

Journal of the House

TWENTY-SEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, February 17, 2010, 11:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.
The roll was called with 122 members present.
Reps. Donohoe and Johnson were excused on verified illness.
Rep. Huebert was excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Dear Holy God,
On this Ash Wednesday as we reflect
upon You and the love You have for us,
we understand that you desire truth
from the inside out.
You want to teach us wisdom
and conceive in us a new life.
So today we give You permission to
make a fresh new start in us,
and renew a steadfast spirit within us.
We understand that You are not concerned
about our works, words and motions.
Instead, all You ask and desire of us
is a broken and contrite heart.
Search our hearts, oh God,
and lead us in the way everlasting.
In Jesus' Name I pray, amen.

The Pledge of Allegiance was led by Rep. Trimmer.

INTRODUCTION OF GUESTS

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

I am here to honor the 90th Anniversary of the League of Women Voters.

Will members of the House who are members of the League of Women Voters please join us here in the well? I also want to welcome members of the League from throughout the state who have joined us and are present in the House gallery.

This week the League of Women Voters-US is celebrating its 90th anniversary. Women from Kansas were among those who participated in that first meeting. These women had worked together in the movement that preceded the ratification of the 19th Amendment to the U.S. Constitution — granting women the right to vote. In St. Louis in February, 1920, they agreed on a goal: to create a national, non-partisan, political organization dedicated to improving our system of government through citizen education and advocacy. They believed that hands-on work to safeguard democracy would result in civic improvement. These founding values have persisted for 90 years.

In Kansas there are eight local Leagues: Salina, Manhattan, Topeka, Lawrence, Johnson County, Emporia, Wichita and Great Bend plus the State League with an office in Topeka.

The League of Women Voters of Kansas expects members throughout the state to promote representative government and individual liberties as established in the U.S. Constitution.

The League of Women voters of Kansas encourages local leagues to serve their communities through education of the public on local, state and national issues. Civic participation is what makes Democracy work.

For 90 years the League has held public trust by respectfully bringing elected leaders and the public together. Many in this Chamber have participated in Candidate Forums — non-partisan, thoughtful interactions that help voters learn about candidates for office. The state of Kansas has benefitted tremendously from countless hours donated by League members to enhance our democracy. Informed voters make informed choices.

Today at 1:30, Governor Parkinson will sign a Proclamation honoring the League of Women Voters on its 90th Anniversary. He will declare today as “League of Women Voters Making Democracy Work Day.”

And now, it is my honor to present this certificate of congratulations from the Kansas House of Representatives to Ernestine Krehbiel, President of the League of Women Voters of Kansas and a resident of Wichita.

It is also my honor to present a certificate of congratulations from the Kansas House of Representatives to Janis McMillen, a member of the Board of Directors of the League of Women Voters of the United States and a resident of Overland Park.

Thank you both for the work you are doing to Make Democracy Work locally and nationally.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2700, An act concerning schools; relating to education programs to raise awareness of sexual exploitation by electronic means, by Committee on Federal and State Affairs.

HB 2701, An act concerning municipalities; establishing the organized solid waste collection service act, by Committee on Federal and State Affairs.

MESSAGE FROM THE GOVERNOR

February 8, 2010

Message to the House of Representatives of the State of Kansas:

Enclosed herewith is Executive Directive No. 10-405 for your information.

EXECUTIVE DIRECTIVE No. 10-405
Authorizing Expenditure of Federal Funds

MARK PARKINSON
Governor

The above Executive Directive is on file and open for inspection in the office of the Chief Clerk.

MESSAGES FROM THE SENATE

Announcing passage of **SB 222, SB 234, SB 305; Sub. SB 353; SB 363, SB 367, SB 377, SB 395, SB 398, SB 408, SB 424, SB 437, SB 438, SB 439, SB 440, SB 441, SB 453, SB 464, SB 489, SB 490, SB 491.**

The Senate adopts conference committee report on **HB 2195.**

Also, announcing passage of **SB 354, SB 362, SB 396; Sub. SB 416; SB 417, SB 420, SB 430, SB 483, SB 497, SB 518.**

Announcing adoption of **SCR 1622.**

Announcing adoption of **HCR 5027.**

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

SB 222, SB 234, SB 305; Sub. SB 353; SB 354, SB 362, SB 363, SB 367, SB 377, SB 395, SB 396, SB 398, SB 408; Sub. SB 416; SB 417, SB 420, SB 424, SB 430, SB 437, SB 438, SB 439, SB 440, SB 441, SB 453, SB 464, SB 483, SB 489, SB 490, SB 491, SB 497, SB 518; SCR 1622.

CONSENT CALENDAR

No objection was made to **HB 2415** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2415. An act concerning the state surplus property act; relating to state educational institutions; amending K.S.A. 2009 Supp. 75-6606 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 2; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, 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, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, 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, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: A. Brown, Ward.

