-6411. (a) The transportation weighting of each district shall be determined by the state board as follows:

(1) Determine the total expenditures of the district during the preceding school year from all funds for transporting pupils of public and nonpublic schools on regular school routes;

(2) divide the amount determined under (1) by the total number of pupils who were included in the enrollment of the district in the preceding school year and for whom transportation was made available by the district;

(3) multiply the quotient obtained under (2) by the total number of pupils who were included in the enrollment of the district in the preceding school year, were residing less than 2½ miles by the usually traveled road from the school building they attended, and for whom transportation was made available by the district;

(4) multiply the product obtained under (3) by 50%;

(5) subtract the product obtained under (4) from the amount determined under (1);

(6) divide the remainder obtained under (5) by the total number of pupils who were included in the enrollment of the district in the preceding school year, were residing 2½ miles or more by the usually traveled road from the school building they attended and for whom transportation was made available by the district. The quotient is the per-pupil cost of transportation;

(7) on a density-cost graph plot the per-pupil cost of transportation for each district;

(8) construct a curve of best fit for the points so plotted;

(9) locate the index of density for the district on the base line of the density-cost graph and from the point on the curve of best fit directly above this point of index of density follow a line parallel to the base line to the point of intersection with the vertical line, which point is the formula per-pupil cost of transportation of the district;

(10) divide the formula per-pupil cost of transportation of the district by ~~base state aid per pupil~~ \$6,366;

(11) multiply the quotient obtained under (10) by the number of pupils who are included in the enrollment of the district, are residing 2½ miles or more by the usually traveled road to the school building they attend, and for whom transportation is being made available by, and at the expense of, the district. The product is the transportation weighting of the district.

(b) For the purpose of providing accurate and reliable data on pupil transportation, the state board is authorized to adopt rules and regulations prescribing procedures which districts shall follow in reporting pertinent information relative thereto, including uniform reporting of expenditures for transportation.

(c) "Index of density" means the number of pupils who are included in the enrollment of a district in the current school year, are residing 2½ miles or more by the usually traveled road from the school building they attend, and for whom transportation is being made available on regular school routes by the district, divided by the number of square miles of territory in the district.

(d) "Density-cost graph" means a drawing having: (1) A horizontal or base line divided into equal intervals of density, beginning with zero on the left; and (2) a scale for per-pupil cost of transportation to be shown on a line perpendicular to the base line at the left end thereof, such scale to begin with zero dollars at the base line ascending by equal per-pupil cost intervals.

(e) "Curve of best fit" means the curve on a density-cost graph drawn so the sum of the distances squared from such line to each of the points plotted on the graph is the least possible.

(f) The provisions of this section shall take effect and be in force from and after July 1, 1992.

Sec. 11. K.S.A. 72-6413 is hereby amended to read as follows: 72-6413. The program weighting of each district shall be determined by the state board as follows:

~~(a) Compute full-time equivalent enrollment in programs of bilingual education and multiply the computed enrollment by 0.2;~~

~~—(b) compute full-time equivalent enrollment in approved vocational education programs and multiply the computed enrollment by 0.5;~~

~~—(c) add the products obtained under (a) and (b). The sum is the program weighting of the district.~~

~~—(d) The provisions of this section shall take effect and be in force from and after July 1, 1992.~~

*(a) Compute the full-time equivalent enrollment in approved vocational education programs; and*

*(b) multiply the computed enrollment by 0.5. The product is the program weighting of the district.*

New Sec. 12. (a) Each district shall be entitled to receive bilingual state aid. The state board shall:

(1) Determine the full-time equivalent enrollment of each district;

(2) multiply the number determined under (1) by \$1,200 for school year 2005-2006;

(3) multiply the number determined under (1) by \$1,650 for school year 2006-2007;

(4) multiply the number determined under (1) by \$2,100 for school year 2007-2008.

(b) The product obtained under (a) is the amount of bilingual state aid per pupil for each district.

