

Journal of the House

FORTY-FOURTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, March 15, 2010, 11:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.
The roll was called with 120 members present.
Rep. Johnson was excused on verified illness.
Reps. Aurand, Horst and Winn were excused on legislative business.
Rep. Hawk was excused on excused absence by the Speaker.

Prayer by Deacon Evertt Schultz, First Mennonite Church, Pretty Prairie, guest of Rep. Seiwert:

Our Father,

I thank You for this great state of Kansas that You have allowed us to call home. I thank You for all the people who have sacrificed to give us this state. And now I come before You seeking Your face and Your guidance for this session. The issues before this body are staggering, and solutions are not easily discerned. I ask for Your presence to be with these people this day and during these next few weeks and months as they ponder the difficult dilemmas facing our state.

Father, there people face a very difficult task ahead in 2010. To provide for our state with reduced revenues and the pressure to continue to spend at the current level will be difficult to achieve. Give these people understanding and wisdom to know how to meet the issues which face them. Help them to stand, for the rights things, for the right reasons, and for the right issues and not because of party affiliation or special interest groups. Bless their work here Father, and encourage them.

Quoting from our first president, George Washington, in which he said, "It is impossible to rightly govern a nation without God and the Bible," help these people to use the faith that the founders of our nation relied upon, that of prayer and a knowledge and reliance upon God. Only by the faith and continued reliance upon God, did our founding fathers endure the pressures and dangers of establishing our new land. I pray that these people might understand the wisdom and power that these great founding men possessed at the beginning of our nation.

And now, I pray that if there is anyone within the sound of my voice that does not know Your love and care for them, I pray that You will touch them and cause them to consider Your Gift that has been extended to them. For those who desire to know You, I pray that You will work in their heart. May they come to know You.

I ask these things in thy name O Lord, Amen.

The Pledge of Allegiance was led by Rep. Seiwert.

INTRODUCTION OF GUESTS

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

It's a great pleasure to introduce Garrett Buthe this morning. In February, Garrett was named the state Ambassador for the Muscular Dystrophy Association. As the goodwill ambassador, Garrett will represent MDA at various functions and public events.

Garrett has been profiled on the annual Jerry Lewis MDA Telethon by KAKE TV of Wichita. MDA is a non-profit health agency dedicated to curing muscular dystrophy, ALS and related diseases by funding world wide research. MDA also provides comprehensive health care and support services, advocacy and education.

The MDA clinic serving Wichita and 69 Kansas counties is on the campus of Via Christi St. Frances Medical Center in Wichita. The community of Augusta is proud of Garrett and the very positive impact that he is having on the lives of his peers.

Garrett has always lived life to the fullest and I know that he is really excited about the upcoming NCAA basketball tournament because he is a HUGE Jayhawks fan.

Garrett is accompanied today by his mother, Lana, and his grandmother, Gloria.

Rep. Crum presented Garrett with a House certificate.

INTRODUCTION OF GUESTS

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

As an organization founded by volunteers in 1885, the Greater Wichita YMCA has grown from 37 charter members to serving more than 235,000 people through more than 100 program sites. In addition, the YMCA serves nearly two out of three kids in Sedgwick and Butler Counties.

In fact, the YMCA serves more than 20,000 people each day through urban outreach programs, youth sports, child care, swim lessons, camp and wellness activities. Thanks to the generosity and support of thousands of people, the Y has remained a relevant and vital charitable organization in the communities it serves.

The Greater Wichita YMCA was founded by volunteers 125 years ago when Wichita was little more than a cow town. In 2010, it is anticipated that 4,500 volunteers will donate more than 73,000 hours of time. These volunteers help the YMCA make its programs and services available to everyone in the community, regardless of ability to pay. Because of their volunteer efforts and the generosity of thousands of donors, more than 65,000 youth and adults will receive free and assisted YMCA services in 2010.

Being a member myself, I'd like to commend some of those volunteers for their outstanding service to the Greater Wichita YMCA and the communities it serves: Larry Way, Brandon Knowles, Joel Foltz, Rich Hutfles, Rick Laurino, John Weber, Don Baxter and Daniel De Longe. The Wichita YMCA Men's Clubs were founded in 1955, and its volunteer members continue to help raise dollars for the YMCA's Strong Kids Fundraising Campaign.