Present but not voting: None.

Absent or not voting: Donohoe, Huebert, Johnson.

The bill passed.

HB 2442. An act establishing the Kansas streamlining government commission; providing for an independent review of state agencies of the executive branch of state government; prescribing powers, duties and functions for the commission and certain other state agencies; amending K.S.A. 2009 Supp. 75-2973 and 75-4319 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 90; Nays 32; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Bethell, Bollier, Bowers, Brookens, Brunk, Burgess, Burroughs, Carlson, Colloton, Craft, Crum, Davis, DeGraaf, Dillmore, Faber, Feuerborn, Fund, D. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hayzlett, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Lane, Light, Maloney, Mast, McLeland, Merrick, Morrison, Moxley, Myers, Neufeld, O'Brien, O'Neal, Olson, Palmer, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rhoades, Roth, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, Swanson, Tafanelli, Talia, Vickrey, Ward, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Barnes, Benlon, A. Brown, T. Brown, Carlin, Crow, Finney, Flaharty, Frownfelter, Furtado, Garcia, S. Gatewood, Hawk, Henderson, Kuether, Loganbill, Long, Lukert, Mah, McCray-Miller, Meier, Menghini, Neighbor, Otto, Peterson, Rardin, Ruiz, Schwab, D. Svaty, Swenson, Tietze, Trimmer.

Present but not voting: None.

Absent or not voting: Donohoe, Huebert, Johnson.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: I vote No on **HB 2442**. We need to cut not create another commission to spend more money. — BILL OTTO

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

COMMITTEE OF THE WHOLE

On motion of Rep. King, Committee of the Whole report, as follows, was adopted: Recommended that **HB 2506**, **HB 2608**, **HB 2510**, **HB 2566**, **HB 2555** be passed. **HB 2676**, **HB 2515**, **HB 2410** be passed over and retain a place on the calendar. **Committee report to HB 2609** be adopted; and the bill be passed as amended. Committee report to **HB 2508** be adopted; and the bill be passed as amended. Committee report recommending a substitute bill to **Sub. HB 2509** be adopted; and the substitute bill be passed.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce and Labor** recommends **HB 2596** be amended on page 2, in line 15, by striking “5851” and inserting “4851”; in line 20, by striking all after “safety”; by striking all in lines 21 through 23; in line 24, by striking “secretary”; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **HB 2430** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2430,” as follows:

“Substitute for HOUSE BILL No. 2430

By Committee on Corrections and Juvenile Justice

“AN ACT concerning crimes, criminal procedure and punishment; relating to sentencing of veterans suffering from posttraumatic stress disorder; amending K.S.A. 2009 Supp. 73-1209 and repealing the existing section.”; and the substitute bill be passed. (**Sub. HB 2430** was thereupon introduced and read by title.)

Committee on **Corrections and Juvenile Justice** recommends **HB 2453** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2453,” as follows:

“Substitute for HOUSE BILL No. 2453

By Committee on Corrections and Juvenile Justice

“AN ACT concerning crimes and punishment; relating to controlled substances; presence of a minor; amending K.S.A. 2009 Supp. 21-36a01, 21-36a05, 21-36a10 and 21-36a13 and repealing the existing sections.”; and the substitute bill be passed.

(**Sub. HB 2453** was thereupon introduced and read by title.)

Committee on **Corrections and Juvenile Justice** recommends **HB 2505** be amended on page 10, in line 16, by striking “Notwithstanding the provision of” and inserting “Except as provided in”; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **HB 2581** be amended on page 1, after line 13, by inserting the following:

“Section 1. K.S.A. 2009 Supp. 20-367 is hereby amended to read as follows: 20-367. (a) On and after July 1, 2009 through June 30, 2013, of the remittance of the balance of docket fees received by the state treasurer from clerks of the district court pursuant to subsection (g) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit:

- (1) ~~3.00%~~ 3.05% to the judicial performance fund;
- (2) ~~4.17%~~ 4.24% to the access to justice fund;
- (3) ~~2.31%~~ 2.35% to the juvenile detention facilities fund;
- (4) ~~1.78%~~ 1.81% to the judicial branch education fund;
- (5) ~~4.7%~~ 4.8% to the crime victims assistance fund;
- (6) ~~2.27%~~ 2.31% to the protection from abuse fund;
- (7) ~~3.60%~~ 3.66% to the judiciary technology fund;
- (8) .29% to the dispute resolution fund;
- (9) ~~1.05%~~ 1.07% to the Kansas juvenile delinquency prevention trust fund;

- (10) .18% to the permanent families account in the family and children investment fund;
- (11) ~~1.25%~~ 1.27% to the trauma fund;
- (12) ~~.94%~~ .96% to the judicial council fund;
- (13) ~~.57%~~ .58% to the child exchange and visitation centers fund;
- (14) ~~15.29%~~ 15.54% to the judicial branch nonjudicial salary adjustment fund;
- (15) ~~15.12%~~ 15.37% to the judicial branch nonjudicial salary initiative fund; and
- (16) the balance to the state general fund.

