

# Journal of the House

FORTY-EIGHTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Friday, March 19, 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. Fund and Johnson were excused on verified illness.  
Rep. Ballard was excused on legislative business.

Prayer by guest chaplain, the Rev. Andy Inskeep, youth minister, Fairlawn Church of the Nazarene, Topeka:

Dear God,

We are thankful today for the victories that K-State and Kansas had last night. God we ask that you continue to help them perform to the best of their abilities throughout the rest of the tournament.

In Proverbs of the Bible, it is written,  
"We justify our actions by appearances;

God examines our motives.

Mixed motives twist life into tangles;  
pure motives take you straight down the road."  
God today we ask that you give us pure motives.

In Proverbs it is also written,

"Good friend, take to heart what I'm telling you;  
collect my counsels and guard them with your life.

Tune your ears to the world of Wisdom;  
set your heart on a life of Understanding.

That's right — if you make Insight your priority,  
and won't take no for an answer,

Searching for it like a prospector panning for gold,  
like an adventurer on a treasure hunt."

God help us to seek wisdom, understanding, and the right course of action.  
We ask that you give us wisdom and guidance in the decisions we make today.  
Amen.

The Pledge of Allegiance was led by Rep. Bollier.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Health and Human Services: **HB 2744; SB 506.**

Veterans, Military and Homeland Security: **SB 566.**

Social Services Budget: **Sub. SB 447.**

## MESSAGES FROM THE SENATE

Announcing passage of **SB 167, SB 385, SB 568.**

Announcing passage of **HB 2448, HB 2503, HB 2557, HB 2577, HB 2604.**

Announcing passage of **HB 2160**, as amended by **S. Sub. for HB 2160; HB 2472**, as amended; **HB 2486**, as amended; **Sub. HB 2528**, as amended; **HB 2553**, as amended; **HB 2581**, as amended.

Announcing adoption of **SCR 1623**.

Announcing adoption of **HCR 5012, HCR 5013**.

The Senate adopts conference committee report on **S. Sub. for HB 2476**.

The Senate accedes to the request of the House for a conference on **HB 2435** and has appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2608** and has appointed Senators Teichman, Brownlee and Steineger as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2652** and has appointed Senators Apple, Petersen and Faust-Goudeau as conferees on the part of the Senate.

Also, the Senate nonconcurrs in House amendments to **SB 369**, requests a conference and has appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **SB 386**, requests a conference and has appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **SB 430**, requests a conference and has appointed Senators Donovan, D. Schmidt and Holland as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **SB 439**, requests a conference and has appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **H. Sub. for SB 458**, requests a conference and has appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

#### **INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS**

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

**SB 167, SB 385, SB 568; SCR 1623.**

#### **INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 200**.

Speaker O'Neal thereupon appointed Reps. Mast, Rhoades and Henry as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **SB 369**.

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

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **SB 386**.

Speaker O'Neal thereupon appointed Reps. Colloton, Patton and McCray-Miller as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **SB 430**.

Speaker O'Neal thereupon appointed Reps. Carlson, King and Menghini as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **SB 439**.

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

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 458**.

Speaker O'Neal thereupon appointed Reps. Colloton, Patton and McCray-Miller as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **SB 461**.

Speaker O'Neal thereupon appointed Reps. Whitham, Kelley and Burroughs as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **SB 497**.

Speaker O'Neal thereupon appointed Reps. Powell, Fund and Lukert as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **SCR 1615**.

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

#### INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolutions were introduced and read by title:

HOUSE RESOLUTION No. 6028—

By Representative Jack

A RESOLUTION expressing our appreciation to brave soldiers who were injured in service to our country.

WHEREAS, The State of Kansas has a long and proud history of military service in time of peace and in time of war, having proudly given its sons and daughters into the service of the nation; and

WHEREAS, The State of Kansas is currently sending numerous guardsmen, reservists and active duty military personnel to support American operations overseas; and

WHEREAS, The activities of individuals and units based in the State of Kansas have brought national and international recognition to Kansas; and

WHEREAS, The Kansas Legislature is extremely appreciative and eternally grateful to the brave men and women in uniform who have sacrificed so much for our freedoms: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we are grateful for the brave service and extreme sacrifice that the following soldiers have made: Captain Erik Stewart, First Sergeant Kevin Walker, Staff Sergeant Ronnie Ryker, Lt. Colonel Corey Griffith, Sidney Sizemore, Dave Sterling and Ronnie Hatheway.

HOUSE RESOLUTION No. 6029—

By Representatives Hawk and Carlin

A RESOLUTION congratulating the A.Q. Miller School of Journalism and Mass Communications at Kansas State University for celebrating its centennial anniversary.