Rep. Hermanson presented the volunteers with a framed House certificate.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2740. An act concerning taxation; relating to amnesty from assessment or payment of penalties and interest with respect to certain taxes; requirements and procedures, by Committee on Taxation.

HB 2741. An act concerning crimes and punishments; relating to smoking and cigarette sales; amending K.S.A. 2009 Supp. 79-3301 and 79-3321 and repealing the existing sections; reviving and amending K.S.A. 21-3105, 21-4009, 21-4010, 21-4011, 21-4012 and 65-530 and repealing the revived sections; also repealing K.S.A. 21-3105, as amended by section 1 of 2010 House Bill No. 2221, 21-4009, as amended by section 2 of 2010 House Bill No. 2221, 21-4010, as amended by section 3 of 2010 House Bill No. 2221, 21-4011, as amended by section 4 of 2010 House Bill No. 2221, 21-4012, as amended by section 5 of 2010 House Bill No. 2221, 65-530, as amended by section 7 of 2010 House Bill No. 2221, and section 8 of 2010 House Bill No. 2221, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Agriculture and Natural Resources: **HB 2738**.
 Corrections and Juvenile Justice: **SB 435**.
 Federal and State Affairs: **HB 2737**.
 Judiciary: **SB 523**.
 Transportation: **SB 480**.
 Education Budget: **HB 2739**.

CORRECTION OF REFERENCE

Speaker O'Neal announced **SB 359** appearing on the Calendar under Reference of Bills and Concurrent Resolutions as being referred to Committee on Education Budget, should be corrected to be referred to Committee on Education.

COMMUNICATIONS FROM STATE OFFICERS

From Mark S. Beck, Director, Division of Property Valuation, Kansas Department of Revenue, pursuant to K.S.A. 79-1490, 2009 Preliminary Ratio Study.

The complete report is kept on file and open for inspection in the office of the Chief Clerk.

CONSENT CALENDAR

Objection was made to **SB 394** appearing on the Consent Calendar; the bill was placed on the calendar under the heading of General Orders.

No objection was made to **SB 508** appearing on the Consent Calendar for the first day.

No objection was made to **SB 464** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 464, An act concerning payment of taxes; amending K.S.A. 24-623 and 79-2301 and K.S.A. 2009 Supp. 8-173 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Huebert, 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, Slatery, Sloan, Spalding, Suellentrop, D. Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Aurand, Hawk, Horst, Johnson, Winn.

The bill passed.

HB 2578, An act concerning property taxation; relating to refunds of taxes; loans to counties by pooled money investment board, terms and limitations; amending K.S.A. 2009 Supp. 75-4209 and 79-2005 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hayzlett,

Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Huebert, 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, Ward, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Aurand, Hawk, Horst, Johnson, Winn.

The bill passed, as amended.

SB 326. An act concerning crime victims; relating to the crime victims compensation fund and the crime victims assistance fund; amending K.S.A. 2009 Supp. 75-752 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Huebert, 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, Ward, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Aurand, Hawk, Horst, Johnson, Winn.

The bill passed, as amended.

SB 461. An act concerning district magistrate judges; relating to compensation thereof; amending K.S.A. 2009 Supp. 75-3120k and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 86; Nays 34; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, T. Brown, Burgess, Burroughs, Carlin, Colloton, Crow, Crum, Faber, Finney, Frownfelter, Fund, Furtado, Garcia, S. Gatewood, George, Gordon, Grange, Hayzlett, Henderson, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Jack, Kerschen, King, Kleeb, Knox, Kuether, Lane, Light, Loganbill, Long, Lukert, Maloney, McCray-Miller, Meier, Menghini, Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Palmer, Patton, Peterson, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Schroeder, Schwab, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Suellentrop, Swanson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: A. Brown, Brunk, Carlson, Craft, Davis, DeGraaf, Dillmore, Donohoe, Feuerborn, Flaharty, D. Gatewood, Goico, Goyle, Grant, Henry, Huebert, Kelley, Kiegerl, Kinzer, Landwehr, Mah, Mast, McLeland, Merrick, O'Brien, Otto, Pauls, Peck, Phelps, Pottorff, Schwartz, D. Svaty, Swenson, Ward.

Present but not voting: None.

Absent or not voting: Aurand, Hawk, Horst, Johnson, Winn.

The bill passed, as amended.