(b) On and after July 1, 2013, of the remittance of the balance of docket fees received by the state treasurer from clerks of the district court pursuant to subsection (g) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit:

- (1) ~~4.30%~~ 4.37% to the access to justice fund;
- (2) ~~2.38%~~ 2.42% to the juvenile detention facilities fund;
- (3) ~~1.83%~~ 1.87% to the judicial branch education fund;
- (4) ~~.48%~~ .50% to the crime victims assistance fund;
- (5) ~~2.34%~~ 2.38% to the protection from abuse fund;
- (6) ~~3.71%~~ 3.78% to the judiciary technology fund;
- (7) .30% to the dispute resolution fund;
- (8) ~~1.08%~~ 1.10% to the Kansas juvenile delinquency prevention trust fund;
- (9) .19% to the permanent families account in the family and children investment fund;
- (10) ~~1.29%~~ 1.31% to the trauma fund;
- (11) ~~.97%~~ .99% to the judicial council fund;
- (12) ~~.59%~~ .60% to the child exchange and visitation centers fund;
- (13) ~~15.75%~~ 16.03% to the judicial branch nonjudicial salary adjustment fund;
- (14) ~~15.57%~~ 15.85% to the judicial branch nonjudicial salary incentive fund; and
- (15) the balance to the state general fund.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 14, by striking “Section” and inserting “Sec.”;

On page 2, in line 17, by striking “is” and inserting “and K.S.A. 2009 Supp. 20-367 are”;

In the title, in line 10, after “21-4610a” by inserting “and K.S.A. 2009 Supp. 20-367”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **HB 2605** be amended on page 2, in line 16, after “felony” by inserting “contained in chapters 21, 41 or 65 of the Kansas Statutes Annotated, and amendments thereto, or a violation of K.S.A. 8-1567, and amendments thereto.”; in line 18, by striking all after “are”; in line 19, by striking all before “in” and inserting “provided”; in line 25, by striking all after “services” and inserting “provided”; in line 34, by striking all after “(e)” and inserting “Such fees shall be deposited into the designated fund of the laboratory or forensic science or computer center that provided such services. Fees for services provided by.”; in line 36, by striking “laboratory analysis” and inserting “forensic laboratory and materials”; in line 40, by striking “general” and inserting “sheriff’s laboratory analysis fee”;

On page 3, in line 2, by striking all after “be” and inserting “retained by the Sedgwick county sheriff. All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff’s office.”; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **HB 2637** be amended on page 1, in line 22, by striking “for every individual offense”; in line 26, before the period, by inserting “, unless the defendant can prove to the court that the defendant has paid such fees in connection with a previous conviction or adjudication”; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **HB 2640** be amended on page 2, in line 9, by striking “sex offender, violent offender or” and inserting “person who is convicted of kidnapping as defined in K.S.A. 21-3420, and amendments thereto, aggravated kidnapping as defined in K.S.A. 21-3421, and amendments thereto, criminal restraint as defined in K.S.A. 21-3424, and amendments thereto, or aggravated trafficking as defined in K.S.A. 21-3447, and amendments thereto, any sex offender or any”; and the bill be passed as amended.

Committee on **Government Efficiency and Fiscal Oversight** recommends **HB 2657** 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 **Government Efficiency and Fiscal Oversight** recommends **HB 2540** be amended on page 1, in line 37, by striking “or” and inserting a comma; also in line 37, after “(6)” by inserting “or (7)”; and the bill be passed as amended.

Committee on **Government Efficiency and Fiscal Oversight** recommends **HB 2631** be amended on page 1, in line 13, by striking all after “(a)”; in line 14, by striking all before “acquired” and inserting “Any state agency, except for the department of transportation, that owns, operates, holds or has”; in line 15, by striking “shall” and inserting a comma; also in line 15, before “make” by inserting “shall”; in line 24, by striking “, ‘real estate’” and inserting “: (1) ‘Real estate’”; in line 26, after “state” by inserting “; and

(2) ‘state agency’ means the same as such term is defined in K.S.A. 74-5039, and amendments thereto”;

Also on page 1, after line 26, by inserting the following:

“Sec. 2. The department of transportation, annually, on or before January 30, shall provide the secretary of the senate and the chief clerk of the house of representatives a list of potential excess property that the department owns, operates, holds or has acquired in the name of the state of Kansas.”;

And by renumbering sections accordingly;