Sec. 13. K.S.A. 72-6414 is hereby amended to read as follows: 72-6414. (a) ~~The at-risk pupil weighting of each district shall be determined by the state board by multiplying the number of at-risk pupils included in enrollment of the district by .10. The product is the at-risk pupil weighting of the district. Each district shall be entitled to receive at-risk state aid. The state board shall:~~

*(1) Determine the full-time equivalent enrollment of each district;*

*(2) multiply the number determined under (1) by \$800 for school year 2005-2006;*

*(3) multiply the number determined under (1) by \$1,200 for school year 2006-2007;*

*(4) multiply the number determined under (1) by \$1,600 for school year 2007-2008.*

*The product is the amount of at-risk state aid per pupil for each district.*

(b) Except as provided in subsection (d), of the amount a district receives from the at-risk pupil weighting, an amount produced by ~~a pupil weighting of .01 of the at-risk state aid~~ shall be used by the district for achieving mastery of basic reading skills by completion of the third grade in accordance with standards and outcomes of mastery identified by the state board under K.S.A. 72-7534, and amendments thereto.

(c) A district shall include such information in its at-risk pupil assistance plan as the state board may require regarding the district's remediation strategies and the results thereof in achieving the third grade reading standards and outcomes of mastery identified by the state board. The reporting requirements shall include information documenting remediation strategies and improvement made by pupils who performed below the expected standard on the second grade diagnostic reading test prescribed by the state board.

(d) A district whose pupils substantially achieve the state board standards and outcomes of mastery of reading skills upon completion of third grade may be released, upon request, by the state board from the requirements of subsection (b).

Sec. 14. K.S.A. 72-6420 is hereby amended to read as follows: 72-6420. (a) There is hereby established in every district a fund which shall be called the special education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. Notwithstanding any other provision of law, all moneys received by the district from whatever source for special education shall be credited to the special education fund established by this section, except that ~~(1) amounts of payments received by a district under K.S.A. 72-979, and amendments thereto, and amounts of grants, if any, received by a district under K.S.A. 72-963, and amendments thereto, shall be deposited in the general fund of the district and transferred to the special education fund, and (2) moneys received by a district pursuant to lawful agreements made under K.S.A. 72-968, and amendments thereto, shall be credited to the special fund established under the agreements.~~



(b) The expenses of a district directly attributable to special education shall be paid from the special education fund and from special funds established under K.S.A. 72-968, and amendments thereto.

(c) Obligations of a district pursuant to lawful agreements made under K.S.A. 72-968, and amendments thereto, shall be paid from the special education fund established by this section.

New Sec. 15. (a) There is hereby established in the state treasury the school district capital outlay supplemental fund. The fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

(b) In each school year, each school district which is obligated to make payments from its capital outlay fund established pursuant to K.S.A. 72-8803, and amendments thereto, shall be entitled to receive payment from the school district capital outlay supplemental fund in an amount determined by the state board of education as provided in this subsection. The state board of education shall:

(1) Determine the amount of the assessed valuation per pupil (AVPP) of each school district in the state and round such amount to the nearest \$1,000. The rounded amount is the AVPP of a school district for the purposes of this section;

(2) determine the median AVPP of all school districts;

(3) prepare a schedule of dollar amounts using the amount of the median AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts and shall range downward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the lowest AVPP of all school districts;

(4) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the median AVPP shown on the schedule, decreasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval above the amount of the median AVPP, and increasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval below the amount of the median AVPP. The state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district, except that the state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 25% for capital outlay obligations incurred by a school district on or after the effective date of this act under K.S.A. 72-8801 et seq., and amendments thereto;

(5) determine the amount that a school district levied pursuant to K.S.A. 72-8801 et seq., and amendments thereto, but not to exceed four mills; and

(6) multiply the amount determined under paragraph (5) by the applicable state aid percentage factor. The product is the amount of payment the school district is entitled to receive from the school district capital outlay supplemental fund in the school year.

(c) The state board of education shall certify to the director of accounts and reports the entitlements of school districts determined under the provisions of subsection (b), and an amount equal thereto shall be transferred by the director from the state general fund to the school district capital outlay supplemental fund for distribution to school districts. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund.

(d) Payments from the school district capital outlay supplemental fund shall be distributed to school districts at times determined by the state board of education to be necessary to assist school districts in making scheduled payments pursuant to capital outlay obligations. The state board of education shall certify to the director of accounts and reports the amount due each school district entitled to payment from the fund, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district. Upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the capital outlay fund of the school district to be used for the purposes of such fund.