SCR 1615, A concurrent resolution claiming sovereignty under the Tenth Amendment to the Constitution of the United States over certain powers; serving notice to the federal government to cease and desist certain mandates; providing that certain federal legislation be prohibited or repealed; and directing distribution, was considered on final action.

On roll call, the vote was: Yeas 109; Nays 11; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlson, Colloton, Craft, Crum, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Frownfelter, Fund, Furtado, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Light, Long, Lukert, Mah, Maloney, Mast, 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, Tafaneli, Talia, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Carlin, Crow, Davis, Flaharty, Garcia, Kuether, Lane, Loganbill, McCray-Miller, Ruiz, Tietze.

Present but not voting: None.

Absent or not voting: Aurand, Hawk, Horst, Johnson, Winn.

The resolution was adopted, as amended.

MOTIONS TO CONCUR AND NONCONCUR

Speaker O'Neal announced that in accordance with House Rule 2107, the Senate amendments to **S. Sub. for HB 2437** do materially change its subject and **S. Sub. for HB 2437** therefore is not subject to Motions to Concur and Nonconcur.

S. Sub. for HB 2437 was thereupon introduced and read by title.

Speaker O'Neal thereupon referred **S. Sub. for HB 2437** to Committee on Transportation.

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **SB 414** be passed.

Committee on **Corrections and Juvenile Justice** recommends **Substitute for SB 67** be amended on page 2, in line 8, by striking "(5)" and inserting "5"; after line 8, by inserting the following:

"(2) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 2, person felony if the aggregate amount of the value of the resources is \$1,000,000 or more.

(3) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 3, person felony if the aggregate amount of the value of the resources is at least \$250,000 but less than \$1,000,000.";

Also on page 2, in line 9, by striking "(2)" and inserting "(4)"; in line 10, by striking "(5), person felony if the aggregate amount of the value"; in line 11, by striking "of the resources if \$100,000 or more" and inserting "4, person felony if the aggregate amount of the value of the resources is at least \$100,000 but less than \$250,000"; in line 12, by striking "(3)" and inserting "(5)"; in line 13, by striking "7" and inserting "5"; in line 15, by striking "(4)" and inserting "(6)"; in line 16, by striking "9" and inserting "7"; in line 18, by striking "(5)" and inserting "(7)"; in line 21, by striking "(6)" and inserting "(8)"; in line 23, by striking "(7)" and inserting "(9)"; in line 24, by striking "9" and inserting "7"; after line 27, by inserting the following:

"Sec. 2. K.S.A. 21-4018 is hereby amended to read as follows: 21-4018. ~~(a) Identity theft is knowingly and with intent to defraud for any benefit, obtaining, possessing, transferring, using or attempting to obtain, possess, transfer or use, one or more identification documents or personal identification number of another person other than that issued lawfully for the use of the possessor.~~

~~—(b) "Identification documents" has the meaning provided in K.S.A. 21-3830, and amendments thereto.~~

~~— (c) Except as provided further, identity theft is a severity level 8, nonperson felony. If the monetary loss to the victim or victims is more than \$100,000, identity theft is a severity level 5, nonperson felony.~~

~~— (d) Identity fraud is:~~

~~— (1) Willfully and knowingly supplying false information intending that the information be used to obtain an identification document;~~

~~— (2) making, counterfeiting, altering, amending or mutilating any identification document:~~

~~— (A) Without lawful authority; and~~

~~— (B) with the intent to deceive; or~~

~~— (3) willfully and knowingly obtaining, possessing, using, selling or furnishing or attempting to obtain, possess or furnish to another for any purpose of deception an identification document.~~

~~— (e) Identity fraud is a severity level 8, nonperson felony: (a) Identity theft is obtaining, possessing, transferring, using, selling or purchasing any personal identifying information, or document containing the same, belonging to or issued to another person, with the intent to defraud that person, or any one else, in order to receive any benefit.~~

~~(b) Identity fraud is:~~

~~(1) Using or supplying information the person knows to be false in order to obtain a document containing any personal identifying information; or~~

~~(2) altering, amending, counterfeiting, making, manufacturing or otherwise replicating any document containing personal identifying information with the intent to deceive;~~

~~(c) (1) identity theft is a:~~

~~(A) Severity level 8, nonperson felony, except as provided in subsection (c)(1)(B); and~~

~~(B) severity level 5, nonperson felony if the monetary loss to the victim or victims is more than \$100,000.~~