On page 1, in the title, in line 10, by striking “state departments and agencies” and inserting “a state agency; the department of transportation, reporting requirements”; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2448** be amended on page 1, in line 18, by striking “12” and inserting “18”; in line 31, by striking “elec.”; in line 32, by striking “tronic facsimile or”; also in line 32, after “mail” by inserting “, electronic facsimile, e-mail or other electronic means”; following line 40, by inserting the following:

“(d) As used in this section, ‘pharmacist’ means a pharmacist as defined in K.S.A. 65-1626, and amendments thereto, who has successfully completed a course of study and training, approved by the accreditation council for pharmacy or the board, in vaccination storage, protocols, injection technique, emergency procedures and record keeping and has taken a course in cardiopulmonary resuscitation (CPR) and has a current CPR certificate.”;

Also on page 1, in line 41, by striking “(d)” and inserting “(e)”; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2619** be amended on page 1, in line 16, after “post-anesthesia” by inserting “and pre- and post-analgesia”; in line 22, by striking “, order”; in line 23, by striking “, tests”; also in line 23, by striking “necessary for the anesthesia plan of care” and inserting “during the peri-anesthetic or peri-analgesic period”; following line 23, by inserting:

“(5) order necessary medications and tests in the peri-anesthetic or peri-analgesic period.”;

And by renumbering paragraphs accordingly;

Also on page 1, in line 25, by striking “peri-operative” and inserting “peri-anesthetic or peri-analgesic”; in line 27, by striking “anesthesia or analgesia peri-operative” and inserting “peri-anesthetic or peri-analgesic”; in line 29, before the semicolon by inserting “or analgesia”; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2429**, **HB 2656** be passed.

Committee on **Judiciary** recommends **HB 2529** be amended on page 3, in line 30, by striking “38-1664.”;

On page 4, in line 8, before “79-3234,” by inserting “79-1437f.”; by striking all in lines 25 through 43;

By striking all on pages 5 and 6;

On page 7, by striking all in lines 1 through 32 and inserting the following:

“Sec. 2. K.S.A. 2009 Supp. 38-2309 is hereby amended to read as follows: 38-2309. (a) *Official file.* The official file of proceedings pursuant to this code shall consist of the complaint, process, service of process, orders, writs and journal entries reflecting hearings held,

judgments and decrees entered by the court. The official file shall be kept separate from other records of the court.

(b) The official file shall be open for public inspection, unless the judge determines that opening the official file for public inspection is not in the best interests of a juvenile who is less than 14 years of age. Information identifying victims and alleged victims of sex offenses, as defined in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, shall not be disclosed or open to public inspection under any circumstances. Nothing in this section shall prohibit the victim or alleged victim of any sex offense from voluntarily disclosing such victim's identity. An official file closed pursuant to this section and information identifying the victim or alleged victim of any sex offense shall be disclosed only to the following:

- (1) A judge of the district court and members of the staff of the court designated by the judge;
- (2) parties to the proceedings and their attorneys;
- (3) any individual or any public or private agency or institution: (A) Having custody of the juvenile under court order; or (B) providing educational, medical or mental health services to the juvenile;
- (4) the juvenile's court appointed special advocate;
- (5) any placement provider or potential placement provider as determined by the commissioner or court services officer;
- (6) law enforcement officers or county or district attorneys, or their staff, when necessary for the discharge of their official duties;
- (7) the Kansas racing commission, upon written request of the commission chairperson, for the purpose provided by K.S.A. 74-8804, and amendments thereto, except that information identifying the victim or alleged victim of any sex offense shall not be disclosed pursuant to this subsection;
- (8) juvenile intake and assessment workers;
- (9) the commissioner;
- (10) any other person when authorized by a court order, subject to any conditions imposed by the order; and
- (11) the commission on judicial performance in the discharge of the commission's duties pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto.

(c) *Social file.* Reports and information received by the court, other than the official file, shall be privileged and open to inspection only by attorneys for the parties, juvenile intake and assessment workers, court appointed special advocates ~~and~~, juvenile community corrections officers, *the juvenile's guardian ad litem, if any,* or upon order of a judge of the district court or appellate court. The reports shall not be further disclosed without approval of the court or by being presented as admissible evidence.

(d) *Preservation of records.* The Kansas state historical society shall be allowed to take possession for preservation in the state archives of any court records related to proceedings under the Kansas juvenile justice code or the revised Kansas juvenile justice code whenever such records otherwise would be destroyed. The Kansas state historical society shall make available for public inspection any unexpunged docket entry or official file in its custody concerning any juvenile 14 or more years of age at the time an offense is alleged to have been committed by the juvenile. No other such records in the custody of the Kansas state historical society shall be disclosed directly or indirectly to anyone for 70 years after creation of the records, except as provided in subsections (b) and (c). A judge of the district court may allow inspection for research purposes of any court records in the custody of the Kansas state historical society related to proceedings under the Kansas juvenile justice code or the revised Kansas juvenile justice code.

