

Journal of the House

FIFTIETH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, March 21, 2006, 10:30 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 124 members present.
Rep. M. Miller was excused on excused absence by the Speaker.
Present later: Rep. M. Miller.

Prayer by guest chaplain, the Rev. Mike Kuner, interim pastor, First Presbyterian Church, Topeka:

Lord of all creation, you are our refuge and our strength, and without you we can do nothing.

Unless you strengthen us:

We cannot bear our burdens; we cannot face our responsibilities; we cannot stand the strains and the tensions of life.

Unless you guide us:

We cannot make the right decisions; we cannot find the right way; we cannot bring life in safety to its journey's end.

God, you are the Holy One and the source of all goodness and without you we cannot live life as you call us to live it.

Unless you cleanse us:

We cannot overcome all that distracts us from doing your will taught by your prophets; we cannot live consistently in accord with your precepts of loving mercy, doing justly and serving those in need.

Lord of all, help us to bend our will and our pride to you and your ways, so that you might be Lord of all areas of life. Enable us to live this life in joy as your people called to serve the great State of Kansas.

We pray in your great name, O Lord, our Rock and our Redeemer. Amen.

The Pledge of Allegiance was led by Rep. Freeborn.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Thull are spread upon the journal:

I regret to say that none of the young ladies behind me is my daughter. They all possess the qualities we like to see in our children. Not only are they fine athletes, they are model citizens and excellent students. Their average GPA is 3.5.

I'd like to introduce the team members and the honors they have received:

Amanda Hiebert, 1st Team All Ark Valley Chisholm Trail League, 5A All-State Honorable Mention; Amber Vogts, 2nd Team All Ark Valley Chisholm Trail League, signed with John Brown University; Talia Clark; Sissy Robb; Janelle Briar; Lindsay Vannaman; Sarah Hodges Has not committed, but is looking at two schools to play basketball or softball or both; Sarah Charlsen, 2nd Team All Ark Valley Chisholm Trail League; Chelsea Harris, Honorable Mention Ark Valley Chisholm Trail League; Erin Runge, Signed with Tabor College, 2nd Team All Ark Valley Chisholm Trail League, Honorable Mention All-State 5A; Camri Zweisler, Selected Top 50 Sophomore Volleyball players in nation; Janae Voelker, Signed with

Oral Roberts University, State medalist in 4 sports, Basketball, Track, Volleyball, and Soccer, Unanimous Selection for Most Valuable Player in the Ark Valley Chisholm Trail League, 1st Team All Ark Valley Chisholm Trail League, Wichita Eagle Metro Team, 1st Team All-State 5A, All-State Selection for All Classes. Janae may be the best female athlete in Newton High School history.

Team Managers; Elizabeth Tiezen, Sarah Dudte, Sara Entz, Sara Vogt

Coaches; Head Coach Randy Jordan, Wichita Eagle Coach of the Year, Junior Varsity/Assistant Coach, Brian Huxman, Freshman/Assistant Coach, Chad Wahlgren, Assistant Coach, Matt Flaming.

The Lady Railers won the Ark Valley Chisholm Trail League Div. II with a 10-0 record. Their season record of 23-2 culminated in winning the 5A State Championship here in Topeka over top ranked Thomas Aquinas High School. These ladies made school history by winning the schools first state championship in girl's basketball.

Ladies and gentlemen please join me in congratulating the 5A State Basketball Champions, the Newton Lady Railers.

MESSAGE FROM THE GOVERNOR

HB 2485, HB 2562, HB 2574, HB 2607, HB 2665, HB 2704 approved on March 20, 2006.

MESSAGE FROM THE SENATE

The Senate accedes to the request of the House for a conference on **HB 2104** 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 2786** and has appointed Senators Umbarger, Emler and Barone as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2833** and has appointed Senators Taddiken, Pine and Francisco as conferees on the part of the Senate.

CONSENT CALENDAR

Objection was made to **SB 417** appearing on the Consent Calendar; the bill was placed on the calendar under the heading of General Orders.

No objection was made to **SB 510** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2966** appearing on the Consent Calendar for the second day.

No objection was made to **SB 394, SB 470, SB 558** appearing on the Consent Calendar for the third day. The bills were advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 394, An act concerning the rules and regulations filing act; pertaining to the approval of rules and regulations for publication; amending K.S.A. 77-424 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, 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, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Master-son, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.
Present but not voting: None.
Absent or not voting: M. Miller.
The bill passed.

SB 470, An act concerning the behavioral sciences; relating to temporary licenses; amending K.S.A. 65-5804a, 65-6405, 74-5366 and 74-5367 and K.S.A. 2005 Supp. 65-6309 and repealing the existing sections; also repealing K.S.A. 65-5805, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, 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, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Master-son, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.
Present but not voting: None.
Absent or not voting: M. Miller.
The bill passed.

SB 558, An act concerning liens and encumbrances on vehicles; relating to the release thereof; establishing civil administrative penalties; amending K.S.A. 2005 Supp. 8-135 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, 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, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Master-son, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.
Present but not voting: None.
Absent or not voting: M. Miller.
The bill passed.

HB 2532, An act concerning professional corporations; amending K.S.A. 2004 Supp. 17-2710 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, 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, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: M. Miller.

The bill passed, as amended.

HB 2967. An act concerning the Kansas national guard; relating to periods of state active duty; cost of certain health insurance; amending K.S.A. 2005 Supp. 79-32,213 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, 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, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: M. Miller.

The bill passed.

HB 2977. An act concerning the state fire marshal; relating to fire prevention and education opportunities for certain persons, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 3; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, 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, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Kuether, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: Kirk, Landwehr, Pilcher-Cook.

Present but not voting: None.

Absent or not voting: M. Miller.

The bill passed.

HB 3005. An act establishing the veterinary training program for rural Kansas; prescribing guidelines and limitations therefor; authorizing certain loans and agreements thereunder, was considered on final action.

On roll call, the vote was: Yeas 92; Nays 32; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Bethell, Brown, Brunk, Burgess, Carlin, Carlson, Colloton, Cox, Craft, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faust-Goudeau, Feuerborn, Flora, Freeborn, George, Goico, Gordon, Grange, Hawk, Hayzlett, Henry, Hill, C. Holmes, M. Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Knox, Krehbiel, Light, Loganbill, Loyd, Mast, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Powers, Proehl, Roth, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Svaty, Swenson, Tafanelli, Vickrey, Watkins, Weber, Wilk, Williams, Wolf, Yoder, Yonally.

Nays: Beamer, Burroughs, Carter, Crow, Faber, Flaharty, Garcia, Gatewood, Grant, Henderson, Holland, Huebert, Huy, Kinzer, Kirk, Kuether, Landwehr, Lane, Long, Lukert, Mah, Masterson, Menghini, Pilcher-Cook, Ruff, Ruiz, Storm, Thull, Treaster, Trimmer, Ward, Winn.

Present but not voting: None.

Absent or not voting: M. Miller.

The bill passed, as amended.

SB 139. An act establishing the Kansas academy of mathematics and science, was considered on final action.

On roll call, the vote was: Yeas 76; Nays 48; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Craft, Dahl, Decker, Dillmore, Edmonds, Freeborn, George, Goico, Grange, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Light, Loyd, Mast, Masterson, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, O'Malley, O'Neal, Oharah, Olson, Owens, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Tafanelli, Treaster, Vickrey, Watkins, Weber, Wilk, Williams, Wolf, Yoder, Yonally.

Nays: Ballard, Beamer, Burroughs, Carlin, Crow, Davis, DeCastro, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Gordon, Grant, Hawk, Hayzlett, Henderson, Henry, Holland, Hutchins, Huy, Kirk, Kuether, Landwehr, Lane, Loganbill, Long, Lukert, Mah, McKinney, Menghini, Neufeld, Otto, Pauls, Peck, Peterson, Phelps, Ruff, Ruiz, Sawyer, Svaty, Swenson, Thull, Trimmer, Ward, Winn.

Present but not voting: None.

Absent or not voting: M. Miller.

The bill passed, as amended.

SB 375. An act concerning state agencies and employees; relating to certain employee benefits; amending K.S.A. 44-576 and 75-5543 and K.S.A. 2005 Supp. 74-4902, 74-4925 and 74-4927 and repealing the existing sections; also repealing K.S.A. 2005 Supp. 74-4925h, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, 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, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, Jim Morrison,

Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: M. Miller.

The bill passed, as amended.

SB 459. An act concerning wildlife and parks; relating to the issuance of licenses; concerning the Kansas wildlife and parks commission; also relating to state park no. 24; amending K.S.A. 32-805 and K.S.A. 2005 Supp. 32-837, 32-930 and 32-988 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 113; Nays 11; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Dahl, Davis, DeCastro, Decker, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: Crow, Edmonds, Faber, Flora, Freeborn, Humerickhouse, Kirk, Kuether, Lane, Sloan, Watkins.

Present but not voting: None.

Absent or not voting: M. Miller.

The bill passed, as amended.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. O'Neal, the House nonconcurred in Senate amendments to **HB 2554** and asked for a conference.

Speaker Mays thereupon appointed Reps. O'Neal, Kinzer and Pauls as conferees on the part of the House.

On motion of Rep. O'Neal, the House concurred in Senate amendments to **HB 2616**. An act concerning criminal procedure; relating to preliminary examinations; amending K.S.A. 2005 Supp. 22-2902 and repealing the existing section.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, 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, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.
 Present but not voting: None.
 Absent or not voting: M. Miller.

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

COMMITTEE OF THE WHOLE

On motion of Rep. Dahl, Committee of the Whole report, as follows, was adopted:
 Recommended that **HB 2912; SB 330, SB 371, SB 550** be passed.

Committee report recommending a substitute bill to **Sub. HB 2245** be adopted; and the substitute bill be passed.

Committee report to **SB 553** be adopted; also, on motion of Rep. Schwartz to amend, Rep. Thull requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. The question then reverted back to the motion of Rep. Schwartz and the bill be amended on page 1, in line 21, preceding "Section" by inserting "New";

On page 2, in line 10, preceding "Sec." by inserting "New";

On page 3, in line 2, preceding "Sec." by inserting "New";

On page 4, following line 31, by inserting the following to read as follows:

"New Sec. 5. (a) Notwithstanding the provisions of subsection (f) of K.S.A. 32-807, and amendments thereto, or any other provisions of law to the contrary, the secretary of wildlife and parks shall not acquire any land unless:

(1) The secretary of wildlife and parks has certified that the land proposed to be acquired is in compliance with the provisions of article 13 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, concerning control and management of noxious weeds after consultation with the county weed supervisor and has developed a written plan for controlling and managing noxious weeds on the land to be acquired;

(2) the secretary of wildlife and parks shall agree to make payment of moneys in lieu of taxes comparable to the ad valorem tax payments of surrounding lands for any land acquired which is exempt from the payment of ad valorem taxes under the laws of the state of Kansas; and

(3) the secretary of wildlife and parks has developed a management plan for the property proposed to be acquired, including five-year cost estimates for annual operating expenditures, capital improvement expenditures and staffing requirements.

(b) In addition to the requirements prescribed by this section and otherwise by law, any proposed acquisition of a tract or tracts of land which are greater than 480 acres in the aggregate shall be subject to approval by act of the legislature, either as a provision in an appropriation act pertaining to the specific property to be acquired or by any other act of the legislature that approves the acquisition of the specific property proposed to be acquired.