~~(2) Identity fraud is a severity level 8, nonperson felony.~~

~~(d) It is not a defense that the person did not know that such personal identifying information belongs to another person, or that the person to whom such personal identifying information belongs or was issued is deceased.~~

~~(e) As used in this section “personal identifying information” includes, but is not limited to, the following:~~

~~(1) Name;~~

~~(2) birth date;~~

~~(3) address;~~

~~(4) telephone number;~~

~~(5) drivers license number or card or non-drivers identification number or card;~~

~~(6) social security number or card;~~

~~(7) place of employment;~~

~~(8) employee identification numbers or other personal identification numbers or cards;~~

~~(9) mother’s maiden name;~~

~~(10) birth, death or marriage certificates;~~

~~(11) electronic identification numbers;~~

~~(12) electronic signatures; and~~

~~(13) any financial number, or password that can be used to access a person’s financial resources, including, but not limited to, checking or savings accounts, credit or debit card information, demand deposit or medical information.~~

~~(f) This section shall be part of and supplemental to the Kansas criminal code.~~

Sec. 3. K.S.A. 2009 Supp. 21-4204 is hereby amended to read as follows: 21-4204. (a) Criminal possession of a firearm is:

(1) Possession of any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(2) possession of any firearm by a person who has been convicted of a person felony or a violation of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation

of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, and was found to have been in possession of a firearm at the time of the commission of the offense;

(3) possession of any firearm by a person who, within the preceding five years has been convicted of a felony, other than those specified in subsection (a)(4)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was found not to have been in possession of a firearm at the time of the commission of the offense;

(4) possession of any firearm by a person who, within the preceding 10 years, has been convicted of: (A) A felony under K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, K.S.A. 2009 Supp. 21-36a03, 21-36a05 or 21-36a06, 21-36a07 or 21-36a09, and amendments thereto; K.S.A. 65-4127a, 65-4127b, 65-4159, 65-4160, 65-4161, 65-4162, 65-4163, 65-4164 or 65-7006, prior to such section's repeal; an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of any such felony; or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony, was found not to have been in possession of a firearm at the time of the commission of the offense, and has not had the conviction of such crime expunged or been pardoned for such crime; or (B) a nonperson felony under the laws of Kansas or a crime under the laws of another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the offense;

(5) possession of any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades 1 through 12 or at any regularly scheduled school sponsored activity or event;

(6) refusal to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer; or

(7) possession of any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto.

(b) Subsection (a)(5) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;

(2) any possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;

(3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student; or

(4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day.

(c) Subsection (a)(7) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. 2009 Supp. 75-7c26, and amendments thereto.

(d) Violation of subsection (a)(1) or (a)(5) is a class B nonperson select misdemeanor; violation of subsection (a)(2), (a)(3), (a)(4) or (a)(7) is a severity level 8, nonperson felony; violation of subsection (a)(6) is a class A nonperson misdemeanor.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 28, by striking “is” and inserting “and 21-4018 and K.S.A. 2009 Supp. 21-4204 are”;

In the title, in line 10, after the semicolon by inserting “identity theft and identity fraud; criminal possession of a firearm;”; also in line 10, after “21-3437” by inserting “and 21-4018 and K.S.A. 2009 Supp. 21-4204”; in line 11, by striking “section” and inserting “sections”; and the substitute bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 346** be amended on page 1, by striking all in lines 18 through 43;

On page 2, by striking all in lines 1 through 17;

On page 4, in line 26, after “the” where it appears the first time, by inserting “actual physical”; in line 28, by striking “19-4444 and”;

In the title, in line 14, by striking “19-4444 and”; and the bill be passed as amended.

Committee on **Insurance** recommends **HB 2671** be amended on page 1, in line 14, by striking “full-”; in line 15, by striking “time”; in line 16, by striking “paid”; also in line 16, after “certified” by inserting “as a fire investigator”; and the bill be passed as amended.

Select Committee on KPERS recommends **HB 2107** be passed.

APPOINTMENT OF SELECT COMMITTEE

Rep. Siegfried, pursuant to Article 49 of the House Rules and in accordance with K.S.A. Chapter 46, Article 10, appointed the following members to serve on a Select Investigative Committee in response to the complaint filed with House Clerk Susan Kannarr on March 12, 2010:

Rep. Shultz, Chair; Rep. C. Holmes, Vice Chair; Rep. King, Rep. Dillmore, Rep. Grant, and Rep. Henry.