(e) Relevant information, reports and records, shall be made available to the department of corrections upon request, and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of corrections.”;

On page 9, in line 10, by striking “38-1664,” and inserting “38-2309 and”; in line 11, by striking “and 79-1437f”;

In the title, in line 10, by striking "38-1664" and inserting "38-2309"; in line 11, by striking "and" where it appears the second time; in line 12, by striking "K.S.A. 2009 Supp. 79-1437f"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HCR 5026** be amended on page 1, in line 21, by striking "; (2) administrative supervision"; by striking all in lines 22 and 23; in line 24, by striking "and (6)" and inserting ", including judicial districts; (2) workload of judicial and nonjudicial personnel; (3) court record retention; (4) centralized court data network; (5) use of video conferencing and other methods for court hearings; (6) jurisdiction, qualifications and compensation of district magistrate judges; and (7)"; and the concurrent resolution be adopted as amended.

Committee on **Local Government** recommends **HB 2478** be passed.

Committee on **Local Government** recommends **HB 2471** be amended on page 1, in line 34, by striking all after the period; by striking all in line 35; and the bill be passed as amended.

Committee on **Local Government** recommends **HB 2472** be amended on page 4, by striking all in line 43;

On page 5, by striking all in lines 1 through 14;

On page 6, in line 25, by striking "25%" and inserting "10%"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2552** be passed.

Committee on **Transportation** recommends **HB 2439** be amended on page 1, in line 20, following the period, by inserting " "Wireless communication device" does not include a device which is voice-operated and which allows the user to send or receive a text based communication without the use of either hand, except to activate or deactivate a feature or function."; in line 29, by striking all following "(1)" and inserting "A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment;"; in line 40, by striking "eminent" and inserting "imminent"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2660** be amended on page 8, by striking all in lines 10 through 43;

By striking all on pages 9, 10, 11 and 12;

On page 13, by striking all in lines 1 through 5;

And by renumbering remaining sections accordingly;

On page 20, in line 24, by striking "8-198,";

In the title, in line 10, by striking "8-198,"; and the bill be passed as amended.

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

AFTERNOON SESSION

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

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

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2650, HB 2585, HB 2572, HB 2408; SB 357** be passed.

Committee report to **HB 2515** be adopted; also, on motion of Rep. Otto to amend, the motion did not prevail. Also, on motion to recommend the bill favorably for passage, the motion did not prevail.

Committee report to **HB 2547** be adopted; and the bill be passed as amended.

Committee report to **HB 2652** be adopted; also, on motion of Rep. Kuether be amended on page 1, in line 15, by striking all after "(a)"; by striking all in lines 16 and 17; in line 18, by striking "(b)"; in line 24, by striking "(c)" and inserting "(b)"; in line 28, by striking "(d)" and inserting "(c)"; in line 32, by striking "(e)" and inserting "(d)"; in line 35, after "thereof"

by inserting “and all resellers of wireless telecommunications services”; and the bill be passed as amended.

Committee report to **HB 2638** be adopted; also, on motion of Rep. Whitham be amended on page 12, after line 38, by inserting the following:

“Sec. 6. K.S.A. 74-5609a is hereby amended to read as follows: 74-5609a. (a) The law enforcement training center is authorized to charge tuition for each railroad policeman, each employee of a tribal law enforcement agency, *each horsethief reservoir benefit district law enforcement officer* and each school law enforcement officer enrolled in a course at the training center. Such tuition shall not exceed the training center’s average operating cost per trainee. Tuition charges authorized by this section shall cover the cost of room, board and all necessary instructional supplies and material for any railroad policeman or school law enforcement officer attending the law enforcement training center.

(b) Any city, county or state agency which commences employment of a police officer or law enforcement officer within one year of the time such police officer or law enforcement officer has completed a course of instruction at a state or local law enforcement training school shall reimburse the city, county or state agency which paid the tuition for training such officer. This reimbursement shall include the amount of the tuition paid, the officer’s salary and travel expenses and any other expenses incurred which were incidental to training such officer.”;

And by renumbering the remaining sections accordingly;

Also on page 12, in line 39, after “22-2401a” by inserting “and 74-5609a”;

In the title, in line 11, after “22-2401a” by inserting “and 74-5609a”; and **HB 2638** be passed as amended.

On motion of Rep. DeGraaf to amend **HB 2490**, Rep. Swenson 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. DeGraaf to amend on page 3, following line 9, by inserting the following:

“New Sec. 2. (a) Any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization, municipal group-funded pool and the state employee health care benefits plan which is delivered, issued for delivery, amended or renewed on and after July 1, 2010, shall exclude coverage for elective abortions, unless the procedure is necessary to preserve the life of the mother. Coverage may be obtained through an optional rider for which an additional premium is paid.

