

Journal of the House

SEVENTEENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, February 3, 2010, 11:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.
The roll was called with 121 members present.
Reps. Donohoe and Johnson were excused on verified illness.
Reps. Benlon and Loganbill were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Heavenly Father,
Today as we go about our business,
Help us to think on these things:
 what is true,
 what is noble,
 what is reputable,
 what is authentic,
 what is compelling,
 what is gracious.
Help us to think the best, not the worst;
 the beautiful, not the ugly.
Help us to think of things to praise,
 not things to curse.
Whatever we have seen, received or heard
 from You and Your Word,
 help us to put into practice.
In Christ's Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Pottorff.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2621, An act concerning income taxation; relating to certain credits; prohibiting future transferability thereof; repealing certain credits; amending K.S.A. 39-7,132 and 65-7107 and K.S.A. 2009 Supp. 74-5005, 74-50,201, 74-50,202, 74-50,203, 74-50,205, 74-8133, 79-32,199a, 79-32,199b and 79-32,261 and repealing the existing sections; also repealing K.S.A. 79-32,200 and K.S.A. 2009 Supp. 74-50,208, 79-32,197a, 79-32,204, 79-32,207 and 79-32,242, by Committee on Taxation.

HB 2622, An act concerning the use of public funds for lobbying, by Representative Patton.

HB 2623, An act regulating traffic; concerning license plates; amending K.S.A. 2009 Supp. 8-2118 and repealing the existing section, by Committee on Economic Development and Tourism.

HB 2624, An act concerning construction of new buildings; relating to schools, colleges and universities; relating to energy efficiency, by Committee on Energy and Utilities.

HB 2625. An act concerning energy conservation measures; amending K.S.A. 2009 Supp. 75-37,125 and repealing the existing section, by Committee on Energy and Utilities.

HB 2626. An act concerning telecommunications; modifying requirements for telecommunications carriers and local exchange carriers; amending K.S.A. 2009 Supp. 66-2005 and repealing the existing section, by Committee on Energy and Utilities.

HB 2627. An act concerning school districts; relating to consolidation thereof; amending K.S.A. 2009 Supp. 72-8701 and repealing the existing section, by Representative Lukert.

HB 2628. An act concerning school districts; relating to bullying; amending K.S.A. 2009 Supp. 72-8256 and repealing the existing section, by Representative Finney.

HB 2629. An act concerning care of children; relating to temporary custody; amending K.S.A. 2009 Supp. 38-2243 and repealing the existing section, by Representative Finney.

HB 2630. An act concerning property tax; relating to revenues produced by property tax levies; mill levy adjustments; repealing K.S.A. 2009 Supp. 79-2925b, by Representatives Brunk, Crum, DeGraaf, Hermanson, Jack, Kerschen, Kiegerl, Morrison, Patton, Peck, Powell, Rhoades, Schwartz and Siegfried.

HB 2631. An act concerning the state of Kansas; regarding real estate owned or operated by state departments and agencies, by Committee on Government Efficiency and Fiscal Oversight.

HB 2632. An act concerning state finance; relating to the state's ability to sweep moneys from fee funds above the statutory 20%; amending K.S.A. 2009 Supp. 75-3170a and repealing the existing section, by Representative Morrison.

HB 2633. An act establishing the community defense act; amending K.S.A. 2009 Supp. 22-3901 and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Agriculture and Natural Resources: **HB 2606, HB 2611.**

Commerce and Labor: **HB 2596, HB 2614.**

Corrections and Juvenile Justice: **HB 2603, HB 2604, HB 2605.**

Education: **HB 2600, HB 2601.**

Elections: **HCR 5029.**

Federal and State Affairs: **HB 2599, HB 2616, HB 2620.**

Financial Institutions: **HB 2608, HB 2609.**

Health and Human Services: **HB 2597, HB 2610, HB 2619.**

Judiciary: **HB 2598, HB 2612, HB 2613.**

Taxation: **HB 2617** (separately); **HB 2618** (separately).

Transportation: **HB 2602, HB 2615, HB 2617** (separately); **HB 2618** (separately).