March 12, 2010

Ms. Susan Kannarr
Chief Clerk
Kansas House of Representatives
300 SW 10th Avenue
Topeka, KS 66612

Dear Ms. Kannarr:

House Speaker Michael R. O’Neal is engaged in a private lawsuit against the state on behalf of special interest groups who have ongoing business before the public body that he both serves in and leads. Pursuant to Article 49, Rule 4901, his behavior and actions are grounds for a formal complaint of misconduct. This letter serves as said complaint and as a formal request for further investigation. Troubling actions leading to this point are detailed on the following pages and verified by attached documents.

This is the only public forum available to facilitate a genuine discussion and investigation into the Speaker’s behavior and actions. The Speaker of the House commands unyielding power in all matters before the Kansas House of Representatives. He is the last word on administrative issues. He determines standing committees and has the authority to both appoint and replace members and chairs. He has enormous influence over committee agendas. Bills passed out of committee are only debated and voted on by the full House if the Speaker allows it. An attempt to question his conduct through a process that he controls would be unfair and futile.

Special interest groups spend thousands of dollars every session to advocate for public policy that helps their cause and to fight policies that hurt them. Every legislator interacts with lobbyists, but there are certain, necessary boundaries on those relationships, both in and out of the Capitol. All legislators- especially the Speaker of the House- have an inherent responsibility to avoid the appearance of undue influence and impropriety. This is clearly

ignored when the leader of the House collects a private paycheck from special interest groups to reverse a legislative appropriation. Ignoring this conduct condones it, and this is not the way we should be doing business in Kansas government.

Article 49 provides that a member may be reprimanded, censured or expelled for any “misconduct.” Misconduct is not defined in House Rules, but the American Heritage Dictionary defines it as “behavior not conforming to prevailing standards or laws; impropriety; immorality. Dishonest or bad management, especially by persons entrusted or engaged to act on another’s behalf. Malfeasance, especially by public officials.” We strongly believe that Speaker O’Neal’s behavior and actions fit this definition. We all have professional obligations in addition to our part-time legislative duties, but we give up some opportunities in our professions when we take an oath of public office. We must sometimes abstain from business opportunities due to their impact on our roles as public servants. If we don’t, we risk poisoning the legislative process with cronyism, corruption, and backroom deals.

One incident in recent history sets an applicable precedent for this public discussion. In 2006, then Rep. O’Neal chaired the investigation of Senate President Stephen Morris after he engaged in a private conversation with a Supreme Court justice amid the school finance lawsuit. Although Senator Morris violated no statute, Rep. O’Neal asserted that the investigation was necessary “to determine whether the integrity of the legislative process was compromised in any way.” Rep. O’Neal went on to argue that “those who have to vote on school finance have to get a comfort level about the integrity of the system beforehand.” He stated that the investigation did not target a specific person but that it was to determine how that person’s actions shaped events.

Members of Speaker O’Neal’s chamber deserve the same assurance. The integrity of the budget process must be guaranteed before the House is forced to vote on a budget during the worst financial crisis since the Great Depression. The basis of this complaint is not the ability of special interests to sue the State of Kansas. The concern is the propriety of the Speaker’s involvement in that case, how that involvement affects his public duties, and if this standard of conduct is acceptable.

This is a request for an honest, open discussion about appropriate behavior and misconduct in the Kansas House of Representatives, and whether further action needs to be taken against Speaker O’Neal to protect the integrity of the body. We believe that further action is justified. If Speaker O’Neal continues on his current course, he sets a dangerous precedent for all future House Speakers and all future members of the Kansas Legislature.

Sincerely,

Paul Davis
Democratic Leader

Jim Ward
Assistant Leader

Eber Phelps
Democratic Whip

Barbara Ballard
Caucus Chair

Marti Crow
Agenda Chair

Cindy Neighbor
Policy Chair

cc: Speaker of the House Mike O’Neal, Speaker Pro Tem Arlen Siegfried

REPORT ON ENGROSSED BILLS

HB 2578 reported correctly engrossed March 12, 2010.

On motion of Rep. Merrick, the House adjourned until 10:30 a.m., Tuesday, March 16, 2010.

SUSAN W. KANNARR, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