(b) “Abortion” means the use of any means to intentionally terminate a pregnancy except for the purpose of causing a live birth. Abortion does not include: (1) The use of any drug or device that inhibits or prevents ovulation, fertilization or the implantation of an embryo; or (2) disposition of the product of *in vitro* fertilization prior to implantation.

Sec. 3. K.S.A. 2009 Supp. 40-2,103 is hereby amended to read as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170, inclusive, 40-2250, K.S.A. 2009 Supp. 40-2,105a ~~and~~, 40-2,105b ~~and section 2~~, and amendments thereto, shall apply to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed or issued for delivery within or outside of this state or used within this state by or for an individual who resides or is employed in this state.

Sec. 4. K.S.A. 2009 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. (a) Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes Annotated, applicable to nonprofit corporations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2009 Supp. 40-2,105a ~~and~~, 40-2,105b ~~and section 2~~, and amendments thereto, except as the context otherwise requires,

and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

(c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.”;

And by renumbering sections accordingly;

Also on page 3, in line 10, by striking “is” and inserting “and K.S.A. 2009 Supp. 40-2,103 and 40-19c09 are”;

In the title, in line 9, by striking “life insurance companies” and inserting “the regulation thereof”; in line 10, preceding “and”, by inserting “and K.S.A. 2009 Supp. 40-2,103 and 40-19c09”; also in line 10, by striking “section” and inserting “sections”;

Roll call was demanded.

On roll call, the vote was: Yeas 73; Nays 45; Present but not voting: 0; Absent or not voting: 7.

Yeas: Aurand, Bowers, Brookens, A. Brown, Brunk, Burgess, Carlson, Craft, Crum, DeGraaf, Faber, Feuerborn, Fund, D. Gatewood, George, Goico, Grange, Grant, Hayzlett, Henry, Hermanson, Hineman, C. Holmes, M. Holmes, Horst, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Long, Lukert, Maloney, Mast, McLeland, Meier, Merrick, Morrison, Moxley, Myers, Neufeld, O’Brien, O’Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Phelps, Powell, Prescott, Proehl, Rhoades, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Suellentrop, D. Svaty, Swanson, Tafanelli, Vickrey, Wetta, Whitham, Williams, B. Wolf, Yoder.

Nays: Ballard, Barnes, Benlon, Bollier, T. Brown, Burroughs, Carlin, Colloton, Crow, Davis, Dillmore, Finney, Flaharty, Frownfelter, Furtado, Garcia, S. Gatewood, Goyle, Hawk, Henderson, Hill, Kuether, Lane, Light, Loganbill, Mah, McCray-Miller, Menghini, Neighbor, Pottorff, Quigley, Rardin, Roth, Ruiz, Slattery, Sloan, Spalding, Swenson, Talia, Tietze, Trimmer, Ward, Winn, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Bethell, Donohoe, Gordon, Huebert, Johnson, Landwehr, Peterson.

The motion of Rep. DeGraaf prevailed.

Also, rose and reported progress.

REPORTS OF STANDING COMMITTEES

Agriculture and Natural Resources Budget Committee recommends **HB 2666** be amended on page 3, in line 12, after “Each” by inserting “cattle”; after line 30, by inserting the following:

“(f) For the purposes of this subsection, “animal unit” means the number of swine weighing more than 55 pounds multiplied by 0.4; plus the number of swine weighing 55 pounds or less multiplied by 0.1; plus the number of sheep or lambs multiplied by 0.1; plus the number of goats multiplied by 0.1. Each swine, sheep and goat feedlot operator, who shall be granted a license, shall pay a fee in an amount set by the Kansas animal health board and adopted by rules and regulations of the commissioner for such license and for annual renewal thereof, in accordance with and subject to the following schedule of maximum fees:

<i>Feedlot capacity</i>	<i>Maximum fee</i>
300 to 999 Animal units	\$75
1,000 to 2,999 Animal units	\$350
3,000 to 5,999 Animal units	\$650
6,000 to 9,999 Animal units	\$750
10,000 to 17,999 Animal units	\$1,100
18,000 to 29,999 Animal units	\$1,500
30,000 to 49,999 Animal units	\$1,650
50,000 to 99,999 Animal units	\$1,800
100,000 Animal units and over	\$2,000”;

And by relettering the remaining subsections accordingly; and the bill be passed as amended.

Committee on **Appropriations** recommends **SCR 1614** be amended on page 1, in line 28, following the comma, by inserting “when the actual state revenues for the current year constitute an increase of more than three percent over the actual state revenues for the preceding year.”; in line 30, following “transferred”, by inserting “from a fund or funds designated by law”; in line 31, by striking “or appropriate”;

On page 2, in line 1, by striking “Whenever” and inserting “Except as otherwise provided by this section, whenever”; following line 7, by inserting the following:

“(3) The aggregate amount transferred from the budget stabilization fund during any year shall not exceed 50 percent of the moneys in the budget stabilization fund.”; Also on page 2, in line 22, preceding the period, by inserting “when state revenues increase by more than three percent”; in line 30, preceding the period, by inserting “up to a maximum of 50 percent of the amount in the budget stabilization fund”; and the concurrent resolution be adopted as amended.