Education Budget: **HB 2607.**

CONSENT CALENDAR

No objection was made to **HB 2500, HB 2503** 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

HB 2500. An act concerning cities and municipalities; relating to municipal insurance pools; amending K.S.A. 12-2618 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballard, Barnes, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Pal-

mer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Benlon, Donohoe, Johnson, Loganbill.

The bill passed.

HB 2503. An act concerning the department of corrections; relating to the inspection of department of corrections entities and facilities; amending K.S.A. 75-5251 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballard, Barnes, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Benlon, Donohoe, Johnson, Loganbill.

The bill passed.

HB 2411. An act concerning controlled substances; relating to certain schedule I drugs; amending K.S.A. 2009 Supp. 65-4105 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 110; Nays 11; Present but not voting: 0; Absent or not voting: 4.

Yeas: Barnes, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crum, DeGraaf, Dillmore, Faber, Feuerborn, Frownfelter, Fund, Furtado, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Lane, Light, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Aurand, Ballard, Crow, Davis, Finney, Flaharty, Garcia, Henderson, Kuether, Ruiz, Winn.

Present but not voting: None.

Absent or not voting: Benlon, Donohoe, Johnson, Loganbill.

The bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: Yesterday, we were told that **HB 2411** would ban the drug "K2." Yet, the word "K2" is nowhere in the bill. We were told that there were "studies" done that demonstrated the bad effects of JWH-018 and JWH-073, but we were not given the name of a specific study, or a place where that information could be found. We were told that school

counselors appeared before the committee telling of the problems with students using these substances, yet the supplemental note does not list school counselors among those testifying in support of the bill. With so much uncertainty, I must vote no on **HB 2411**.—MARTI CROW, DELIA GARCIA, GAIL FINNEY, GERALDINE FLAHARTY, VALDENIA WINN, BRODERICK HENDERSON

MR. SPEAKER: Though this bill bans some dangerous drugs, it goes too far when banning the substances JWH-018 and JWH-073. There is convincing evidence that these help reduce pain and nausea in people with diseases like MS, Parkinson's, and ALS. We were told that these relief substances would still be available with a prescription, but I don't find that waiver in this bill, nor in current statutes.

Why are we banning substances with no empirical evidence of harm, and no scientific research as to damage to anyone, but with a clear record of benefitting some very sick people? I vote "no" on **HB 2411**.—PAUL DAVIS, LOUIS E. RUIZ, BARBARA BALLARD

H. Sub. for Sub. SB 48. An act concerning emergency telephone service; relating to fees, charges, collection and distribution; amending K.S.A. 2009 Supp. 12-5338, 12-5361 and 75-5133 and repealing the existing sections; also repealing K.S.A. 12-5301, 12-5303, 12-5304, 12-5305, 12-5306, 12-5307, 12-5308, 12-5309 and K.S.A. 2009 Supp. 12-5302, 12-5310, 12-5321, 12-5322, 12-5323, 12-5324, 12-5325, 12-5326, 12-5327, 12-5328, 12-5329, 12-5330, 12-5331, 12-5332, 12-5333, 12-5334, 12-5335, 12-5336, 12-5337, 12-5351, 12-5352, 12-5353, 12-5354, 12-5355, 12-5356, 12-5357, 12-5358, 12-5359 and 12-5360, was considered on final action.

On roll call, the vote was: Yeas 106; Nays 15; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballard, Barnes, Bethell, Bollier, Bowers, Brookens, T. Brown, Burroughs, Carlin, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Goyle, Grange, Grant, Hawk, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Jack, Kelley, Kiegerl, King, Kinzer, Kleeb, Knox, Kuetner, Lane, Light, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, Meier, Menghini, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: A. Brown, Brunk, Burgess, Carlson, Dillmore, Faber, Gordon, Hayzlett, Huebert, Kerschen, Landwehr, McLeland, Merrick, Peck, Schwab.

Present but not voting: None.

Absent or not voting: Benlon, Donohoe, Johnson, Loganbill.

The substitute bill passed.

SB 298. An act concerning oil and gas; relating to the state corporation commission regulation of certain wells; amending K.S.A. 55-165 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 56; Nays 65; Present but not voting: 0; Absent or not voting: 4.