(c) In addition to the requirements prescribed by this section and otherwise by law, the proposed acquisition of a tract or tracts of land which are greater than 480 acres in the aggregate may be subject to a protest petition. The governing body of a city or county where the majority of the land is located shall be required to submit the question of whether the secretary of wildlife and parks may acquire such land over 480 acres upon submission of a petition signed by electors of such city or county equal in number to not less than 5% of the electors of such city or county who voted at the last general election prior to the submission of the petition. If a majority of the electors voting thereon at such election fail to approve the proposition then the secretary of wildlife and parks shall not acquire such land. The sufficiency of the number of signers of any petition filed under this section shall be determined by the county election officer.

(d) Notwithstanding the provisions of subsection (f) of K.S.A. 32-807, and amendments thereto, or any other provisions of law to the contrary, the secretary of wildlife and parks shall not dispose of any land unless:

(1) The secretary first offers to donate or sell such land to the board of county commissioners of the county within which the land is located. Such offer shall be in writing and provide the board of county commissioners 30 days from receipt thereof to advise the

secretary, in writing, if the board wants to accept the donation or enter into negotiations to purchase the land;

(2) if the board of county commissioners refuses to accept the donation, refuses to enter into negotiations to purchase the land, or refuses to advise the secretary of the board's intent within 30 days as described above, the secretary must make the land available for sale to the general public at a public auction. Such sale shall not be a private sale, must be open to public bids and the sale conditions must provide, at a minimum:

(i) Notice of the secretary's intent to sell the land must be published in a newspaper of general circulation in the county wherein the land is located once a week for three consecutive weeks; and

(ii) such notice shall invite members of the public to bid at a public auction; and

(iii) the secretary shall establish by administrative regulation additional sale procedures calculated to promote notice to and participation by, members of the general public.

Sec. 6. K.S.A. 32-844 is hereby amended to read as follows: 32-844. (a) The secretary of wildlife and parks shall submit a report to the legislature at the beginning of each regular session detailing all real estate transactions which are proposed or agreements which have been entered into between the department of wildlife and parks and any other party, other than another state agency, which relate to any acquisition of any real estate, or interest in real estate, by the department of wildlife and parks or any such contracting party.

(b) (1) With regard to executed agreements, the report required by this section shall include for each such acquisition to be reported: (A) The legal description of the real estate or interest acquired; (B) the purchase price; (C) if appropriation of state moneys is required for the acquisition, the appraised value of the real estate or interest acquired; ~~and~~ (D) if the real estate or interest therein will remain subject to ad valorem property taxation; *and (E) the disposition of such real estate.*

(2) With regard to proposed real estate transactions, the report required by this section shall include for each such proposed transaction to be reported: (A) The legal description of the real estate or interest acquired; (B) if appropriation of state moneys is required for the proposed transaction, the appraised value of the real estate or interest proposed to be acquired; and (C) if the real estate or interest therein will remain subject to ad valorem property taxation.

(c) The reporting requirements of this section shall not apply to real estate or interest therein acquired under the wildtrust program until such time as the deeds are filed for record.

(d) Agreements which have been entered into and are required to be reported pursuant to this section shall be published in the Kansas register within 30 days of the execution of any such agreement.”;

By renumbering the remaining sections accordingly;

Also on page 4, in line 32, preceding “K.S.A.” by inserting “K.S.A. 32-844 and”; also in line 32, by striking “is” and inserting “are”;

On page 1, in the title, in line 10, by striking “conveyance” and inserting “acquisition and conveyance by state agencies; prescribing certain procedures for acquisition by the department of wildlife and parks”; in line 17, preceding “K.S.A.” by inserting “K.S.A. 32-844 and”; in line 18, by striking “section” and inserting “sections”; and **SB 553** be passed as amended.

On motion of Rep. Weber to amend **Sub. SB 264**, the motion did not prevail, and the substitute bill be passed.

Committee report to **SB 411** be adopted; and the bill be passed as amended.

On motion of Rep. S. Sharp, **SB 432** be amended on page 2, after line 19, by inserting the following:

“Sec. 2. K.S.A. 40-3104 is hereby amended to read as follows: 40-3104. (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included

under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of this act.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall attach a copy of the insurance verification form prescribed by the secretary of revenue to the copy of the citation forwarded to the court.

No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c) or (d) shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge of violating subsection (b), (c) or (d) shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

(f) Any person in whose name more than 25 motor vehicles are registered in Kansas may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner

of insurance. The certificate of self-insurance issued by the commissioner shall cover such owned vehicles and those vehicles, registered in Kansas, leased to such person if the lease agreement requires that motor vehicle liability insurance on the vehicles be provided by the lessee. Upon application of any such person, the commissioner of insurance may issue a certificate of self-insurance, if the commissioner is satisfied that such person is possessed and will continue to be possessed of ability to pay any liability imposed by law against such person arising out of the ownership, operation, maintenance or use of any motor vehicle described in this subsection. A self-insurer shall provide liability coverage subject to the provisions of subsection (e) of K.S.A. 40-3107, and amendments thereto, arising out of the ownership, operation, maintenance or use of a self-insured motor vehicle in those instances where the lessee or the rental driver, if not the lessee, does not have a motor vehicle liability insurance policy or insurance coverage pursuant to a motor vehicle liability insurance policy or certificate of insurance or such insurance policy for such leased or rented vehicle. Such liability coverage shall be provided to any person operating a self-insured motor vehicle with the expressed or implied consent of the self-insurer.

Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds. Failure to provide liability coverage or personal injury protection benefits required by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any liability imposed by law arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, or to otherwise comply with the requirements of this subsection shall constitute reasonable grounds for the cancellation of a certificate of self-insurance. Reasonable grounds shall not exist unless such objectionable activity occurs with such frequency as to indicate a general business practice.

Self-insureds shall investigate claims in a reasonably prompt manner, handle such claims in a reasonable manner based on available information and effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear.

As used in this subsection, "liability imposed by law" means the stated limits of liability as provided under subsection (e) of K.S.A. 40-3107, and amendments thereto.

Nothing in this subsection shall preclude a self-insurer from pursuing all rights of subrogation against another person or persons.

(g) (1) Any person violating any provision of this section shall be guilty of a class B misdemeanor and shall be subject to a fine of not less than \$300 nor more than \$1,000 or confinement in the county jail for a term of not more than six months, or both such fine and confinement.

(2) Any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a class A misdemeanor and shall be subject to a fine of not less than \$800 nor more than \$2,500.

(h) In addition to any other penalties provided by this act for failure to have or maintain financial security in effect, the director, upon receipt of a report required by K.S.A. 8-1607 or 8-1611, and amendments thereto, or a denial of such insurance by the insurance company listed on the form prescribed by the secretary of revenue pursuant to subsection (d) of this section, shall, upon notice and hearing as provided by K.S.A. 40-3118, and amendments thereto:

(1) Suspend:

(A) The license of each driver in any manner involved in the accident;

(B) the license of the owner of each motor vehicle involved in such accident, unless the vehicle was stolen at the time of the accident, proof of which must be established by the owner of the motor vehicle. Theft by a member of the vehicle owner's immediate family under the age of 18 years shall not constitute a stolen vehicle for the purposes of this section;

(C) if the driver is a nonresident, the privilege of operating a motor vehicle within this state; or

(D) if such owner is a nonresident, the privilege of such owner to operate or permit the operation within this state of any motor vehicle owned by such owner; and

(2) revoke the registration of all vehicles owned by the owner of each motor vehicle involved in such accident.

(i) The suspension or revocation requirements in subsection (h) shall not apply:

(1) To the driver or owner if the owner had in effect at the time of the accident an automobile liability policy as required by K.S.A. 40-3107, and amendments thereto, with respect to the vehicle involved in the accident;

(2) to the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy with respect to such driver's driving of vehicles not owned by such driver;

(3) to any self-insurer as defined by subsection (u) of K.S.A. 40-3103, and amendments thereto;

(4) to the driver or owner of any vehicle involved in the accident which was exempt from the provisions of this act pursuant to K.S.A. 40-3105, and amendments thereto;

(5) to the owner of a vehicle described in subsection (a)(2).

(j) (1) For the purposes of provisions (1) and (2) of subsection (i) of this section, the director may require verification by an owner's or driver's insurance company or agent thereof that there was in effect at the time of the accident an automobile liability policy as required in this act.

Any suspension or revocation effected hereunder shall remain in effect until satisfactory proof of financial security has been filed with the director as required by subsection (d) of K.S.A. 40-3118, and amendments thereto, and such person has been released from liability or is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action, has entered into an agreement for the payment of damages, or has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director and has paid the reinstatement fee herein prescribed. Such reinstatement fee shall be \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be ~~\$300~~.

(2) *Subject to the provisions of subsection (k), any suspension or revocation effected hereunder shall remain in effect until such person:*

(A) *Has filed satisfactory proof of financial security with the director as required by subsection (d) of K.S.A. 40-3118 and amendments thereto;*

(B) *has paid the reinstatement fee herein prescribed; and*

(C) *(i) has been released from liability;*

(ii) is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action;

(iii) has entered into an agreement for the payment of damages; or

(iv) has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director.

(3) *The reinstatement fee shall be \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be \$300.*

(k) (1) *Whenever any person whose license has been suspended or revoked pursuant to this section is involved in an accident and has entered into an agreement with any driver, or such driver's insurer, who has been damaged or whose vehicle has been damaged to pay for such damage and such person defaults on payments under such agreement, the driver or the driver's insurer, as appropriate, shall notify the director within 60 days of the date of default.*

(2) *Upon receipt of the notice of default, the director shall immediately suspend such person's license and registration. If such person is a nonresident, the director shall immediately suspend such person's nonresident's privilege to operate a motor vehicle in this state.*

(3) *Except as provided in paragraph (4), such person's driver's license, registration and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until:*

(A) *the director receives notice payments under the agreement referred to in paragraph (1) have been resumed and that payments under such agreement are no longer in default;*

(B) *such person has filed satisfactory proof of financial responsibility with the director as required by subsection(d) of K.S.A. 40-3118 and amendments thereto; and*

(C) the reinstatement fee required by subsection (j) has been paid.

(4) Upon due notice to the director that the conditions of paragraph (3) have been fulfilled, such person may obtain from the director an order restoring such person's driver's license, registration and nonresident's operating privilege to operate a motor vehicle in this state conditioned upon such person's continued compliance with the agreement referred to in paragraph (1).

(5) In the event such person fails to make any further payment under the agreement referred to in paragraph (1) when such payment is due, the director, upon receipt of notice of such default, shall immediately suspend the license, registration or nonresident's operating privilege of such person until all payments have been made under the agreement referred to in paragraph (1). No suspension of such person's license, registration or nonresident's privilege to operate a motor vehicle in this state shall be reinstated pursuant to paragraph (4).

~~(l)~~ (l) The provisions of this section shall not apply to motor carriers of property or passengers regulated by the corporation commission of the state of Kansas.

~~(m)~~ (m) The provisions of subsection (d) shall not apply to vehicle dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being offered for sale by such dealers.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 20, by striking “is” and inserting “and 40-3104 are”;

In the title, in line 10, before “amending” by inserting “relating to suspension of drivers’ licenses for nonpayment of damages;”; also in line 10, after “8-2117” by inserting “and K.S.A. 40-3104”; also in line 10, by striking “section” and inserting “sections”; and **SB 432** be passed as amended.