Committee on **Commerce and Labor** recommends **HB 2238** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2238,” as follows:

“Substitute for HOUSE BILL No. 2238

By Committee on Commerce and Labor

“AN ACT concerning construction contracts; relating to retention in public and private construction contracts; amending K.S.A. 16-1802, 16-1804, 16-1902 and 16-1904 and repealing the existing sections.”; and the substitute bill be passed.

(**Sub. HB 2238** was thereupon introduced and read by title.)

Education Budget Committee recommends **HB 2239** be amended on page 1, by striking all in lines 14 through 43;

On page 2, by striking all in lines 1 through 15 and inserting the following:

“Section 1. K.S.A. 2009 Supp. 72-7536 is hereby amended to read as follows: 72-7536.

(a) The purpose of this section is to allow any person desiring to obtain, analyze and compare financial and performance data of school districts the ability to do so.

(b) ~~On or before December 31, 2005,~~ The state board of education shall design and implement a uniform system of reporting of such data by school districts. Such system shall be an internet-based data reporting system which is freely available and accessible. Such system shall allow a person to search and manipulate the data and allow for the comparison of data on a district by district basis. Such system may be designed so that school districts may input directly the district’s financial and performance data in lieu of reporting data to the state board.

(c) *On or before December 31, 2011, the state board shall modify the system so that it includes detailed records of revenue and expenditure transactions of school districts that conform to the uniform chart of accounts prescribed by the state board under K.S.A. 2009 Supp. 72-8254, and amendments thereto. The state board shall require school districts to submit detailed revenue and expenditure records to the state board in an electronic format that is prescribed by the state board.*

Sec. 2. K.S.A. 2009 Supp. 72-8253 is hereby amended to read as follows: 72-8253. (a) Each school district shall compile and report expenditures of the district in providing programs required by law and the number of pupils enrolled in such programs. Such information shall be ~~compiled and reported in the manner required by the department~~ *reported in accordance with the uniform chart of accounts prescribed by the state board under K.S.A. 2009 Supp. 72-8254, and amendments thereto.*

(b) ~~The department~~ *state board* shall verify, on an on-going basis, expenditures of school districts in providing programs required by law and the number of pupils enrolled in such programs. Such verification may be conducted on a sample-basis of school districts.

Sec. 3. K.S.A. 2009 Supp. 72-8254 is hereby amended to read as follows: 72-8254. (a) *The state board of education shall adopt a uniform chart of accounts for the reporting of receipts and expenditures of school districts.*

(b) ~~In order to achieve uniform reporting of receipts and expenditures by school districts in school district budgets, districts shall report expenditures in the manner required and in reports submitted to the state board of education, districts shall report receipts and expend-~~

itures of the district in accordance with the uniform chart of accounts adopted by the state board.

(c) If the state board determines that a school district has failed to report the receipts and expenditures of the school district in accordance with the uniform chart of accounts as required by this section, the state board shall calculate the total amount of receipts or expenditures that were incorrectly reported. The state board shall deduct an amount equal to 10% of such total from the general state aid payable to the district during the next school year.

Sec. 4. K.S.A. 75-1124 is hereby amended to read as follows: 75-1124. (a) A copy of each audit report with recommendations, if any, rendered by any licensed municipal public accountant or certified public accountant upon the completion of any audits provided for by K.S.A. 10-1208, 12-866, 13-1243, 13-14d12 or 75-1122, and any amendments to such statutes, shall be filed with the director of accounts and reports within one year after the end of the audit period of the audit unless an extension of time is granted by the director of accounts and reports. Final payment to any accountant performing a municipal audit shall not be made until a copy of such report has been so filed as shown by a statement of the director of accounts and reports.

(b) The audit report prepared for a school district shall include a statement of assurance that the school district has reported the receipts and expenditures of the district in accordance with the uniform chart of accounts prescribed by the state board under K.S.A. 2009 Supp. 72-8254, and amendments thereto. A copy of such audit report also shall be filed with the state board of education.

Sec. 5. K.S.A. 75-1124 and K.S.A. 2009 Supp. 72-7536, 72-8253 and 72-8254 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 9, by striking “enacting the Kansas uniform finan-”; by striking all in line 10; in line 11, by striking all before the period and inserting “relating to reports submitted to the state board of education; amending K.S.A. 75-1124 and K.S.A. 2009 Supp. 72-7536, 72-8253 and 72-8254 and repealing the existing sections”; and the bill be passed as amended.