Yeas: Ballard, Barnes, Bethell, Brookens, T. Brown, Burgess, Craft, Crow, Davis, DeGraaf, Dillmore, Finney, Flaharty, Fund, Furtado, Garcia, S. Gatewood, Goyle, Hawk, Henderson, Hill, Hineman, C. Holmes, Horst, Knox, Kuetner, Long, Lukert, Mah, McCray-Miller, Menghini, Morrison, Moxley, Neighbor, Neufeld, O'Brien, Patton, Pauls, Peck, Pottorff, Prescott, Proehl, Quigley, Rardin, Roth, Seiwert, Slattery, Sloan, Spalding, D. Svaty, Swanson, Swenson, Talia, Ward, Wetta, Winn.

Nays: Aurand, Bollier, Bowers, A. Brown, Brunk, Burroughs, Carlin, Carlson, Colloton, Crum, Faber, Feuerborn, Frownfelter, D. Gatewood, George, Goico, Gordon, Grange, Grant, Hayzlett, Henry, Hermanson, M. Holmes, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Landwehr, Lane, Light, Maloney, Mast, McLeland, Meier, Merrick, Myers, O'Neal, Olson, Otto, Palmer, Peterson, Phelps, Powell, Rhoades, Ruiz, Schroeder,

Schwab, Schwartz, Shultz, Siegfried, Suellentrop, Tafanelli, Tietze, Trimmer, Vickrey, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Present but not voting: None.

Absent or not voting: Benlon, Donohoe, Johnson, Loganbill.

The bill did not pass.

EXPLANATIONS OF VOTE

MR. SPEAKER: This type of sign is already on location at all tank batteries and disposal wells. The KCC has the information on file prior to issuing a drilling permit and drilling operations begin.

The current cost of this type of sign is \$50.00 plus installation labor and material, with close to 75,000 such wells in Kansas the increased cost to producers will be over \$3,800,000.

This is an unnecessary bureaucratic mandate that is bad for business, good for sign makers. I vote no on **SB 298**.—JOHN C. GRANGE, BOB GRANT, MIKE KIEGERL

MR. SPEAKER: I believe that accurate information identifying well sites is absolutely necessary. So necessary that almost all existing wells in Kansas already have such signs. Fifty dollars in the \$150,000 to \$250,000 spent on each well is not egregious. That's about one penny in \$40, and the industry is already spending it. I vote yes on **SB 298**.—FORREST KNOX

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2195**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments, as follows:

On page 15, after line 3, by inserting the following:

“Sec. 11. On and after July 1, 2009, K.S.A. 59-2971, as amended by section 10 of this act, is hereby amended to read as follows: 59-2971. (a) At any time after the petition provided for in K.S.A. 59-2957 and amendments thereto has been filed venue may be transferred in accordance with this section.

(1) Prior to trial required by K.S.A. 59-2965 and amendments thereto; *and* before the expiration of two full working days following the probable cause hearing held pursuant to K.S.A. 59-2959 or 59-2962 and amendments thereto, the district court then with jurisdiction, on its own motion or upon the written request of any person, may transfer the venue of the case to the district court of the county where the patient is being detained, evaluated or treated in a treatment facility under the authority of an order issued pursuant to K.S.A. 59-2958, 59-2959 or 59-2964 and amendments thereto. Thereafter the district court may on its own motion or upon the written request of any person transfer venue to another district court only for good cause shown.

When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of ~~all pleadings and orders in the entire file~~ of the case. The district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated.

(2) After trial required by K.S.A. 59-2965 and amendments thereto, the district court may on its own motion or upon the written request of any person transfer venue to another district court for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of the ~~petition for determination of mental illness subject to involuntary commitment for care and treatment, the most recent notice of hearing issued by the court, the order changing venue, the current order of treatment, the most recent written report summarizing treatment and any order allowing withdrawal of the patient's attorney~~ *entire file of the case*. The transferring district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated. ~~No later than 5:00 p.m. of the second full day the district court transferring venue is open for business following the issuance of~~

~~the order transferring venue, the district court transferring venue shall send to the receiving district court the entire file of the case by restricted mail.~~

(b) The district court issuing an order transferring venue, if not in the county of residence of the proposed patient, shall transmit to the district court in the county of residence of the proposed patient a statement of any court costs incurred by the county of the district court issuing the order and, if the county of residence is not the receiving county, a ~~certified facsimile or electronic copy of all pleadings and orders in the entire file of the case.~~