Sec. 16. K.S.A. 72-8801 is hereby amended to read as follows: 72-8801. (a) The board of education of any school district may make an annual tax levy at a mill rate not to exceed the statutorily prescribed mill rate for a period of not to exceed five years upon the taxable tangible property in the school district for the purposes specified in this act and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. No levy shall be made under this act until a resolution is adopted by the board of education in the following form:

Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas.

RESOLUTION

Be It Resolved that:

The above-named school board shall be authorized to make an annual tax levy for a period not to exceed \_\_\_\_\_ years in an amount not to exceed \_\_\_\_\_ mills upon the taxable tangible property in the school district for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing and equipping of buildings necessary for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, architectural expenses incidental thereto, the acquisition of building sites, the undertaking and maintenance of asbestos control projects, the acquisition of school buses and the acquisition of other equipment and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. The tax levy authorized by this resolution may be made, unless a petition in opposition to the same, signed by not less than 10% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 40 days after the last publication of this resolution. In the event a petition is filed the county election officer shall submit the question of whether the tax levy shall be authorized to the electors in the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the above school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Clerk of the above board of education.

All of the blanks in the above resolution shall be appropriately filled. The blank preceding the word "years" shall be filled with a specific number, and the blank preceding the word "mills" shall be filled with a specific number, and no word shall be inserted in either of the blanks. The resolution shall be published once a week for two consecutive weeks in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board of education may make the tax levy specified in the resolution. If a petition is filed as provided in the resolution, the board of education may notify the county election officer of the date of an election to be held to submit the question of whether the tax levy shall be authorized. If the board of education fails to notify the county election officer within 60 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board of education within the nine months following the first publication of the resolution.

(b) As used in this act:

(1) "Unconditionally authorized to make a capital outlay tax levy" means that the school district has adopted a resolution under this section, has published the same, and either that the resolution was not protested or that it was protested and an election has been held by which the tax levy specified in the resolution was approved;

(2) "statutorily prescribed mill rate" means: (A) Four mills or the mill rate necessary to produce the same amount of money that would have been produced by a levy of four mills

in the 1988-89 school year; (B) the mill levy rate in excess of four mills if the resolution fixing such rate was approved at an election prior to the effective date of this act; or (C) the mill levy rate in excess of four mills if no petition or no sufficient petition was filed in protest to a resolution fixing such rate in excess of four mills and the protest period for filing such petition has expired;

(3) "asbestos control project" means any activity which is necessary or incidental to the control of asbestos-containing material in buildings of school districts and includes, but not by way of limitation, any activity undertaken for the removal or encapsulation of asbestos-containing material, for any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation, for conducting inspections, reinspections and periodic surveillance of buildings, performing response actions, and developing, implementing and updating operations and maintenance programs and management plans;

(4) "asbestos" means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonitegrunerite), anthophyllite, tremolite, and actinolite; and

(5) "asbestos-containing material" means any material or product which contains more than 1% asbestos.

New Sec. 17. From and after the effective date of this act no school district may adopt or renew a resolution imposing a tax levy in excess of the statutorily prescribed mill rate fixed by subsection (b)(2)(A) of K.S.A. 72-8801, and amendments thereto. Any school district making a levy in excess of such amount may continue to make such levy until the expiration of the resolution under which such levy is made.

Sec. 18. K.S.A. 2004 Supp. 79-5040 is hereby amended to read as follows: 79-5040. (a) ~~In 1999, and in each year thereafter,~~ All existing statutory fund mill levy rate and aggregate levy rate limitations on taxing subdivisions are hereby suspended.

(b) *The provisions of subsection (a) shall not apply to the fund mill levy rate and aggregate levy rate limitations imposed by K.S.A. 72-8801 et seq., and amendments thereto.*;

By renumbering sections accordingly;

Also on page 22, in line 13, after "72-979," by inserting "72-983,"; also in line 13, after "72-6410," by inserting "72-6411,"; by striking all in lines 14 and 15 and inserting: "; 72-6420, 72-6433, 72-6433b, 72-6442 and 72-8801 and K.S.A. 2004 Supp. 72-978, 72-6407, 72-6431, 72-6434 and 79-201x and 79-5040 are hereby repealed.";

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

"AN ACT concerning school districts; relating to school finance; amending K.S.A. 72-979, 72-983, 72-6410, 72-6411, 72-6413, 72-6414, 72-6420, 72-6433 and 72-8801 and K.S.A. 2004 Supp. 72-978, 72-6407, 72-6431, 79-201x and 79-5040 and repealing the existing sections; also repealing K.S.A. 72-6412, 72-6433b and 72-6442 and K.S.A. 2004 Supp. 72-6434."