Education Budget Committee recommends **HB 2647** be amended on page 1, in line 20, by striking “state financial aid” and inserting “local activities budget computation factor”; in line 21, after “year” by inserting “as determined under section 2, and amendments thereto”; in line 30, by striking “state financial aid” and inserting “local activities budget computation factor”;

On page 2, in line 14, by striking “state financial aid” and inserting “local activities budget computation factor”;

On page 3, after line 4, by inserting the following:

“Sec. 2. Each school year, the state board of education shall determine the local activities budget computation factor of each school district as follows:

(a) Determine the full-time equivalent enrollment of the district; and

(b) multiply the number determined under (a) by the amount of base state aid per pupil. The product is the budget computation factor of the district.”;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 13, by striking all after “(b)”; by striking all in lines 14 through 22; in line 23, by striking “(c)”; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2575** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2575,” as follows:

“Substitute for HOUSE BILL No. 2575

By Committee on Health and Human Services

“AN ACT concerning naturopathic doctors; licensure; amending K.S.A. 17-2707, 65-7201, 65-7202, 65-7203, 65-7204, 65-7205, 65-7206, 65-7207, 65-7211, 65-7212 and 65-7216 and K.S.A. 2009 Supp. 65-2913, 65-7208 and 65-7209 and repealing the existing sections.”; and the substitute bill be passed.

(**Sub. HB 2575** was thereupon introduced and read by title.)

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 was thereupon introduced and read by title:

HB 2702, An act concerning crimes, criminal procedure and punishment; relating to transmission of sexually explicit or nude images of minors; amending K.S.A. 21-3516 and repealing the existing section, by Committee on Federal and State Affairs.

On motion of Rep. Merrick, the House recessed until 4:30 p.m.

LATE AFTERNOON SESSION

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

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

COMMITTEE OF THE WHOLE

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

Recommended that discussion resume on **HB 2490**; also, roll call was demanded on motion of Rep. Bollier to amend on page 3, after line 9, by inserting the following:

"New Sec. 2. Any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization, municipal group-funded pool and the state employee health care benefits plan which is delivered, issued for delivery, amended or renewed on and after July 1, 2010, shall exclude coverage for illnesses and medical conditions caused substantially and directly by the use of tobacco products. Coverage for such illnesses and medical conditions caused by the use of tobacco products may be obtained through an optional rider for which an additional premium is paid.";

And by renumbering sections accordingly;

On roll call, the vote was: Yeas 70; Nays 46; Present but not voting: 0; Absent or not voting: 9.

Yeas: Aurand, Ballard, Barnes, Benlon, Bollier, Bowers, Brookens, T. Brown, Burroughs, Carlin, Craft, Crow, Davis, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grange, Grant, Hawk, Henderson, Henry, Hill, Hineman, Horst, Kelley, Kiegerl, Kleeb, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, Menghini, Moxley, Neighbor, Palmer, Pauls, Phelps, Pottorff, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Slattery, Sloan, Spalding, D. Svaty, Swenson, Talia, Tietze, Trimmer, Ward, Wetta, Williams, Winn, K. Wolf, Yoder.

Nays: A. Brown, Brunk, Burgess, Carlson, Crum, DeGraaf, Dillmore, Faber, Fund, George, Gordon, Hayzlett, Hermanson, C. Holmes, M. Holmes, Jack, Kerschen, King, Kinzer, Knox, McLeland, Meier, Merrick, Morrison, Myers, Neufeld, O'Brien, O'Neal, Olson, Otto, Patton, Peck, Powell, Prescott, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Suellentrop, Tafanelli, Vickrey, Whitham, B. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Bethell, Colloton, Donohoe, Goico, Huebert, Johnson, Landwehr, Peterson, Swanson.

The motion of Rep. Bollier prevailed.

Also, on motion of Rep. Carlin to amend **HB 2490**, the motion did not prevail.

Also, on motion of Rep. Mah, **HB 2490** be amended on page 3, after line 9, by inserting the following:

"New Sec. 2. Any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization, municipal group-funded pool and the state employee health care benefits plan which is delivered, issued for delivery,

amended or renewed on and after July 1, 2010, shall exclude coverage for erectile dysfunction. Coverage for erectile dysfunction may be obtained through an optional rider for which an additional premium is paid.”;

And by renumbering sections accordingly;

Also, on motion of Rep. Dillmore, **HB 2490** be rereferred to Committee on Insurance. Committee report to **HB 2604** be adopted; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

HB 2442 reported correctly engrossed February 16, 2010.

Also, **HB 2508**, **HB 2609** reported correctly engrossed February 17, 2010.

REPORT ON ENROLLED BILLS

HB 2414 reported correctly enrolled, properly signed and presented to the governor on February 16, 2010.

On motion of Rep. Merrick, the House adjourned until 9:00 a.m., Thursday, February 18, 2010.

SUSAN W. KANNARR, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