(c) Any district court to which venue is transferred shall proceed in the case as if the petition had been originally filed therein and shall cause notice of the change of venue to be given to the persons named in and in the same manner as provided for in K.S.A. 59-2963 and amendments thereto. In the event that notice of a change of location of a hearing due to a change of venue cannot be served at least 48 hours prior to any hearing previously scheduled by the transferring court or because of scheduling conflicts the hearing can not be held by the receiving court on the previously scheduled date, then the receiving court shall continue the hearing for up to seven full working days to allow adequate time for notice to be given and the hearing held.

(d) Any district court to which venue is transferred, if not in the county of residence of the patient, shall transmit to the district court in the county of residence of the patient a statement of any court costs incurred and a ~~certified facsimile or electronic copy of all pleadings and orders entered in the case after transfer.~~

Sec. 12. On and after July 1, 2009, K.S.A. 59-29b71, as amended by section 8 of this act, is hereby amended to read as follows: 59-29b71. (a) At any time after the petition provided for in K.S.A. 59-29b57 and amendments thereto has been filed venue may be transferred in accordance with this section.

(1) Prior to trial required by K.S.A. 59-29b65 and amendments thereto, *and* before the expiration of two full working days following the probable cause hearing held pursuant to K.S.A. 59-29b59 or 59-29b62 and amendments thereto, the district court then with jurisdiction, on its own motion or upon the written request of any person, may transfer the venue of the case to the district court of the county where the patient is being detained, evaluated or treated in a treatment facility under the authority of an order issued pursuant to K.S.A. 59-29b58, 59-29b59 or 59-29b64 and amendments thereto. Thereafter the district court may on its own motion or upon the written request of any person transfer venue to another district court only for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of ~~all pleadings and orders in the entire file of the case.~~ The district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated.

(2) After the trial required by K.S.A. 59-29b65 and amendments thereto, the district court may on its own motion or upon the written request of any person transfer venue to another district court for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of the ~~petition for determination of whether a person is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment, the most recent notice of hearing issued by the court, the order changing venue, the current order of treatment, the most recent written report summarizing treatment and any order allowing withdrawal of the patient's attorney entire file of the case.~~ The transferring district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated. ~~No later than 5:00 p.m. of the second full day the district court transferring venue is open for business following the issuance of the order transferring venue, the district court transferring venue shall send to the receiving district court the entire file of the case by restricted mail. Upon request of the receiving district court or upon an order of the district court transferring venue, the transferring district court shall send to the receiving district court the entire original file of the case by mail.~~

(b) The district court issuing an order transferring venue, if not in the county of residence of the proposed patient, shall transmit to the district court in the county of residence of the

proposed patient a statement of any court costs incurred by the county of the district court issuing the order and, if the county of residence is not the receiving county, a ~~certified facsimile or electronic copy of all pleadings and orders in the entire file of the case.~~

(c) Any district court to which venue is transferred shall proceed in the case as if the petition had been originally filed therein and shall cause notice of the change of venue to be given to the persons named in and in the same manner as provided for in K.S.A. 59-29b63 and amendments thereto. In the event that notice of a change of location of a hearing due to a change of venue cannot be served at least 48 hours prior to any hearing previously scheduled by the transferring court or because of scheduling conflicts the hearing can not be held by the receiving court on the previously scheduled date, then the receiving court shall continue the hearing for up to seven full working days to allow adequate time for notice to be given and the hearing held.

(d) Any district court to which venue is transferred, if not in the county of residence of the patient, shall transmit to the district court in the county of residence of the patient a statement of any court costs incurred and a ~~certified facsimile or electronic copy of all pleadings and orders entered in the case after transfer.~~

Sec. 13. On July 1, 2009, K.S.A. 59-2971, as amended by section 10 of this act, 59-2971, as amended by section 20 of 2009 Senate Bill No.66, 59-29b71, as amended by section 8 of this act, and 59-29b71, as amended by section 21 of 2009 Senate Bill No.66 are hereby repealed.”;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 14, by striking “59-”; in line 15, by striking all before “and” where it appears for the first time and inserting “59-2967, 59-2971, 59-2971, as amended by section 10 of this act, 59-29a19, 59-29b67, 59-29b71, 59-29b71, as amended by section 8 of this act.”; in line 17, before the period, by inserting “; also repealing K.S.A. 59-2971, as amended by section 20 of 2009 Senate Bill No. 66 and 59-29b71, as amended by section 21 of 2009 Senate Bill No. 66”;

And your committee on conference recommends the adoption of this report.