On motion of Rep. Beamer, **Sub. SB 253** be amended on page 17, preceding line 4, by inserting:

“New Sec. 10. (a) As used in this section:

(1) “Adult cabaret” means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

(A) Persons who appear in a state of nudity or semi-nudity;

(B) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(C) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;

(2) “nudity” or a “state of nudity” means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered male genitals in a discernibly turgid state;

(3) “semi-nudity” means a state of dress in which opaque clothing fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva, nipple and areola of the female breast below a horizontal line across the top of the areola at its highest point. Semi-nudity shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by wearing apparel provided the areola is not exposed in whole or part;

(4) “sexually-oriented business” means any business which offers its patrons goods of which a substantial portion are sexually-oriented materials. Any business where more than 10% of display space is used for sexually-oriented materials shall be presumed to be a sexually-oriented business;

(5) “sexually-oriented materials” means any textual, pictorial or three dimensional material that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors;

(6) “sign” or “outdoor advertising” means any outdoor sign, display, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is located within an adjacent area, and is visible from the state highway.

(b) No sign or other outdoor advertising, for an adult cabaret or sexually-oriented business shall be located within one mile of any state highway except if such business is located within one mile of a state highway then the business may display a maximum of two exterior signs on the premises of the business, consisting of one identification sign and one sign solely giving notice that the premises are off limits to minors. The identification sign shall be no more than 40 square feet in size and shall include no more than the following information: Name, street address, telephone number and operating hours of the business.

(c) Signs existing at the time of the effective date of this act, which did not conform to the requirements of this section, and amendments thereto, may be allowed to continue as a nonconforming use, but should be made to conform within three years from July 1, 2006.

(d) Any owner of such a business who violates the provisions of this section shall be guilty of a class C misdemeanor. Each week a violation of this section continues to exist shall constitute a separate offense.

(e) This section is designed to protect the following public policy interests of this state, including, but not limited to:

(1) To mitigate the adverse secondary effects of sexually-oriented businesses; (2) to improve traffic safety; (3) to limit harm to minors; and (4) to reduce prostitution, crime, juvenile delinquency, deterioration in property values and lethargy in neighborhood improvement efforts.

(f) The attorney general shall represent the state in all actions and proceedings arising from this section, and amendments thereto. All costs incurred by the attorney general to defend or prosecute this section, including payment of all court costs, civil judgments and, if necessary, any attorneys fees, shall be paid from the state general fund.”;

By renumbering the remaining sections accordingly;

In the title, in line 9, following “ACT” by inserting “concerning signs;”; in line 10, preceding “amending” by inserting “restricting location of sexually-oriented signs;”;

Also, on motion of Rep. Hayzlett, **Sub. SB 253** be amended on page 1, in line 18, following “adjacent” by inserting “to”; and the substitute bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SCR 1624** be amended on page 1, in line 29, by striking “; and”; by striking all in lines 30 through 40; in line 41, by striking all before the colon;

On page 2, in line 2, by striking all before the semicolon and inserting “continued, mutually beneficial trade between Taiwan and the United States”;

On page 1, in the title, in line 9, by striking “a Taiwan-United States”; in line 10, by striking “free trade agreement” and inserting “continued, mutually beneficial trade between Taiwan and the United States”; and the concurrent resolution be adopted as amended.

Committee on **Appropriations** recommends **HB 2978** be passed.

Committee on **Appropriations** recommends **SB 475** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 475,” as follows:

“HOUSE Substitute for SENATE BILL No. 475

By Committee on Appropriations

“AN ACT concerning economic development; creating the state affordable airfare fund to support certain programs; providing for certain studies and reports.”; and the substitute bill be passed.

(**H. Sub. for SB 475** was thereupon introduced and read by title.)

Committee on **Appropriations** recommends **SB 503** be amended on page 2, after line 9, by inserting the following:

“Sec. 2. (a) The Kansas water office shall place a stream gauge on the Smoky Hill river at a latitude of 38°, 47' and 57" and a longitude of 99°, 41' and 30" or as near as practical as determined by the United States geological survey, below the dam on Cedar Bluff reservoir to monitor the amount of water leaking from the dam.

(b) The Kansas water office shall use the stream gauge measurements of water leakage from the dam to calculate the amount of water in the artificial recharge pool annually by adding the amount of water leakage to the total amount of water released from Cedar Bluff

reservoir and by subtracting the amount of water leakage from the amount of water in the artificial recharge pool.”;

And by renumbering the remaining section accordingly;

In the title, in line 9, after “concerning” by inserting “water; relating to”; in line 10, before the period by inserting “; concerning Cedar Bluff reservoir”; and the bill be passed as amended.

Committee on **Appropriations** recommends **SB 574** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 574,” as follows:

“HOUSE Substitute for SENATE BILL No. 574

By Committee on Appropriations

“AN ACT concerning adult care home administrators; amending K.S.A. 2005 Supp. 65-3506 and 65-3508 and repealing the existing sections.”; and the substitute bill be passed.

(**H. Sub. for SB 574** was thereupon introduced and read by title.)

Committee on **Federal and State Affairs** recommends **HCR 5025** be adopted.

Committee on **Federal and State Affairs** recommends **SB 421** be amended on page 2, in line 7, by striking “feet” and inserting “yards”; in line 11, by striking all after the stricken material; in line 12, by striking all before the semicolon; and the bill be passed as amended.

Committee on **Financial Institutions** recommends **SB 196** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 196,” as follows:

“HOUSE Substitute for SENATE BILL No. 196

By Committee on Financial Institutions

“AN ACT concerning protection of certain personal information; restricting disclosure or use of certain information; prohibiting certain acts and providing penalties and remedies for violations; amending K.S.A. 50-702, 60-4104 and 60-4105 and K.S.A. 2005 Supp. 21-4018 and 21-4603d and repealing the existing sections.”; and the substitute bill be passed.

(**H. Sub. for SB 196** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **SB 361**, **SB 407** be passed.

Committee on **Judiciary** recommends **HB 2819** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Judiciary** recommends **SB 352** be amended on page 2, in line 1, by striking all after “2006”; in line 2, by striking all preceding the period; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 366** be amended on page 3, in line 13, by striking “offenders” and inserting “participants in the criminal conduct.”; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2723** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2723,” as follows:

”Substitute for HOUSE BILL No. 2723

By Committee on Taxation

“AN ACT concerning income taxation; relating to credits and deductions; energy efficiency expenditures.”; and the substitute bill be passed.

(Having been referred separately, **Sub. HB 2723** is now in Committee on **Utilities**.)

Committee on **Taxation** recommends **HB 2901** be amended on page 1, in line 18, by striking all after “(a)”; by striking all in lines 19 and 20; in line 21, by striking “(b)”; in line 22, by striking “Internal Revenue Code” and inserting “federal internal revenue code”; in line 26, by striking “(c)” and inserting “(b)”; in line 27, by striking “crude oil” and inserting “qualifying”; in line 28, by striking “crude oil” and inserting “qualifying”; also in line 28, by striking “, for: (1) Real” and inserting “for real”; in line 30, by striking all after “line”; by striking all in line 31; in line 32, by striking all before the period; after line 32, by inserting the following subsection:

“(c) “Qualifying pipeline” means a pipeline which is located in this state, is used primarily for transportation of crude oil or natural gas liquids and has a length of more than 190 miles in this state and to which refineries or natural gas liquid processing facilities in this state have access.”;

Also on page 1, in line 38, by striking “(c)” and inserting “(b)”; also in line 38, after the period, by inserting “Expenditures used to qualify for this credit shall not be used to qualify

for any other type of Kansas income tax credit.”; in line 39, by striking “Subject to the provisions of subsection (c), the” and inserting “The”; in line 43, after the period, by inserting “Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the taxpayer places into service the qualifying pipeline or the expansion of a qualifying pipeline.”;

On page 2, in line 1, by striking all after “(c)””; by striking all in lines 2 through 9; in line 10, by striking “(d)””; in line 16, by striking “: (1) No” and inserting “no”; in line 18, by striking all after “allowed””; by striking all in line 19; in line 20, by striking all before the period; in line 21, by striking “(e)(1)” and inserting “(d)(1)””; also in line 21, by striking “may” and inserting “shall””; in line 29, by striking “crude oil” and inserting “qualifying””; in line 36, by striking “(e)(1)” and inserting “(d)(1)””; in line 39, after the period, by inserting “Such agreement shall include, but not be limited to, operation of the qualifying pipeline during the tax years when any installments of tax credits are claimed by the taxpayer.”; in line 41, after the period, by inserting “If the secretary determines that the taxpayer is not in compliance with the agreement, the secretary shall notify the taxpayer and the secretary of revenue of such determination of noncompliance, and any tax credits claimed pursuant to this section for any tax year shall be forfeited.”; in line 43, by striking “(e)””;

On page 3, in line 1, after “by” by inserting “or transferred to””; in line 5, by striking “: (1) The” and inserting “the””; in line 8, by striking all after “entitled””; by striking all in lines 9 through 12; in line 13, by striking all before the period; in line 14, by striking “crude oil” and inserting “qualifying””; in line 19, by striking all after “(c)””; by striking all in lines 20 through 24; in line 25, by striking all before the period and inserting “Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the entity places into service the qualifying pipeline or the expansion of a qualifying pipeline.”; in line 32, by striking “: (1) No” and inserting “no””; in line 35, by striking all after “lowed””; in line 36, by striking all before the period; in line 40, by striking “certificate of com-””; in line 41, by striking all before “section” and inserting “agreement for a tax credit entered into with the secretary of commerce pursuant to””;

On page 4, in lines 4 and 5, by striking “crude oil” and inserting “qualifying””; in line 20, by striking all after “(1)””; by striking all in line 21; in line 22, by striking “(2)””; also in line 22, by striking “crude oil” and inserting “qualifying””; in line 24, by striking “crude oil” and inserting “qualifying””; in line 25, by striking “(3)” and inserting “(2)””; also in line 25, by striking “crude oil” in both places where it appears and inserting “qualifying” in both such places; after line 26, by inserting the following subsection:

“(3) “Qualifying pipeline” has the meaning provided by section 1, and amendments thereto.”;

On page 6, in line 18, by striking “deductions claimed for””;

On page 11, in lines 16 and 17, by striking “crude oil” and inserting “qualifying””; in line 25, by striking all after “(1)””; by striking all in line 26; in line 27, by striking “(2)””; also in line 27, by striking “crude oil” and inserting “qualifying””; in line 29, by striking “crude oil” and inserting “qualifying””; in line 30, by striking all after “2005””; by striking all in line 31; in line 32, by striking all before the period; in line 33, by striking “(3)” and inserting “(2)””; also in line 33, by striking “crude oil” and inserting “qualifying””; in line 34, by striking “crude oil” and inserting “qualifying””; in line 35, by striking “(4)” and inserting “(3)””; also in line 35, by striking “crude oil” and inserting “qualifying””; in line 37, by striking “crude oil” and inserting “qualifying””; in line 38, by striking all after “2005””; by striking all in line 39; in line 40, by striking all before the period; after line 40, by inserting the following new subsection:

“(4) “Qualifying pipeline” has the meaning provided by section 1, and amendments thereto.”;

Also on page 11, in line 42, by striking “crude oil” in both places where it appears and inserting “qualifying” in both such places;

On page 12, in line 11, by striking “crude oil” and inserting “qualifying””; in line 27, by striking all after “(1)””; by striking all in line 28; in line 29, by striking “(2)””; also in line 29, by striking “crude oil” and inserting “qualifying””; in line 30, by striking “crude””; in line 31, by striking “oil” and inserting “qualifying””; in line 32, by striking “(3)” and inserting “(2)””;

also in line 32, by striking “crude oil” in both places where it appears and inserting “qualifying” in both such places; after line 33, by inserting the following subsection:

“(3) “Qualifying pipeline” has the meaning provided by section 1, and amendments thereto.”; and the bill be passed as amended.