Senator Hensley moved to amend **SB 246**, as amended by Senate Committee, on page 12, in line 23, following the semicolon, by inserting "and"; by striking all in lines 24 through 30; following line 30, by inserting:

"(2) multiply the number determined under (1) by .25. The product is the at-risk pupil weighting of the district."

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

On roll call, the vote was: Yeas 12, Nays 20, Present and Passing 8, Absent or Not Voting 0.

Yeas: Barone, Betts, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Kelly, Lee, Ostmeyer, Steineger.

Nays: Apple, Brownlee, Bruce, Brungardt, Donovan, Jordan, Journey, Morris, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Umbarger, Vratil, Wagle, Wilson, Wysong.

Present and Passing: Allen, Barnett, Emler, McGinn, O'Connor, Palmer, Pyle, Teichman. The motion failed and the amendment was rejected.

#### EXPLANATION OF VOTE

MADAM CHAIR: I rise in opposition to the amendment and wish to explain my vote. I want to help at risk youth in this State. The flaw is that there is no guarantee that this money

will be used to help at risk youth with effective programs that address the issues in their lives which put them at risk. Without assurances that the funds appropriated will actually be spent on the need it is counter to my principals as applied to public policy. Principals of accountability, responsibility and effective public policy guide me in this legislative process and they are lacking in this amendment. Little we have done today addresses the real issues identified by the State Supreme Court. It is this opinion we must address.—PHILLIP B. JOURNEY

Senator Reitz moved to amend **SB 246**, as amended by Senate Committee, on page 22, after line 12, by inserting the following:

“Sec. 13. K.S.A. 2004 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3% *before July 1, 2005, and 5.8% on and after July 1, 2005*. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

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

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

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1,

2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

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

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

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

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

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

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

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

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

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

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

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section

501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. The base for computing the tax shall be the stated selling price of the motor vehicle or trailer or the value pursuant to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments thereto, whichever amount is higher. The actual selling price shall be the base for computing the tax on the isolated or occasional sale of wrecked or damaged vehicles. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

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

For the purposes of this subsection:

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

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

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

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

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being

held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

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

(s) on and after January 1, 2005, the gross receipts received from the sale of prewritten computer software and the sale of the services of modifying, altering, updating or maintaining prewritten computer software, whether the prewritten computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services, mobile telecommunication services, beeper services and other similar services. On and after August 1, 2002, the provisions of the federal mobile telecommunications sourcing act as in effect on January 1, 2002, shall be applicable to all sales of mobile telecommunication services taxable pursuant to this subsection. The secretary of revenue is hereby authorized and directed to perform any act deemed necessary to properly implement such provisions;

(u) the gross receipts received from the sale of prepaid calling service as defined in K.S.A. 2004 Supp. 79-3673, and amendments thereto; and

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

Sec. 14. K.S.A. 2004 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

(c) (1) The state treasurer shall credit  $\frac{5}{8}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit  $\frac{5}{106}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) *The state treasurer shall credit  $\frac{5}{116}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.8%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(4) Commencing on July 1, 2006, and ending on June 30, 2007, the state treasurer shall credit  ~~$\frac{19}{255}$~~   $\frac{19}{290}$  of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of ~~5.3%~~ 5.8%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

~~(4)~~ (5) On and after July 1, 2007, the state treasurer shall credit  ~~$\frac{19}{255}$~~   $\frac{19}{116}$  of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of ~~5.3%~~ 5.8%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project or taxpayers doing business with such entity financed by a special bond project as defined in K.S.A. 12-1770a, and amendments thereto, that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state or the project was designated as a special bond project as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment or special bond project.

Sec. 15. K.S.A. 2004 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 5.3% before July 1, 2005, and 5.8% on and after July 1, 2005. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 16. K.S.A. 2004 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

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

(2) The state treasurer shall credit  $\frac{5}{106}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.