JOHN VRATIL
CAROLYN MCGINN
LAURA KELLY
Conferees on part of Senate

JIM MORRISON
LANCE KINZER
JANICE L. PAULS
Conferees on part of House

On motion of Rep. Burgess, the conference committee report on **HB 2195** was adopted. On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballard, Barnes, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Meier, Menghini, Merrick, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Benlon, Donohoe, Johnson, Loganbill.

On motion of Rep. Merrick, the House resolved into Committee of the Whole, with Rep. Powell in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **HB 2160** be adopted; also, on motion of Rep. Hawk be amended on page 1, in line 16, by striking "2009" and inserting "2010"; by striking all in lines 27 through 43;

On pages 2 and 3, by striking all in lines 1 through 43;

On page 4, by striking all in lines 1 and 2 and inserting the following:

"Sec. 2. K.S.A. 2009 Supp. 50-626 is hereby amended to read as follows: 50-626. (a) No supplier shall engage in any deceptive act or practice in connection with a consumer transaction.

(b) Deceptive acts and practices include, but are not limited to, the following, each of which is hereby declared to be a violation of this act, whether or not any consumer has in fact been misled:

(1) Representations made knowingly or with reason to know that:

(A) Property or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have;

(B) the supplier has a sponsorship, approval, status, affiliation or connection that the supplier does not have;

(C) property is original or new, if such property has been deteriorated, altered, reconditioned, repossessed or is second-hand or otherwise used to an extent that is materially different from the representation;

(D) property or services are of particular standard, quality, grade, style or model, if they are of another which differs materially from the representation;

(E) the consumer will receive a rebate, discount or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if receipt of benefit is contingent on an event occurring after the consumer enters into the transaction;

(F) property or services has uses, benefits or characteristics unless the supplier relied upon and possesses a reasonable basis for making such representation; or

(G) use, benefit or characteristic of property or services has been proven or otherwise substantiated unless the supplier relied upon and possesses the type and amount of proof or substantiation represented to exist;

(2) the willful use, in any oral or written representation, of exaggeration, falsehood, innuendo or ambiguity as to a material fact;

(3) the willful failure to state a material fact, or the willful concealment, suppression or omission of a material fact;

(4) disparaging the property, services or business of another by making, knowingly or with reason to know, false or misleading representations of material facts;

(5) offering property or services without intent to sell them;

(6) offering property or services without intent to supply reasonable, expectable public demand, unless the offer discloses the limitation;

(7) making false or misleading representations, knowingly or with reason to know, of fact concerning the reason for, existence of or amounts of price reductions, or the price in comparison to prices of competitors or one's own price at a past or future time;

(8) falsely stating, knowingly or with reason to know, that a consumer transaction involves consumer rights, remedies or obligations;

(9) falsely stating, knowingly or with reason to know, that services, replacements or repairs are needed;

(10) falsely stating, knowingly or with reason to know, the reasons for offering or supplying property or services at sale or discount prices;

(11) sending or delivering a solicitation for goods or services which could reasonably be interpreted or construed as a bill, invoice or statement of account due, unless:

(A) Such solicitation contains the following notice, on its face, in conspicuous and legible type in contrast by typography, layout or color with other printing on its face:

“THIS IS A SOLICITATION FOR THE PURCHASE OF GOODS OR SERVICES AND NOT A BILL, INVOICE OR STATEMENT OF ACCOUNT DUE. YOU ARE UNDER NO OBLIGATION TO MAKE ANY PAYMENTS UNLESS YOU ACCEPT THIS OFFER”; and

(B) such solicitation, if made by any classified telephone directory service not affiliated with a local telephone service in the area of service, contains the following notice, on its face, in a prominent and conspicuous manner:

“_____ IS NOT AFFILIATED WITH
(name of telephone directory service)
ANY LOCAL TELEPHONE COMPANY”;