(Having been referred separately, **HB 2901** is now in Committee on **Utilities**.)

Committee on **Taxation** recommends **HB 2902** be amended on page 1, in line 26, by striking “Internal Revenue Code” and inserting “federal internal revenue code”; in line 33, by striking “10%” and inserting “20%”; also in line 33, by striking “, for: (1)”; in line 34, by striking “Real” and inserting “for real”; in line 35, by striking all after “plant”; by striking all in line 36; in line 37, by striking “plant”; in line 43, by striking “(c)” and inserting “(b)”; also in line 43, after the period by inserting “Expenditures used to qualify for this credit shall not be used to qualify for any other type of Kansas income tax credit.”;

On page 2, in line 1, by striking “Subject to the provisions of subsection (c), the” and inserting “The”; in line 5, after the period, by inserting “Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the taxpayer places into service the integrated coal or coke gasification nitrogen fertilizer plant or the expansion of an existing integrated coal or coke nitrogen fertilizer plant.”; in line 6, by striking all after “(c)”; by striking all in lines 7 through 30; in line 31, by striking “(d)”; in line 37, by striking “: (1) No” and inserting “no”; in line 39, by striking all after “allowed”; by striking all in line 40; in line 41, by striking all before the period; in line 42, by striking “(e)(1)” and inserting “(d)(1)”; also in line 42, by striking “may” and inserting “shall”;

On page 3, in line 14, by striking “power” and inserting “nitrogen fertilizer”; in line 19, by striking “(e)(1)” and inserting “(d)(1)”; in line 22, after the period by inserting “Such determination of compliance shall include, but not be limited to, operation of the integrated coal or coke gasification nitrogen fertilizer plant during the tax years when any installments of tax credits are claimed by the taxpayer.”; in line 24, after the period, by inserting “If the secretary determines that the taxpayer is not in compliance with the agreement, the secretary shall notify the taxpayer and the secretary of revenue of such determination of noncompliance, and any tax credits claimed pursuant to this section for any tax year shall be forfeited.”; in line 26, by striking “(e)”; in line 27, after “by” by inserting “or transferred to”; in line 31, by striking “: (1) The” and inserting “the”; in line 34, by striking “if the”; by striking all in lines 35 through 38; in line 39, by striking all before the period;

On page 4, in line 3, by striking all after “(c)”; by striking all in lines 4 through 27 and inserting “Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the entity places into service the coal or coke gasification nitrogen fertilizer plant or the expansion of the coal or coke gasification nitrogen fertilizer plant.”; in line 34, by striking “: (1) No” and inserting “no”; in line 37, by striking all after “lowed”; in line 38, by striking all before the period; in line 42, by striking “certificate of com-”; in line 43, by striking all before “section” and inserting “agreement for a tax credit entered into with the secretary of commerce pursuant to”;

On page 5, in line 24, by striking “, construction of”; in line 26, by striking “10%” and inserting “20%”;

On page 7, in line 23, by striking “deductions claimed for”;

On page 12, in line 35, by striking all after “2005”; by striking all in line 36; in line 37, by striking all before the period; in line 40, by striking “10%” and inserting “20%”;

On page 13, in line 5, by striking all after “2005”; by striking all in line 6; in line 7, by striking all before the period; in line 41, by striking “10%” and inserting “20%”; and the bill be passed as amended.

(Having been referred separately, **HB 2902** is now in Committee on **Utilities**.)

Committee on **Taxation** recommends **HB 2903** be amended on page 1, in line 21, after “alcohol” by inserting “and coproducts”; in line 23, by striking “Internal Revenue Code” and inserting “federal internal revenue code”; in line 29, by striking “, for: (1)”; in line 30, by striking “Real” and inserting “for real”; in line 31, by striking all after “plant”; by striking all in line 32; in line 33, by striking “plant”; in line 39, by striking “(c)” and inserting “(b)”; also in line 39, after the period, by inserting “Expenditures used to qualify for this credit shall not be used to qualify for any other type of Kansas income tax credit.”; in line 40, by striking “Subject to the provisions of subsection (c), the” and inserting “The”;

On page 2, in line 1, after the period, by inserting "Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the taxpayer places into service the cellulosic alcohol plant or the expansion of an existing cellulosic alcohol plant."; in line 2, by striking all after "(c)"; by striking all in lines 3 through 10; in line 11, by striking "(d)"; in line 17, by striking "(1) No" and inserting "no"; in line 19, by striking all after "allowed"; by striking all in line 20; in line 21, by striking all before the period; in line 22, by striking "(e)(1)" and inserting "(d)(1)"; also in line 22, by striking "may" and inserting "shall"; in line 37, by striking "(e)(1)" and inserting "(d)(1)"; in line 40, after the period, by inserting "Such determination of compliance shall include, but not be limited to, operation of the cellulosic alcohol plant during the tax years when any installments of tax credits are claimed by the taxpayer."; in line 42, after the period, by inserting "If the secretary determines that the taxpayer is not in compliance with the agreement, the secretary shall notify the taxpayer and the secretary of revenue of such determination of noncompliance, and any tax credits claimed pursuant to this section for any tax year shall be forfeited.";

On page 3, in line 1, by striking "(e)"; in line 2, after "by" by inserting "or transferred to"; in line 6, by striking ": (1) The" and inserting "the"; in line 9, by striking all after "entitled"; by striking all in lines 10 through 13; in line 14, by striking all before the period; in line 20, by striking all after "(c)"; by striking all in lines 21 through 26 and inserting "Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the entity places into service the cellulosic alcohol plant or the expansion of the cellulosic alcohol plant."; in line 33, by striking ": (1) No" and inserting "no"; in line 36, by striking all after "lowed"; in line 37, by striking all before the period; in line 41, by striking "certificate of com-"; in line 42, by striking all before "section" and by inserting "agreement for a tax credit entered into with the secretary of commerce pursuant to";

On page 4, in line 23, by striking ", con-"; in line 24, by striking "struction of";

On page 6, in line 19, by striking "deductions claimed for";

On page 11, in line 31, by striking all after "2005"; by striking all in line 32; in line 33, by striking all before the period; in line 40, by striking all after "2005"; by striking all in line 41; in line 42, by striking all before the period; and the bill be passed as amended.

(Having been referred separately, **HB 2903** is now in Committee on **Utilities**.)

Committee on **Taxation** recommends **SB 404** be amended on page 1, after line 15, by inserting the following:

"Section 1. K.S.A. 2005 Supp. 79-3602 is hereby amended to read as follows: 79-3602.

Except as otherwise provided, as used in the Kansas retailers' sales tax act:

(a) "Agent" means a person appointed by a seller to represent the seller before the member states.

(b) "Agreement" means the multistate agreement entitled the streamlined sales and use tax agreement approved by the streamlined sales tax implementing states at Chicago, Illinois on November 12, 2002.

(c) "Alcoholic beverages" means beverages that are suitable for human consumption and contain .05% or more of alcohol by volume.

(d) "Certified automated system (CAS)" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.

(e) "Certified service provider (CSP)" means an agent certified under the agreement to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(f) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(g) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(h) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

(i) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing.

(j) "Direct mail" means printed material delivered or distributed by United States mail or other delivery services to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. Direct mail includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. Direct mail does not include multiple items of printed material delivered to a single address.

(k) "Director" means the state director of taxation.

(l) "Educational institution" means any nonprofit school, college and university that offers education at a level above the twelfth grade, and conducts regular classes and courses of study required for accreditation by, or membership in, the North Central Association of Colleges and Schools, the state board of education, or that otherwise qualify as an "educational institution," as defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall include: (1) A group of educational institutions that operates exclusively for an educational purpose; (2) nonprofit endowment associations and foundations organized and operated exclusively to receive, hold, invest and administer moneys and property as a permanent fund for the support and sole benefit of an educational institution; (3) nonprofit trusts, foundations and other entities organized and operated principally to hold and own receipts from intercollegiate sporting events and to disburse such receipts, as well as grants and gifts, in the interest of collegiate and intercollegiate athletic programs for the support and sole benefit of an educational institution; and (4) nonprofit trusts, foundations and other entities organized and operated for the primary purpose of encouraging, fostering and conducting scholarly investigations and industrial and other types of research for the support and sole benefit of an educational institution.

(m) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(n) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages or tobacco.

(o) "Gross receipts" means the total selling price or the amount received as defined in this act, in money, credits, property or other consideration valued in money from sales at retail within this state; and embraced within the provisions of this act. The taxpayer, may take credit in the report of gross receipts for: (1) An amount equal to the selling price of property returned by the purchaser when the full sale price thereof, including the tax collected, is refunded in cash or by credit; and (2) an amount equal to the allowance given for the trade-in of property.

(p) "Ingredient or component part" means tangible personal property which is necessary or essential to, and which is actually used in and becomes an integral and material part of tangible personal property or services produced, manufactured or compounded for sale by the producer, manufacturer or compounder in its regular course of business. The following items of tangible personal property are hereby declared to be ingredients or component parts, but the listing of such property shall not be deemed to be exclusive nor shall such listing be construed to be a restriction upon, or an indication of, the type or types of property to be included within the definition of "ingredient or component part" as herein set forth:

(1) Containers, labels and shipping cases used in the distribution of property produced, manufactured or compounded for sale which are not to be returned to the producer, manufacturer or compounder for reuse.

(2) Containers, labels, shipping cases, paper bags, drinking straws, paper plates, paper cups, twine and wrapping paper used in the distribution and sale of property taxable under the provisions of this act by wholesalers and retailers and which is not to be returned to such wholesaler or retailer for reuse.

(3) Seeds and seedlings for the production of plants and plant products produced for resale.

(4) Paper and ink used in the publication of newspapers.

(5) Fertilizer used in the production of plants and plant products produced for resale.

(6) Feed for animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber, fur, or the production of offspring for use for any such purpose or purposes.

(q) "Isolated or occasional sale" means the nonrecurring sale of tangible personal property, or services taxable hereunder by a person not engaged at the time of such sale in the business of selling such property or services. Any religious organization which makes a nonrecurring sale of tangible personal property acquired for the purpose of resale shall be deemed to be not engaged at the time of such sale in the business of selling such property. Such term shall include: (1) Any sale by a bank, savings and loan institution, credit union or any finance company licensed under the provisions of the Kansas uniform consumer credit code of tangible personal property which has been repossessed by any such entity; and (2) any sale of tangible personal property made by an auctioneer or agent on behalf of not more than two principals or households if such sale is nonrecurring and any such principal or household is not engaged at the time of such sale in the business of selling tangible personal property.

(r) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(1) Lease or rental does not include: (A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(B) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments; or

(C) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect or set-up the tangible personal property.

(2) Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. 7701(h)(1).

(3) This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the internal revenue code, the uniform commercial code, K.S.A. 84-1-101 et seq. and amendments thereto, or other provisions of federal, state or local law.

(4) This definition will be applied only prospectively from the effective date of this act and will have no retroactive impact on existing leases or rentals.

(s) "Load and leave" means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

(t) "Member state" means a state that has entered in the agreement, pursuant to provisions of article VIII of the agreement.

(u) "Model 1 seller" means a seller that has selected a CSP as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(v) "Model 2 seller" means a seller that has selected a CAS to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

(w) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least \$500,000,000, has a proprietary system that calculates the amount of tax due each jurisdiction and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subsection a seller includes an affiliated group of sellers using the same proprietary system.

(x) "Municipal corporation" means any city incorporated under the laws of Kansas.