(3) *The state treasurer shall credit  $\frac{5}{116}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.8%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

(4) *Commencing on July 1, 2006, and ending on June 30, 2007, the state treasurer shall credit  ~~$\frac{19}{200}$~~   $\frac{19}{290}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of ~~5.3%~~ 65.8, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

~~(4)~~ (5) *On and after July 1, 2007, the state treasurer shall credit  ~~$\frac{19}{200}$~~   $\frac{19}{116}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of ~~5.3%~~ 5.8%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.*

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

This subsection shall not apply to a project designated as a special bond project as defined in subsection (z) of K.S.A. 12-1770a, and amendments thereto.”;

And by renumbering sections accordingly;

Also on page 22, in line 15, by striking “and” and inserting a comma; also in line 15, after “79-201x” by inserting “, 79-3603, 79-3620, 79-3703 and 79-3710;”;

On page 1, in the title, in line 10, after the second semicolon, by inserting “sales taxation, rate increase;”; in line 13, by striking “and” the first time it appears and inserting a comma; also in line 13, after “79-201x” by inserting “, 79-3603, 79-3620, 79-3703 and 79-3710”

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

On roll call, the vote was: Yeas 5, Nays 27, Present and Passing 7, Absent or Not Voting 1.

Yeas: Allen, Brungardt, Reitz, Vratil, Wysong.

Nays: Apple, Barone, Betts, Brownlee, Bruce, Donovan, Gilstrap, Haley, Hensley, Huelskamp, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Wagle.

Present and Passing: Barnett, Emler, Francisco, Goodwin, Kelly, Lee, Teichman.

Absent or Not Voting: Wilson.

The motion failed and the amendment was rejected.

Senator Wagle moved to amend **SB 246**, as amended by Senate Committee, on page 9, in line 12, by striking the colon; by striking all in lines 13 through 16; in line 17, by striking all preceding the comma; in line 18, by striking “\$4,263” and inserting “\$3,963”

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

On roll call, the vote was: Yeas 14, Nays 24, Present and Passing 2, Absent or Not Voting 0.

Yeas: Brownlee, Bruce, Donovan, Huelskamp, Journey, McGinn, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Wagle, Wilson.

Nays: Allen, Apple, Barnett, Barone, Betts, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Hensley, Jordan, Kelly, Lee, Morris, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Haley, O'Connor.

The motion failed and the amendment was rejected.

Senator Hensley moved to amend **SB 246**, as amended by Senate Committee, on page 20, by striking all in lines 14 through 16 and inserting:

“(B) “State prescribed percentage” means 25%. If the amount of base state aid per pupil is increased by act of the legislature, the state prescribed percentage shall be reduced by a number of percentage points equal to the number of percentage points by which the amount of base state aid per pupil is increased.”

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

On roll call, the vote was: Yeas 10, Nays 28, Present and Passing 2, Absent or Not Voting 0.

Yeas: Barone, Betts, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, Taddiken.

Nays: Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Huelskamp, Jordan, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Present and Passing: Emler, Journey.

The motion failed and the amendment was rejected.

Senator Betts moved to amend **SB 246**, as amended by Senate Committee, on page 12, in line 5, following the semicolon by inserting “and”; by striking all in lines 6 and 7; in line 8, by striking all preceding “mul-”

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

On roll call, the vote was: Yeas 10, Nays 28, Present and Passing 2, Absent or Not Voting 0.

Yeas: Barone, Betts, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, Steineger.

Nays: Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Huelskamp, Jordan, Journey, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Present and Passing: Emler, O'Connor.

The motion failed and the amendment was rejected.

Senator Goodwin moved to amend **SB 246**, as amended by Senate Committee, on page 2, in line 7, by striking all following “(11)”; by striking all in lines 8, 9 and 10; in line 11, by striking all preceding “multiply”; in line 12, by striking “92%” and inserting “100%”

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

On roll call, the vote was: Yeas 11, Nays 26, Present and Passing 3, Absent or Not Voting 0.

Yeas: Barone, Betts, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, Steineger, Wysong.

Nays: Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Huelskamp, Jordan, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson.

Present and Passing: Emler, Journey, O'Connor.

The motion failed and the amendment was rejected.

The Committee rose and reported progress on **SB 246**, as amended in Committee of the Whole. Further consideration will resume in Committee of the Whole, Thursday, March 3, 2005.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, March 3, 2005.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