(12) using, in any printed advertisement, an assumed or fictitious name for the conduct of such person’s business that includes the name of any municipality, community or region or other description of the municipality, community or region in this state in such a manner as to suggest that such person’s business is located in such municipality, community or region unless: (A) Such person’s business is, in fact, located in such municipality, community or region; or (B) such person includes in any such printed advertisement the complete street and city address of the location from which such person’s business is actually conducted. If located outside of Kansas, the state in which such person’s business is located also shall be included. The provisions of this subsection shall not apply to the use of any trademark or service mark registered under the laws of this state or under federal law; any such name that, when applied to the goods or services of such person’s business, is merely descriptive of them; or any such name that is merely a surname. Nothing in this subsection shall be construed to impose any liability on any publisher when such publisher had no knowledge the business was not, in fact, located in such municipality, community or region; ~~and~~

(13) (A) making an oral solicitation for products or services based on a mortgage trigger lead unless the solicitation clearly and conspicuously states in the initial phase of the solicitation that the solicitor is not affiliated with the lender or broker with which the consumer initially applied and that the solicitation is based on personal information about the consumer that was purchased, directly or indirectly, from a consumer reporting agency without the knowledge or permission of the lender or broker with which the consumer initially applied;

(B) making a written solicitation for products or services based on a mortgage trigger lead unless the solicitation clearly and conspicuously states on the first page of the solicitation that the solicitor is not affiliated with the lender or broker with which the consumer initially applied and that the solicitation is based on personal information about the consumer that was purchased, directly or indirectly, from a consumer reporting agency without the knowledge or permission of the lender or broker with which the consumer initially applied. Clear and conspicuous shall include legible type in contrast by typography, layout or color with other printing on the first page of the correspondence; and

(C) any solicitor under clause (A) or (B) shall be in compliance with the provisions of the Kansas mortgage business act, unless otherwise exempted from such act, and any other law or regulation; *and*

(14) failing to release funds representing an insurance settlement payment for damage to real property subject to a mortgage by the mortgage holder to the mortgagor within 30 days after receiving written proof that the damaged property is replaced or otherwise repaired to the satisfaction of the mortgagor and the mortgage holder. Any person who submits false information regarding the condition of the property shall be liable in damages to the mortgage holder or the mortgage holder’s assignee for the amount of the funds together with interest thereon, attorney fees, and any additional damages that the mortgage holder or the mortgage holder’s assignee has incurred.

Sec. 3. K.S.A. 2009 Supp. 50-626 is hereby repealed.”;

On page 1, in the title, in line 11, preceding “50-626” by inserting “2009 Supp”; and **HB 2160** be passed as amended.

Committee report to **HB 2082** be adopted; also, on motion of Rep. Grange be amended on page 2, after line 7, by inserting the following:

“(f) The newspaper, magazine, news wire service, television station or radio station which advertises or promotes the live musical performance or production and is not aware that such performance or production is using a false, deceptive or misleading affiliation, connection or association with another group.”; and **HB 2082** be passed as amended.

Committee report to **HB 2412** be adopted; and the bill be passed as amended.

Committee report to **HB 2440** be adopted; and the bill be passed as amended.

Committee report to **HB 2476** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **HB 2469** 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 **HB 2455** be passed.

Committee on **Judiciary** recommends **HB 2456** be amended on page 1, in line 19, before “decendent’s” by inserting “known real and personal property in the”; also in line 19, after “all” by inserting “known”; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2437, HB 2486, HB 2535** be passed.

Committee on **Transportation** recommends **HB 2436** be amended on page 1, in line 14, following “the” by inserting “1st Lieutenant”; in line 16, preceding “Michael” by inserting “1st Lieutenant”;

In the title, in line 10, preceding “Michael” by inserting “1st Lieutenant”; and the bill be passed as amended.

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

HB 2634, An act regulating vehicle title loans, by Committee on Federal and State Affairs.

HB 2635, An act concerning apportionment; relating to the redistricting process for reapportioning congressional and state legislative districts, by Committee on Federal and State Affairs.

HB 2636, An act establishing the chronic obstructive pulmonary disease program; providing for administration of the program by the secretary of health and environment, by Committee on Health and Human Services.