(y) "Nonprofit blood bank" means any nonprofit place, organization, institution or establishment that is operated wholly or in part for the purpose of obtaining, storing, processing, preparing for transfusing, furnishing, donating or distributing human blood or parts or frac-

tions of single blood units or products derived from single blood units, whether or not any remuneration is paid therefor, or whether such procedures are done for direct therapeutic use or for storage for future use of such products.

(z) "Persons" means any individual, firm, copartnership, joint adventure, association, corporation, estate or trust, receiver or trustee, or any group or combination acting as a unit, and the plural as well as the singular number; and shall specifically mean any city or other political subdivision of the state of Kansas engaging in a business or providing a service specifically taxable under the provisions of this act.

(aa) "Political subdivision" means any municipality, agency or subdivision of the state which is, or shall hereafter be, authorized to levy taxes upon tangible property within the state or which certifies a levy to a municipality, agency or subdivision of the state which is, or shall hereafter be, authorized to levy taxes upon tangible property within the state. Such term also shall include any public building commission, housing, airport, port, metropolitan transit or similar authority established pursuant to law.

(bb) "Prescription" means an order, formula or recipe issued in any form of oral, written, electronic or other means of transmission by a duly licensed practitioner authorized by the laws of this state.

(cc) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software, except that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

(dd) "Property which is consumed" means tangible personal property which is essential or necessary to and which is used in the actual process of and consumed, depleted or dissipated within one year in (1) the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, (2) the providing of services, (3) the irrigation of crops, for sale in the regular course of business, or (4) the storage or processing of grain by a public grain warehouse or other grain storage facility, and which is not reusable for such purpose. The following is a listing of tangible personal property, included by way of illustration but not of limitation, which qualifies as property which is consumed:

(A) Insecticides, herbicides, germicides, pesticides, fungicides, fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals for use in commercial or agricultural production, processing or storage of fruit, vegetables, feeds, seeds, grains, animals or animal products whether fed, injected, applied, combined with or otherwise used;

(B) electricity, gas and water; and

(C) petroleum products, lubricants, chemicals, solvents, reagents and catalysts.

(ee) "Purchase price" applies to the measure subject to use tax and has the same meaning as sales price.

(ff) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(gg) "Quasi-municipal corporation" means any county, township, school district, drainage district or any other governmental subdivision in the state of Kansas having authority to receive or hold moneys or funds.

(hh) "Registered under this agreement" means registration by a seller with the member states under the central registration system provided in article IV of the agreement.

(ii) "Retailer" means a seller regularly engaged in the business of selling, leasing or renting tangible personal property at retail or furnishing electrical energy, gas, water, services or entertainment, and selling only to the user or consumer and not for resale.

(jj) "Retail sale" or "sale at retail" means any sale, lease or rental for any purpose other than for resale, sublease or subrent.

(kk) "Sale" or "sales" means the exchange of tangible personal property, as well as the sale thereof for money, and every transaction, conditional or otherwise, for a consideration, constituting a sale, including the sale or furnishing of electrical energy, gas, water, services or entertainment taxable under the terms of this act and including, except as provided in the following provision, the sale of the use of tangible personal property by way of a lease, license to use or the rental thereof regardless of the method by which the title, possession or right to use the tangible personal property is transferred. The term "sale" or "sales" shall not mean the sale of the use of any tangible personal property used as a dwelling by way of a lease or rental thereof for a term of more than 28 consecutive days.

(ll) (1) "Sales or selling price" applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller and any other expense of the seller;

(C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(D) delivery charges;

(E) installation charges; and

(F) the value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

(2) "Sales or selling price" shall not include:

(A) Discounts, including cash, term or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(B) interest, financing and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser;

(C) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser; ~~and~~

(D) the amount equal to the allowance given for the trade-in of property, if separately stated on the invoice, billing or similar document given to the purchaser; *and*

(E) *cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to the retailer as a result of the original sale.*

(mm) "Seller" means a person making sales, leases or rentals of personal property or services.

(nn) "Service" means those services described in and taxed under the provisions of K.S.A. 79-3603 and amendments thereto.

(oo) "Sourcing rules" means the rules set forth in K.S.A. 2005 Supp. 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments thereto, which shall apply to identify and determine the state and local taxing jurisdiction sales or use taxes to pay, or collect and remit on a particular retail sale.

(pp) "Tangible personal property" means personal property that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam and prewritten computer software.

(qq) "Taxpayer" means any person obligated to account to the director for taxes collected under the terms of this act.

(rr) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or any other item that contains tobacco.;

And by renumbering sections accordingly;

On page 15, in line 43, by striking "and";

On page 16, after line 4, by inserting the following subsections:

“(12) the CHWC, Inc., for the purpose of rebuilding urban core neighborhoods through the construction of new homes, acquiring and renovating existing homes and other related activities, and promoting economic development in such neighborhoods;

(13) the cross-lines cooperative council for the purpose of providing social services to low income individuals and families;

(14) the Dreams Work, Inc., for the purpose of providing young adult day services to individuals with developmental disabilities and assisting families in avoiding institutional or nursing home care for a developmentally disabled member of their family;

(15) the KSDS, Inc., for the purpose of promoting the independence and inclusion of people with disabilities as fully participating and contributing members of their communities and society through the training and providing of guide and service dogs to people with disabilities, and providing disability education and awareness to the general public; and

(16) the lyme association of greater Kansas City, Inc., for the purpose of providing support to persons with lyme disease and public education relating to the prevention, treatment and cure of lyme disease;”;

On page 22, in line 25, by striking “and” the second time it appears; in line 35, by striking the period and inserting a semicolon; after line 35, by inserting the following:

“(mmm) all sales of tangible personal property purchased by or on behalf of the Marillac Center, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing psycho-social-biological and special education services to children, and all sales of any such property by or on behalf of such organization for such purpose;

(nnn) all sales of tangible personal property and services purchased by the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable Fund for the purpose of constructing a boundless playground which is an integrated, barrier free and developmentally advantageous play environment for children of all abilities and disabilities;

(ooo) all sales of tangible personal property by or on behalf of a public library meeting the requirements of section 3, and amendments thereto, and serving the general public and supported in whole or in part with tax money or a not-for-profit organization whose purpose is to raise funds for or provide services or other benefits to any such public library;

(ppp) all sales of tangible personal property and services purchased by or on behalf of a homeless shelter which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal income tax code of 1986, and used by any such homeless shelter to provide emergency and transitional housing for individuals and families experiencing homelessness, and all sales of any such property by or on behalf of any such homeless shelter for any such purpose; and

(qqq) all sales of tangible personal property and services purchased by TLC for children and families, inc., hereinafter referred to as TLC, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of TLC for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC. When TLC contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC a sworn statement, on a form to be provided by the director of taxation, that

all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto.

Sec. 3. K.S.A. 2005 Supp. 79-3692 is hereby amended to read as follows: 79-3692. On and after January 1, 2005, any entity or organization claiming an exemption from sales tax on its purchases of tangible personal property or services based on the status of the entity or organization, under the specific exemptions, including but not limited to those listed in this section, shall prior to claiming any such exemption, apply to and obtain from the secretary of revenue an exempt organization identification number. Such exemptions are subsections (b), (c), (s), (z), (hh), (ii), (jj), (ll), (oo), (qq), (ss), (tt), (uu), (vv), (ww), (xx), (yy), (zz), (aaa), (ccc) ~~and~~, (ggg), (hhh), (jjj), (lll), (mmm), (nnn), (ooo), (ppp) and (qqq) of K.S.A. 79-3606, and amendments thereto. The secretary shall prescribe the application form for such number, and such entity or organization shall provide with the application information sufficient to establish that such entity or organization qualifies for the sales tax exemption. *In addition to the provisions of this section, for the purposes of establishing that a public library or a not-for-profit organization on behalf of such public library qualifies for the sales tax exemption provided for in subsection (ooo) of K.S.A. 79-3606, and amendments thereto, such public library shall comply with the provisions of section 4, and amendments thereto.* Such entity shall enter the issued identification number on any exemption certificate presented to any retailer when claiming the sales tax exemption on any purchases.

New Sec. 4. (a) To qualify for the sales tax exemption provided for in subsection (ooo) of K.S.A. 79-3606, and amendments thereto, a public library shall certify to the secretary of revenue: (1) Commencing on July 1, 2006, and ending on December 31, 2007, that the public library is taking action to comply with the provisions of subsection (b); and (2) on and after January 1, 2008, that the public library is in compliance with the provisions of subsection (b). If a public library fails to submit certification as provided by this section, the public library shall not be entitled to the sales tax exemption provided in subsection (ooo) of K.S.A. 79-3606, and amendments thereto, until the public library submits such certification.

(b) (1) As used in this section:

(A) "Electronic material harmful to minors" means any electronic source of print, picture, figure, image, description, film or recording which is harmful to minors, as defined in K.S.A. 21-4301c, and amendments thereto;

(B) "internet filtering technology" means a device or technology which reduces access or exposure to internet web sites which contain or make reference to electronic material harmful to minors;

(C) "minor" means any unmarried person under 18 years of age; and

(D) "public library" means any library maintained by a city, county, township or library district, or any combination thereof, and supported in whole or in part by public moneys.

(2) Except as provided by subsection (3), every public library shall require use of internet filtering technology for any of such library's computers while such computer is being used by a minor.

(3) A public library, or an officer, employee or agent thereof, may allow a minor to use a library computer for which internet filtering technology is not provided if the parent or

guardian of such minor has given the library written consent for such minor to have access to the internet without use of internet filtering technology.

(4) No public library shall check out or issue any video, DVD, film or other material in a visual medium to:

(A) A person who, under the voluntary movie rating system of the motion picture association of America, would not be admitted to view such video, DVD, film or other material; or

(B) a person who is unaccompanied by a parent or adult guardian and who, under the voluntary movie rating system of the motion picture association of America, would be required to be accompanied by a parent or adult guardian to be admitted to view such video, DVD, film or other material.

(5) The provisions of this section shall not be construed to:

(A) Prohibit any adult from having unfiltered or unrestricted access to the internet or an online service; or

(B) preempt the regulation of obscenity by municipalities.

(c) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application. To this end the provisions of this act are severable.”;

And by renumbering sections accordingly;

Also on page 22, in line 36, after “Supp.” by inserting “79-3602,”; also in line 36, by striking “is” and by inserting “and 79-3692 are”;

On page 1, in the title, in line 10, after “to” by inserting “sales of new motor vehicles, taxation of rebates;”; in line 12, before “amending” by inserting “compliance requirements for public libraries;”; also in line 12, after “Supp.” by inserting “79-3602,”; also in line 12, after “79-3606” by inserting “and 79-3692”; in line 13, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Utilities** recommends **SB 93** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 93,” as follows:

“HOUSE Substitute for SENATE BILL No. 93

By Committee on Utilities

“AN ACT creating the Kansas petroleum education and marketing act.”; and the substitute bill be passed.

(**H. Sub. for SB 93** was thereupon introduced and read by title.)

Committee on **Utilities** recommends **SB 414** be amended on page 4, in line 33, before “charge” by inserting “monthly”; in line 34, by striking “per month”; in line 35, before “more”, by inserting “the monthly charge”; in line 36, by striking “per month”; and the bill be passed as amended.

Committee on **Utilities** recommends **Substitute for SB 449** be amended on page 1, in line 29, by striking all after “or”; by striking all in line 30; in line 31, by striking all before the period and inserting “ “municipality” means a city or county entitled by law to require franchises and impose fees on cable operators”;

On page 2, in lines 7 and 8, by striking “secretary of state” and inserting “state corporation commission”; in line 10, by striking “secretary of state” and inserting “state corporation commission”; in line 32, by striking “secretary of state” and inserting “state corporation commission”; in lines 42 and 43, by striking “secretary of state” and inserting “state corporation commission”;

On page 3, in lines 5 and 6, by striking “secretary of state” and inserting “state corporation commission”; in line 8, by striking “secretary of state” and inserting “state corporation commission”; in lines 10 and 11, by striking “secretary of state” and inserting “state corporation commission”; in line 12, by striking “secretary of state” and inserting “state corporation commission”; in line 14, by striking “secretary of state” and inserting “state corporation commission”; in line 22, by striking “city or other political subdivision” and inserting “municipality”; in line 35, by striking “city” and inserting “municipality”; in line 36, by striking “city” and inserting “municipality”;

On page 4, in line 2, by striking all after “of”; by striking all in line 3; in line 4, by striking all before the semicolon and inserting “two PEG access channels”; in line 31, by striking

“city” and inserting “municipality”; in line 36, by striking “city” and inserting “municipality”; in lines 36 and 37, by striking “city-issued” and inserting “municipally issued”; in line 37, by striking “city” and inserting “municipality”;

On page 5, in line 1, by striking “city” and inserting “municipality”; in line 2, by striking “city” and inserting “municipality”; in line 6, by striking “city” and inserting “municipality”; in line 9, by striking “city’s” and inserting “municipality’s”; in line 11, by striking “city-issued” and inserting “municipally issued”; in line 14, by striking “city” and inserting “municipality”; in line 15, by striking “”, and after a public hearing.”; in line 20, by striking “city’s” and inserting “municipality’s”; in line 22, by striking “city-issued” and inserting “municipally issued”; in line 24, by striking “city” and inserting “municipality”; in line 27, by striking “city-issued” and inserting “municipally issued”; in line 31, by striking “city” and inserting “municipality”; in line 32, by striking “adopt” and inserting “comply with”; in line 38, by striking “city” and inserting “municipality”; in line 40, by striking “city” and inserting “municipality”; in line 43, by striking “city” and inserting “municipality”;

On page 6, in line 8, by striking “city” and inserting “municipality”; in line 10, by striking “city” and inserting “municipality”; in line 12, by striking “city” and inserting “municipality”; in line 22, by striking “city” and inserting “municipality”; in line 23, by striking “city’s” and inserting “municipality’s”; in line 24, by striking “city” and inserting “municipality”; in line 26, after “city” by inserting “or county”; in line 28, by striking “City” and inserting “Municipality”; in line 29, by striking “City” and inserting “Municipality”; in line 30, by striking “City” and inserting “Municipality”; in line 31, by striking “City” and inserting “Municipality”; in line 34, by striking “City” and inserting “Municipality”; in line 36, by striking “City’s” and inserting “Municipality’s”; in line 41, by striking “city’s” and inserting “municipality’s”;

On page 7, in line 1, by striking “city” and inserting “municipality”; in line 3, by striking “city” and inserting “municipality”; in line 9, by striking “city” and inserting “municipality”; also in line 9, by striking “city’s” and inserting “municipality’s”; in line 10, by striking “city” and inserting “municipality”; in line 13, by striking “city” and inserting “municipality”; in line 15, by striking “city” and inserting “municipality”; in line 16, by striking “city” and inserting “municipality”; in line 17, by striking “city” and inserting “municipality”; in line 21, by striking “city” and inserting “municipality”; in line 22, by striking all after “exceed”; by striking all in line 23; in line 24, by striking all before the period and inserting “5%”; following line 36, by inserting:

“(e) For the purpose of calculating franchise fees, the price of each individual product marketed as part of a bundled service shall be an amount equal to the same proportion of the price of the bundled services as the price of the individual product bears to the aggregate price of all individual services which are part of the bundled services.”;

By relettering the remaining subsections accordingly;

Also on page 7, by striking all in lines 38 through 43;

On page 8, by striking all in lines 1 and 2; in line 3, by striking “(2) uncollectible fees” and inserting “(1) Uncollectible fees, provided that all or part of uncollectible fees which is written off as bad debt but subsequently collected, less expenses of collection, shall be included in gross revenues in the period collected”;

By renumbering the remaining subsections accordingly;

Also on page 8, in line 13, by striking all after the period; by striking all in line 14, following line 28, by inserting:

“New Sec. 6. (a) The state corporation commission shall:

(1) Assess the costs of any proceeding before the commission pursuant to this act against the parties to the proceeding; and

(2) establish and collect fees from entities and persons filing applications with the state corporation commission for state-issued video service authorizations, which fees shall be in amounts sufficient to pay the costs of administration of this act, including costs of personnel.

(b) (1) There is hereby created in the state treasury the video competition act fund. The state corporation commission shall remit all moneys received by the commission pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the video competition act fund.

(2) Moneys in the video competition act fund shall be expended only to pay the costs of the state corporation commission in administering the provisions of the video competition act.

(3) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the video competition act fund interest earnings based on:

(A) The average daily balance of moneys in the video competition act fund for the preceding month; and

(B) the net earnings rate for the pooled money investment portfolio for the preceding month.

(4) All expenditures from the video competition act fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state corporation commission or a person designated by the chairperson for the purposes set forth in this section.”;

By renumbering the remaining sections accordingly; and the substitute 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 3019. An act concerning legal public holidays; amending K.S.A. 2005 Supp. 35-107 and repealing the existing section, by Committee on Federal and State Affairs.

HOUSE CONCURRENT RESOLUTION No. 5043—

By Representatives Kinzer, Carter, Kelley, Watkins, Beamer, Brown, Brunk, Carlson, Dahl, George, Goico, Grange, M. Holmes, Huy, E. Johnson, Kelsey, Kiegerl, Kilpatrick, Knox, Landwehr, Mast, Masterson, McCreary, McLeland, F. Miller, Peck, Pilcher-Cook, Powell, Siegfried and Weber

A PROPOSITION to amend section 13 of article 2 of the constitution of the state of Kansas, relating to two-thirds majority required for passage of certain bills.

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

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 13 of article 2 of the constitution of the state of Kansas is hereby amended to read as follows:

“**§ 13. Majority for passage of bills.** A majority of the members then elected (or appointed) and qualified of each house, voting in the affirmative, shall be necessary to pass any bill, *except that two-thirds (2/3) of the members then elected (or appointed) and qualified in each house, voting in the affirmative, shall be necessary to pass any bill enacting or amending any law creating any new tax or increasing the rate of any existing state income tax, sales tax, compensating use tax or other excise tax or a tax in the nature of an excise tax, property tax, or estate tax, or any combination thereof.* Two-thirds (2/3) of the members then elected (or appointed) and qualified in each house, voting in the affirmative, shall be necessary to ratify any amendment to the Constitution of the United States or to make any application for congress to call a convention for proposing amendments to the Constitution of the United States.”

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

“Explanatory statement. The purpose of this amendment is to require a two-thirds majority of members of the house of representatives and members of the senate voting yes to pass any bill which creates a new tax or which increases the rate of any existing tax. With regard to increasing the rate of any existing tax, this provision is applicable to the state income tax, sales tax, compensating use tax or

other excise tax or a tax in the nature of an excise tax, property tax, or estate tax, or any combination of such taxes.

“A vote for this amendment would require two-thirds of the members of the house of representatives and two-thirds of the members of the senate to vote yes to pass any new tax or increase the rate of any existing state income tax, sales tax, compensating use tax or other excise tax or a tax in the nature of an excise tax, property tax, or estate tax, or any combination of such taxes.

“A vote against this amendment would provide no change to the constitution and maintain the current requirement that a simple majority of members of the house of representatives and members of the senate is all that is required to pass any bill.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election on November 7, 2006.

On motion of Rep. Aurand, the House recessed until 5:30 p.m.

EVENING SESSION

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

MESSAGE FROM THE GOVERNOR

HB 2606, HB 2757 approved on March 21, 2006.

MESSAGE FROM THE SENATE

Announcing passage of **SB 319; Sub. SB 323; SB 398.**

Announcing passage of **HB 2560, HB 2572, HB 2806, HB 2824.**

Announcing adoption of **HCR 5011.**

The Senate concurs in House amendments to **SB 362.**

The Senate nonconcurs in House amendments to **H. Sub. for SB 35**, requests a conference and has appointed Senators Donovan, Wilson and Gilstrap as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **H. Sub. for SB 76**, requests a conference and has appointed Senators Donovan, Wilson and Gilstrap as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **SB 261**, requests a conference and has appointed Senators Vratil, D. Schmidt and Goodwin as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **SB 332**, requests a conference and has appointed Senators Schodorf, Vratil and Lee as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **SB 336**, requests a conference and has appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **SB 344**, requests a conference and has appointed Senators Donovan, Wilson and Gilstrap as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **SB 350**, requests a conference and has appointed Senators Emler, Apple and Lee as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **SB 374**, requests a conference and has appointed Senators Donovan, Wilson and Gilstrap as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **SB 434**, requests a conference and has appointed Senators Vratil, D. Schmidt and Goodwin as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **SB 479**, requests a conference and has appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

The Senate nonconcur in House amendments to **SB 485**, requests a conference and has appointed Senators Schodorf, Vratil and Lee 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 319; Sub. SB 323; SB 398.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 35**.

Speaker Mays thereupon appointed Reps. Hayzlett, Faber and Long 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 **H. Sub. for SB 76**.

Speaker Mays thereupon appointed Reps. Hayzlett, Faber and Long 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 261**.

Speaker Mays thereupon appointed Reps. O'Neal, Kinzer and Pauls 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 332**.

Speaker Mays thereupon appointed Reps. Sloan, E. Johnson and Carlin 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 336**.

Speaker Mays thereupon appointed Reps. Vickrey, Huebert and Sawyer 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 344**.

Speaker Mays thereupon appointed Reps. Hayzlett, Faber and Long 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 350**.

Speaker Mays thereupon appointed Reps. C. Holmes, Krehbiel and Kuether 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 374**.

Speaker Mays thereupon appointed Reps. Hayzlett, Faber and Long 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 434**.

Speaker Mays thereupon appointed Reps. O'Neal, Kinzer and Pauls 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 479**.

Speaker Mays thereupon appointed Reps. O'Neal, Kinzer and Pauls 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 485**.

Speaker Mays thereupon appointed Reps. Decker, Horst and Storm as conferees on the part of the House.

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

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **HB 3004** be adopted; also, on motion of Rep. Goico be amended on page 2, in line 2, by striking “any” and inserting “: (1) Any”; in line 5, before the period, by inserting “;” and (2) any academic credit granted for tests successfully completed by an applicant which was applicable toward an academic degree under the rules and regulations adopted by the state board of regents governing credit by examination for CLEP and DANTEs tests accepted by the postsecondary educational institution at which the candidate obtained an accounting degree”; and **HB 3004** be passed as amended.

Committee report to **HCR 5032** be adopted; and the resolution be adopted as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **SB 51** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 51,” as follows:

“HOUSE Substitute for SENATE BILL No. 51

By Committee on Appropriations

“AN ACT creating the crime of trafficking in counterfeit drugs; providing penalties therefor.”; and the substitute bill be passed.

(**H. Sub. for SB 51** was thereupon introduced and read by title.)

Committee on **Appropriations** recommends **SB 52** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 52,” as follows:

“HOUSE Substitute for SENATE BILL No. 52

By Committee on Appropriations

“AN ACT relating to purchases and payments by certain state educational institutions; providing for a pilot project relating thereto.”; and the substitute bill be passed.

(**H. Sub. for SB 52** was thereupon introduced and read by title.)