HB 2637, An act concerning court fees; relating to fees for the Kansas bureau of investigations DNA database; amending K.S.A. 2009 Supp. 75-724 and repealing the existing section, by Committee on Corrections and Juvenile Justice.

HB 2638, An act concerning law enforcement; relating to employees of the horsethief reservoir benefit district; amending K.S.A. 2009 Supp. 12-1,120, 74-5602 and 74-5605 and repealing the existing sections, by Representatives Whitham and George.

HB 2639, An act concerning wildlife and parks; allowing mountain lions and wolves to be hunted; amending K.S.A. 2009 Supp. 32-919 and 32-1308 and repealing the existing sections, by Committee on Agriculture and Natural Resources.

HB 2640, An act concerning crimes, punishment and criminal procedure; relating to aiding a person required to register under the Kansas offender registration act; failure to register by a person required to register under the Kansas offender registration act; amending K.S.A. 21-3812 and 22-4903 and repealing the existing sections, by Committee on Corrections and Juvenile Justice.

HB 2641, An act concerning crimes, punishment and criminal procedure; relating to unlawful sexual relations; sentencing; offender registration; traffic in contraband in a correctional institution; amending K.S.A. 21-3520 and K.S.A. 2009 Supp. 21-3826, 21-4704 and 22-4902 and repealing the existing sections, by Committee on Corrections and Juvenile Justice.

HB 2642, An act enacting the Kansas nonsmoker protection act; amending K.S.A. 2009 Supp. 79-3321 and 79-3391 and repealing the existing sections; also repealing K.S.A. 21-4009, 21-4010, 21-4011, 21-4012, 21-4013 and 21-4014 and repealing the existing sections, by Committee on Health and Human Services.

HB 2643, An act concerning taxation upon cigarettes and tobacco products; relating to rates; little cigars; amending K.S.A. 79-3371 and 79-3378 and K.S.A. 2009 Supp. 79-3301, 79-3310, 79-3310c, 79-3311 and 79-3312 and repealing the existing sections, by Committee on Taxation.

HB 2644, An act concerning employment security law; regarding contribution rates, penalties and interest; amending K.S.A. 2009 Supp. 44-710a and 44-717 and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2645, An act concerning insurance; relating to state employee health savings accounts, by Committee on Appropriations.

HB 2646, An act concerning wildlife and parks; relating to clothing requirements while hunting deer or elk; amending K.S.A. 32-1015 and repealing the existing section, by Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION No. 5030—

By Representatives Kinzer and Merrick

A CONCURRENT RESOLUTION supporting a statewide statistical survey of high school football players' families conducted by an independent third-party for the purposes of gauging interest in utilizing the University of Kansas Memorial Football Stadium, Bill Snyder Family Stadium at Kansas State University or Cessna Stadium at Wichita State University as host venues for high school football championship games.

WHEREAS, A survey was conducted in December 2009 by citizen volunteers and certified as a fair survey by two independent market research firms, and after answering the survey questions regarding increased ticket prices, stadium atmosphere and varied potential game days and times, resulted with 70.4% (6% margin of error) of parents from 32 high schools from across Kansas, still choosing the University of Kansas Memorial Football Stadium or Bill Snyder Family Stadium at Kansas State University as their preference for the 11-man high school football championship games over the existing host venues should their high school ever participate in an 11-man high school football championship game; and

WHEREAS, Citizens presented their comprehensive proposal to use the University of Kansas Memorial Football Stadium or Bill Snyder Family Stadium at Kansas State University occasionally at the January 2009 Kansas State High School Activities Association Executive Board meeting and the March 2009 statewide high school athletic directors meeting, and were rejected; and

WHEREAS, Of the state high school activity associations of other states, who have major college, large private or professional stadiums in their state, 87% (39 out of 45) of them use such stadiums for at least some, if not all, of their 11-man high school football championship games almost every year as a special reward for students, as well as other benefits such as being able to televise via a live feed all of the 11-man high school football championship games to citizens statewide, and in particular to citizens from those communities whose high schools are participating in the 11-man high school football championship games but who could not attend the games in person; and

WHEREAS, All independent market research firm costs are to be paid for by volunteer citizens: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That we support a statewide statistical survey of 11-man high school football players' families conducted by an independent third-party for the purposes of gathering information as a gauge of interest in utilizing the University of Kansas Memorial Football Stadium, Bill Snyder Family Stadium at Kansas State University or Cessna Stadium at Wichita State University as host venues for all five of the 11-man high school football championship games over a two-day period in two out of every four years, and the continued use of existing host venues for the 11-man high school football championship games the remaining two years; and

Be it further resolved: That the Secretary of State be directed to send an enrolled copy of this resolution to the President of the Kansas State Association of School Boards and the President of the Kansas State High School Activities Association.