Committee on **Appropriations** recommends **SB 243** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 243,” as follows:

“HOUSE Substitute for SENATE BILL No. 243

By Committee on Appropriations

“AN ACT concerning public assistance; relating to persons convicted of a controlled substance related felony.”; and the substitute bill be passed.

(**H. Sub. for SB 243** was thereupon introduced and read by title.)

Committee on **Appropriations** recommends **SB 270** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 270,” as follows:

“HOUSE Substitute for SENATE BILL No. 270

By Committee on Appropriations

“AN ACT concerning retirement; relating to the Kansas public employees retirement system and systems thereunder; retirants from school employment; early retirement incentive programs; employment after retirement; minimum benefits for certain retirants; amending K.S.A. 72-5395, 72-5436 and 74-4950j and K.S.A. 2005 Supp. 72-5413 and 74-4914 and repealing the existing sections.”; and the substitute bill be passed.

(**H. Sub. for SB 270** was thereupon introduced and read by title.)

Committee on **Appropriations** recommends **SB 577** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 577,” as follows:

“HOUSE Substitute for SENATE BILL No. 577

By Committee on Appropriations

“AN ACT concerning the Kansas health policy authority; relating to administration of the health care database; designation of statistical agent for insurer experience data plans; amending K.S.A. 2005 Supp. 40-2251 and repealing the existing section.”; and the substitute bill be passed.

(**H. Sub. for SB 577** was thereupon introduced and read by title.)

Committee on **Appropriations** recommends **SB 579** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 579,” as follows:

“HOUSE Substitute for SENATE BILL No. 579

By Committee on Appropriations

“AN ACT concerning the department of health and environment; relating to education and screening for congenital hypothyroidism, galactosemia; phenylketonuria and other genetic diseases and disorders; assistance for certain expenses; amending K.S.A. 65-180 and repealing the existing section.”; and the substitute bill be passed.

(**H. Sub. for SB 579** was thereupon introduced and read by title.)

Committee on **Federal and State Affairs** recommends **HB 2792** be amended on page 1, by striking all in lines 40 through 43;

On page 4, following line 39, by inserting:

“(o) In the course of a judicial hearing to waive parental notice, if the court has reason to suspect that a minor has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse, the court shall report the matter promptly as provided in subsection (c) or (e) of K.S.A. 38-1522, and amendments thereto. In the course of reporting suspected child abuse or neglect to the appropriate state authorities, nothing in this section shall abridge or otherwise modify the anonymity or confidentiality provisions of the judicial waiver proceeding as specified in subsection (c).

(p) A parent or guardian of a minor upon whom an abortion is performed without the parent’s or guardian’s notice or knowledge shall not be liable for the cost of any subsequent medical treatment such minor might require as a result of such abortion unless such abortion is performed in a medical emergency.”; and the bill be passed as amended.

Committee on **Governmental Organization and Elections** recommends **HB 2093**, as amended by House Committee, be passed.

Committee on **Governmental Organization and Elections** recommends **SB 499, SB 575** be passed.

Committee on **Health and Human Services** recommends **SB 217** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 217,” as follows:

“HOUSE Substitute for SENATE BILL No. 217

By Committee on Health and Human Services

“AN ACT concerning the state board of pharmacy; relating to distributor licensure; study of pedigrees for prescription drugs; amending K.S.A. 65-1627, 65-1645, 65-1655, 65-1660, 65-4117, 65-4118, 65-4119, 65-4121, 65-4122, 65-4131 and 65-4137 and K.S.A. 2005 Supp. 65-1626, 65-1643 and 65-4116 and repealing the existing sections.”; and the substitute bill be passed.

(**H. Sub. for SB 217** was thereupon introduced and read by title.)

Committee on **Health and Human Services** recommends **SB 528** be amended on page 1, in line 35, following the semicolon by inserting “and”; in line 36, by striking all following “(2)”; by striking all in lines 37 through 39; in line 40, by striking “(3)”;

On page 3, in line 19, by striking “and any disability of the mother.”; in line 22, by striking all following the period; by striking all in lines 23 and 24; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 435** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 435,” as follows:

“HOUSE Substitute for SENATE BILL No. 435

By Committee on Judiciary

“AN ACT concerning law libraries; relating to fee increase authority; amending K.S.A. 2005 Supp. 20-3129 and repealing the existing section.”; and the substitute bill be passed.

(**H. Sub. for SB 435** was thereupon introduced and read by title.)

Committee on **Taxation** recommends **HB 2618** be amended on page 1, in line 13, before “Section” by inserting “New”;

On page 2, in line 1, before “Sec.” by inserting “New”; in line 5, after “until” by inserting “December 31, 2013, or”; in line 7, after “signal”, by inserting “, whichever occurs first”; in line 20, after “year” by inserting “; to the department an estimate of the digital radio fraction as of the preceding January 1. The department shall communicate such estimate to each county appraiser. The credit shall not be applicable to years after December 31, 2013, or”; in line 22, by striking all after the comma; by striking all in line 23; in line 24, by striking

all before the period, and inserting “whichever occurs first”; after line 29, by inserting the following:

“Sec. 3. K.S.A. 2005 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption, and the county appraiser’s recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of taxes for the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x from the property tax levied pursuant to K.S.A. 72-6431, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 *Ninth*; ~~and~~ (17) from and after July 1, 1998, motor vehicles exempted from taxation by subsection (e) of K.S.A. 79-5107, and amendments thereto; *and* (18) *digital television and digital radio equipment exempted from property or ad valorem taxation by section 1 or 2, and amendments thereto.*

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

(n) The provisions of subsection (k) as amended by this act shall be applicable to all exemption applications filed in accordance with subsection (a) after December 31, 2001.

Sec. 4. K.S.A. 2005 Supp. 79-213 is hereby repealed.;

By renumbering the remaining section accordingly;

On page 1, in the title, in line 10, after "equipment" by inserting "; amending K.S.A. 2005 Supp. 79-213 and repealing the existing section"; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2983** be amended on page 1, after line 13, by inserting the following:

“Section 1. K.S.A. 2005 Supp. 12-187, as amended by section 1 of 2006 House Bill No. 2698, is hereby amended to read as follows: 12-187. (a) (1) No city shall impose a retailers’ sales tax under the provisions of this act without the governing body of such city having first submitted such proposition to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. The governing body of any city may submit the question of imposing a retailers’ sales tax and the governing body shall be required to submit the question upon submission of a petition signed by electors of such city equal in number to not less than 10% of the electors of such city.

(2) The governing body of any class B city located in any county which does not impose a countywide retailers’ sales tax pursuant to paragraph (5) of subsection (b) may submit the question of imposing a retailers’ sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city, county or district hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home health care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(b) (1) The board of county commissioners of any county may submit the question of imposing a countywide retailers’ sales tax to the electors at an election called and held thereon, and any such board shall be required to submit the question upon submission of a petition signed by electors of such county equal in number to not less than 10% of the electors of such county who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than $\frac{2}{3}$ of the membership of the governing body of each of one or more cities within such county which contains a population of not less than 25% of the entire population of the county, or upon receiving resolutions requesting such an election passed by $\frac{2}{3}$ of the membership of the governing body of each of one or more taxing subdivisions within such county which levy not less than 25% of the property taxes levied by all taxing subdivisions within the county.

(2) The board of county commissioners of Anderson, Atchison, Barton, Butler, Chase, Cowley, Cherokee, Crawford, Ford, Jefferson, Lyon, Montgomery, Neosho, Osage, Ottawa, Riley, Saline, Seward, Sumner, Wabaunsee, Wilson and Wyandotte counties may submit the question of imposing a countywide retailers’ sales tax and pledging the revenue received therefrom for the purpose of financing the construction or remodeling of a courthouse, jail, law enforcement center facility or other county administrative facility, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire when sales tax sufficient to pay all of the costs incurred in the financing of such facility has been collected by retailers as determined by the secretary of revenue. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Butler, Chase, Cowley, Lyon, Montgomery, Neosho, Riley, Sumner or Wilson county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189, and amendments thereto.

(3) (A) Except as otherwise provided in this paragraph, the result of the election held on November 8, 1988, on the question submitted by the board of county commissioners of Jackson county for the purpose of increasing its countywide retailers’ sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the Banner Creek reservoir project. The tax imposed pursuant to this paragraph shall take effect on the effective date of this act and shall expire not later than five years after such date.

(B) The result of the election held on November 8, 1994, on the question submitted by the board of county commissioners of Ottawa county for the purpose of increasing its countywide retailers’ sales tax by 1% is hereby declared valid, and the revenue received therefrom

by the county shall be expended solely for the purpose of financing the erection, construction and furnishing of a law enforcement center and jail facility.

(C) Except as otherwise provided in this paragraph, the result of the election held on November 2, 2004, on the question submitted by the board of county commissioners of Sedgwick county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be used only to pay the costs of: (i) Acquisition of a site and constructing and equipping thereon a new regional events center, associated parking and infrastructure improvements and related appurtenances thereto, to be located in the downtown area of the city of Wichita, Kansas, (the "downtown arena"); (ii) design for the Kansas coliseum complex and construction of improvements to the pavilions; and (iii) establishing an operating and maintenance reserve for the downtown arena and the Kansas coliseum complex. The tax imposed pursuant to this paragraph shall commence on July 1, 2005, and shall terminate not later than 30 months after the commencement thereof.

(4) The board of county commissioners of Finney and Ford counties may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing all or any portion of the cost to be paid by Finney or Ford county for construction of highway projects identified as system enhancements under the provisions of paragraph (5) of subsection (b) of K.S.A. 68-2314, and amendments thereto, to the electors at an election called and held thereon. Such election shall be called and held in the manner provided by the general bond law. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Finney or Ford county pursuant to this paragraph to exceed the maximum rate prescribed in K.S.A. 12-189, and amendments thereto. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Finney county, the state treasurer shall remit such funds to the treasurer of Finney county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Ford county, the state treasurer shall remit such funds to the treasurer of Ford county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund.

(5) The board of county commissioners of any county may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. Whenever any county imposes a tax pursuant to this paragraph, any tax imposed pursuant to paragraph (2) of subsection (a) by any city located in such county shall expire upon the effective date of the imposition of the countywide tax, and thereafter the state treasurer shall remit to each such city that portion of the countywide tax revenue collected by retailers within such city as certified by the director of taxation. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city or county hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(6) The board of county commissioners of Allen county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% and pledging the revenue received therefrom for the purpose of financing the costs of operation and construction of a solid waste disposal area or the modification of an existing landfill to comply with federal regulations to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs incurred in the financing of the project undertaken. Nothing in this paragraph shall be construed to allow the rate of tax

imposed by Allen county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189 and amendments thereto.

(7) The board of county commissioners of Clay, Dickinson and Miami county may submit the question of imposing a countywide retailers' sales tax at the rate of .50% in the case of Clay and Dickinson county and at a rate of up to 1% in the case of Miami county, and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. Except as otherwise provided, the tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected. The result of the election held on November 2, 2004, on the question submitted by the board of county commissioners of Miami county for the purpose of extending for an additional five-year period the countywide retailers' sales tax imposed pursuant to this subsection in Miami county is hereby declared valid. The countywide retailers' sales tax imposed pursuant to this subsection in Clay and Miami county may be extended or reenacted for additional five-year periods upon the board of county commissioners of Clay and Miami county submitting such question to the electors at an election called and held thereon for each additional five-year period as provided by law.

(8) The board of county commissioners of Sherman county may submit the question of imposing a countywide retailers' sales tax at the rate of 1% and pledging the revenue received therefrom for the purpose of financing the costs of street and roadway improvements to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(9) The board of county commissioners of Cowley, Russell and Woodson county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% in the case of Russell and Woodson county and at a rate of up to .25%, in the case of Cowley county and pledging the revenue received therefrom for the purpose of financing economic development initiatives or public infrastructure projects. The tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected.

(10) The board of county commissioners of Franklin county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purpose of financing recreational facilities. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such facilities.

(11) The board of county commissioners of Douglas county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom for the purposes of preservation, access and management of open space, and for industrial and business park related economic development.

(12) The board of county commissioners of Shawnee county may submit the question of imposing a countywide retailers' sales tax at the rate of .25% and pledging the revenue received therefrom to the city of Topeka for the purpose of financing the costs of rebuilding the Topeka boulevard bridge and other public infrastructure improvements associated with such project to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such project.

(13) The board of county commissioners of Jackson county may submit the question of imposing a countywide retailers' sales tax at a rate of .4% and pledging the revenue received therefrom as follows: 50% of such revenues for the purpose of financing for economic development initiatives; and 50% of such revenues for the purpose of financing public infrastructure projects to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after seven years from the date such tax is first collected.

(14) The board of county commissioners of Neosho county may submit the question of imposing a countywide retailers' sales tax at the rate of .5% and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(15) *The board of county commissioners of Johnson county may submit the question of imposing a countywide retailers' sales tax at the rate of .1%, .2%, .25%, .3%, .4% or .5% and pledging the revenue received therefrom for the purpose of financing for public infrastructure projects; buildings, including equipment and furnishings; and the acquisition and improvement of real property to the electors at an election called and held thereon. The tax imposed pursuant to this subsection shall continue in effect until repealed in the same manner as provided in this section for the adoption and approval of each tax.*

(c) The boards of county commissioners of any two or more contiguous counties, upon adoption of a joint resolution by such boards, may submit the question of imposing a retailers' sales tax within such counties to the electors of such counties at an election called and held thereon and such boards of any two or more contiguous counties shall be required to submit such question upon submission of a petition in each of such counties, signed by a number of electors of each of such counties where submitted equal in number to not less than 10% of the electors of each of such counties who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than $\frac{2}{3}$ of the membership of the governing body of each of one or more cities within each of such counties which contains a population of not less than 25% of the entire population of each of such counties, or upon receiving resolutions requesting such an election passed by $\frac{2}{3}$ of the membership of the governing body of each of one or more taxing subdivisions within each of such counties which levy not less than 25% of the property taxes levied by all taxing subdivisions within each of such counties.

(d) Any city retailers' sales tax in the amount of .5% being levied by a city on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax or until repealed by the adoption of an ordinance so providing. In addition to any city retailers' sales tax being levied by a city on July 1, 1990, any such city may adopt an additional city retailers' sales tax in the amount of .25% or .5%, provided that such additional tax is adopted and approved in the manner provided for the adoption and approval of a city retailers' sales tax. Any countywide retailers' sales tax in the amount of .5% or 1% in effect on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax.

(e) A class D city shall have the same power to levy and collect a city retailers' sales tax that a class A city is authorized to levy and collect and in addition, the governing body of any class D city may submit the question of imposing an additional city retailers' sales tax in the amount of .125%, .25%, .5% or .75% and pledging the revenue received therefrom for economic development initiatives, strategic planning initiatives or for public infrastructure projects including buildings to the electors at an election called and held thereon. Any additional sales tax imposed pursuant to this paragraph shall expire no later than five years from the date of imposition thereof, except that any such tax imposed by any class D city after the effective date of this act shall expire no later than 10 years from the date of imposition thereof.

(f) Any city or county proposing to adopt a retailers' sales tax shall give notice of its intention to submit such proposition for approval by the electors in the manner required by K.S.A. 10-120, and amendments thereto. The notices shall state the time of the election and the rate and effective date of the proposed tax. If a majority of the electors voting thereon at such election fail to approve the proposition, such proposition may be resubmitted under the conditions and in the manner provided in this act for submission of the proposition. If a majority of the electors voting thereon at such election shall approve the levying of such tax, the governing body of any such city or county shall provide by ordinance or resolution, as the case may be, for the levy of the tax. Any repeal of such tax or any reduction or increase in the rate thereof, within the limits prescribed by K.S.A. 12-189, and amendments thereto, shall be accomplished in the manner provided herein for the adoption and approval of such tax except that the repeal of any such city retailers' sales tax may be accomplished by the adoption of an ordinance so providing.

(g) The sufficiency of the number of signers of any petition filed under this section shall be determined by the county election officer. Every election held under this act shall be conducted by the county election officer.

(h) The governing body of the city or county proposing to levy any retailers' sales tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition.

Sec. 2. K.S.A. 2005 Supp. 12-189, as amended by section 2 of 2006 House Bill No. 2698, is hereby amended to read as follows: 12-189. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class A, class B or class C city retailers' sales tax shall be fixed in the amount of .25%, .5%, .75% or 1% which amount shall be determined by the governing body of the city. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class D city retailers' sales tax shall be fixed in the amount of .10%, .25%, .5%, .75%, 1%, 1.125%, 1.25%, 1.5% or 1.75%. The rate of any countywide retailers' sales tax shall be fixed in an amount of either .25%, .5%, .75% or 1% which amount shall be determined by the board of county commissioners, except that:

(a) The board of county commissioners of Wabaunsee county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%; the board of county commissioners of Osage county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25% or 1.5%; the board of county commissioners of Cherokee, Crawford, Ford, Saline, Seward or Wyandotte county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%, the board of county commissioners of Atchison county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5% or 1.75% and the board of county commissioners of Anderson, Barton, Jefferson or Ottawa county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(b) the board of county commissioners of Jackson county, for the purposes of paragraph (3) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(c) the boards of county commissioners of Finney and Ford counties, for the purposes of paragraph (4) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at .25%;

(d) the board of county commissioners of any county for the purposes of paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at a percentage which is equal to the sum of the rate allowed to be imposed by a board of county commissioners on the effective date of this act plus .25%, .5%, .75% or 1%, as the case requires;

(e) the board of county commissioners of Dickinson county, for the purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%, and the board of county commissioners of Miami county, for the purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%, 1.5%, 1.75% or 2%;

(f) the board of county commissioners of Sherman county, for the purposes of paragraph (8) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2.25%;

(g) the board of county commissioners of Russell county for the purposes of paragraph (9) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%;

(h) the board of county commissioners of Franklin county, for the purposes of paragraph (10) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.75%;

(i) the board of county commissioners of Douglas county, for the purposes of paragraph (11) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%;

(j) the board of county commissioners of Jackson county, for the purposes of subsection (b)(13) of K.S.A. 12-187 and amendments thereto, may fix such rate at 1.4%;

(k) the board of county commissioners of Sedgwick county, for the purposes of paragraph (3)(C) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%; ~~or~~

(l) the board of county commissioners of Neosho county, for the purposes of paragraph (14) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.0% or 1.5%; *or*

(m) the board of county commissioners of Johnson county, for the purposes of subsection (b)(15) of K.S.A. 12-187, and amendments thereto, may fix such rate at either .1%, .2%, .25%, .3%, .4% or .5%. The tax imposed pursuant to this subsection shall be deemed to be in addition to and supplemental to the rate limitations otherwise prescribed in this section.

Any county or city levying a retailers' sales tax is hereby prohibited from administering or collecting such tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect such tax. Except as otherwise specifically provided in K.S.A. 12-189a, and amendments thereto, such tax shall be identical in its application, and exemptions therefrom, to the Kansas retailers' sales tax act and all laws and administrative rules and regulations of the state department of revenue relating to the Kansas retailers' sales tax shall apply to such local sales tax insofar as such laws and rules and regulations may be made applicable. The state director of taxation is hereby authorized to administer, enforce and collect such local sales taxes and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement thereof.

Upon receipt of a certified copy of an ordinance or resolution authorizing the levy of a local retailers' sales tax, the director of taxation shall cause such taxes to be collected within or without the boundaries of such taxing subdivision at the same time and in the same manner provided for the collection of the state retailers' sales tax. Such copy shall be submitted to the director of taxation within 30 days after adoption of any such ordinance or resolution. All moneys collected by the director of taxation under the provisions of this section shall be credited to a county and city retailers' sales tax fund which fund is hereby established in the state treasury. Any refund due on any county or city retailers' sales tax collected pursuant to this act shall be paid out of the sales tax refund fund and reimbursed by the director of taxation from collections of local retailers' sales tax revenue. Except for local retailers' sales tax revenue required to be deposited in the redevelopment bond fund established under K.S.A. 74-8927, and amendments thereto, all local retailers' sales tax revenue collected within any county or city pursuant to this act shall be apportioned and remitted at least quarterly by the state treasurer, on instruction from the director of taxation, to the treasurer of such county or city.

Revenue that is received from the imposition of a local retailers' sales tax which exceeds the amount of revenue required to pay the costs of a special project for which such revenue was pledged shall be credited to the city or county general fund, as the case requires.

The director of taxation shall provide, upon request by a city or county clerk or treasurer or finance officer of any city or county levying a local retailers' sales tax, monthly reports identifying each retailer doing business in such city or county or making taxable sales sourced to such city or county, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month and identifying each business location maintained by the retailer and such retailer's sales or use tax registration or account number. Such report shall be made available to the clerk or treasurer or finance officer of such city or county within a reasonable time after it has been requested from the director of taxation. The director of taxation shall be allowed to assess a reasonable fee for the issuance of such report. Information received by any city or county pursuant to this section shall be confidential, and it shall be unlawful for any officer or employee of such city or county to divulge any such information in any manner. Any violation of this paragraph by a city or county officer or employee is a class A misdemeanor, and such officer or employee shall be dismissed from office. Reports of violations of this paragraph shall be investigated by the attorney general. The district attorney or county attorney and the attorney general shall have authority to prosecute violations of this paragraph.”;

Also on page 1, by striking all in lines 14 through 43;

By striking all on pages 2 through 9;

On page 10, by striking all in lines 1 through 36;

On page 13, in line 14, after “12-187,” by inserting “as amended by section 1 of 2006 House Bill No. 2698,”; also in line 14, after “12-189” by inserting “, as amended by section 2 of 2006 House Bill No. 2698,”;

On page 1, in the title, in line 10, after “12-187,” by inserting “as amended by section 1 of 2006 House Bill No. 2698,”; also in line 10, after “12-189” by inserting “, as amended by section 2 of 2006 House Bill No. 2698,”; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 3017** be amended on page 1, in line 14, by striking "commencing after December 31,"; in line 15, by striking "2005" and inserting "2006, 2007 and 2008"; in line 22, after the period by inserting "Such credit shall not exceed \$7,000 for each member employed by such employer."; in line 24, by striking "employee" and inserting "member"; also in line 24, by striking "not to exceed five years" and inserting "one year"; and the bill be passed as amended.

INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, pursuant to House Rule 2303, Rep. Brunk moved that the House consider its adverse action in not passing **SB 346** (see HJ, p. 1469). The motion did not prevail.

INTRODUCTION OF ORIGINAL MOTIONS

Pursuant to House Rule 2306, on motion of Rep. Aurand, **Sub. HB 2689** was withdrawn from the Calendar under the heading General Orders and rereferred to Committee on Taxation.

REPORT ON ENGROSSED BILLS

HB 2968 reported correctly engrossed March 20, 2006.

On motion of Rep. Aurand, the House adjourned until 10:30 a.m., Wednesday, March 22, 2006.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