MESSAGE FROM THE SENATE

Announcing passage of **SB 357, SB 388, SB 391, SB 393, SB 394, SB 421, SB 426.**

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

SB 357, SB 388, SB 391, SB 393, SB 394, SB 421, SB 426.

CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **HB 2539, HB 2580** from Committee on Education Budget and referral to Committee on Education.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6014—

By Representative Kuether

A RESOLUTION encouraging participation in the American Heart Association's Go Red for Women campaign.

WHEREAS, Diseases of the heart are the nation's leading cause of death and stroke is the third leading cause of death; and

WHEREAS, Cardiovascular disease claims the lives of nearly 460,000 American females each year, approximately one death per minute; and

WHEREAS, In 2010, the direct and indirect cost of cardiovascular diseases in the United States, including stroke, is estimated to be \$503.2 billion; and

WHEREAS, Each year, 53% of all deaths due to cardiovascular disease and 61% of stroke deaths occur in females; and

WHEREAS, Too many women die each year because they are unaware that heart disease is their No. 1 killer; and

WHEREAS, Nearly as many women die of heart disease, stroke, and all other cardiovascular diseases than the next five leading causes of death combined, including all cancers; and

WHEREAS, Only 21% of women consider cardiovascular disease their greatest health risk; and

WHEREAS, February is designated as American Heart Month in Kansas by a proclamation signed by Governor Parkinson; and

WHEREAS, Go Red For Women is the American Heart Association's national call to increase awareness about heart disease — the leading cause of death for women — and to inspire women to take charge of their heart health; and

WHEREAS, All women should learn their own personal risk for heart disease, using tools such as the American Heart Association's Go Red For Women Heart CheckUp, Go Red For Women Better U and by talking to their healthcare provider; and

WHEREAS, Making the right choices relating to proper nutrition, physical activity, other healthy lifestyle choices are essential to living a heart healthy life; and

WHEREAS, By choosing to speak up about heart disease we can save lives using the power of our very own voices; and

WHEREAS, The color red and the red dress symbol have become linked with the ability all women have to improve their heart health, the American Heart Association is encouraging everyone to wear red on February 5 in support of all women who have experienced heart disease or stroke: now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we support the efforts of the American Heart Association in reducing women's heart health problems and urge all Kansas citizens to show their support for women and the fight against heart disease by commemorating this day by the wearing of the color red, by increasing awareness,

by speaking up about heart disease, and by empowering women to reduce their risk for cardiovascular disease, we can save thousands of lives each year; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to Linda J. De Coursey, American Heart Association, 5375 SW 7th Street, Topeka, Kansas 66606.

On motion of Rep. Merrick, the House recessed until 4:00 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker O'Neal in the chair.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2647. An act concerning school districts; relating to school finance, by Representative Siegfried.

HB 2648. An act concerning the legislature; providing for certain efficiencies and limitations and other restrictions on operating expenditures, including expenditures for capital outlay; expenditures for computers and other information technology products and services; prohibiting an increase in the rate of per diem compensation for legislators; amending K.S.A. 2009 Supp. 46-137a and repealing the existing section, by Representatives Davis, Ballard, T. Brown, Carlin, Crow, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grant, Hawk, Kuether, Lane, Long, Lukert, Mah, Maloney, McCray-Miller, Meier, Menghini, Neighbor, Palmer, Pauls, Peterson, Phelps, Rardin, Slattery, D. Svaty, Swenson, Talia, Tietze, Trimmer, Ward, Wetta and Williams.

REPORT ON ENGROSSED BILLS

HB 2411 reported correctly engrossed February 2, 2010.

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Thursday, February 4, 2010.

SUSAN W. KANNARR, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