WHEREAS, The year 2010 marks the 100th anniversary of journalism and mass communications at Kansas State University; and

WHEREAS, Graduates of journalism and mass communications at Kansas State University have been extremely successful. They can be found in the White House and in the United States Congress and in statehouses, newspaper offices, broadcast stations, public relations and advertising agencies, educational institutions and other organizations across the nation and around the world; and

WHEREAS, These KSU graduates are serving their communities, state, nation and world with the utmost professionalism and dedication; and

WHEREAS, The A.Q. Miller School of Journalism and Mass Communications exemplifies the excellence of education at Kansas State University: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we congratulate Kansas State University's A.Q. Miller School of Journalism and Mass Communications on its 100th anniversary; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives be directed to send enrolled copies of this resolution to the director of the A. Q. Miller School of Journalism and Mass Communications, Angela Powers; the interim dean and University Distinguished Professor of the College of Arts and Sciences, Brian S. Spooner; and University President Kirk Schulz, all in care of Kansas State University, Manhattan, Kansas 66506.

#### CONSENT CALENDAR

No objection was made to **SB 541** 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 541.** An act concerning the court of appeals; relating to the number of judges; amending K.S.A. 2009 Supp. 20-3002 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, 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, 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, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Ballard, Fund, Johnson.

The bill passed.

**H. Sub. for SB 262.** An act concerning emergency medical services; scope of practice of certain attendants; titles of certain attendants; amending K.S.A. 19-4608, 21-2511, 44-1204, 65-6121, 65-6129c, 65-6135, 65-6144, 65-6145 and 66-1810 and K.S.A. 2009 Supp. 8-1001, 65-6001, 65-6111, 65-6112, 65-6119, 65-6120, 65-6123, 65-6124, 65-6129, 75-4364 and 80-2518 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, 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, 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, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Ballard, Fund, Johnson.

The substitute bill passed.

**SB 387**, An act concerning certain claims against the state, making appropriations, authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain disbursements, procedures and acts incidental to the foregoing, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, 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, 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, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Ballard, Fund, Johnson.

The bill passed, as amended.

**SB 414**, An act concerning the health care stabilization fund; amending K.S.A. 2009 Supp. 40-3403 and 40-3404 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, 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, 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, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Ballard, Fund, Johnson.

The bill passed.

**SB 415**, An act concerning certain municipalities; pertaining to investment in certain bonds; pertaining to investment of certain bond income; amending K.S.A. 10-131 and K.S.A. 2009 Supp. 10-1009 and 12-1675 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, 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, 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, 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, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Whitham.

Present but not voting: None.

Absent or not voting: Ballard, Fund, Johnson.

The bill passed, as amended.

**Sub. SB 475.** An act concerning funeral directors; amending K.S.A. 65-1714 and K.S.A. 2009 Supp. 65-1713 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 4; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, 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, 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, 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, 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: A. Brown, Donohoe, Kinzer, Patton.

Present but not voting: None.

Absent or not voting: Ballard, Fund, Johnson.

The substitute bill passed, as amended.

**SB 491.** An act concerning respiratory therapists; relating to special permits; amending K.S.A. 65-5508 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, 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, 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, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.  
 Absent or not voting: Ballard, Fund, Johnson.  
 The bill passed, as amended.

**SB 500.** An act concerning the healing arts act; regarding an exception to prohibited acts; amending K.S.A. 65-2867 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, 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, 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, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.  
 Present but not voting: None.  
 Absent or not voting: Ballard, Fund, Johnson.  
 The bill passed, as amended.

**Sub. SB 513.** An act concerning alternative project delivery building construction; amending K.S.A. 2009 Supp. 19-216b, 19-216c, 19-216d, 19-216e, 19-216f, 72-6760d, 72-6760f and 72-6760g and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, 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, 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, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.  
 Present but not voting: None.  
 Absent or not voting: Ballard, Fund, Johnson.  
 The substitute bill passed.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. McLeland, the House concurred in Senate amendments to **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.

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

Yeas: Aurand, 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, 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, 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: Ward.

Present but not voting: None.

Absent or not voting: Ballard, Fund, Johnson.

On motion of Rep. Kinzer, the House concurred in Senate amendments to **HB 2418**, An act concerning the carbon dioxide reduction act; pertaining to liability of the state of Kansas; pertaining to rules and regulations; amending K.S.A. 2009 Supp. 55-1636 and 55-1637 and repealing the existing sections.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, 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, 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, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Ballard, Fund, Johnson.

On motion of Rep. Colloton, the House concurred in Senate amendments to **HB 2468**, An act concerning crimes, criminal procedure and punishment; relating to sex offender registration requirements; amending K.S.A. 22-4906 and repealing the existing section.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, 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, 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, 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, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Ballard, Fund, Johnson.



On motion of Rep. Hayzlett, the House concurred in Senate amendments to **HB 2547**, An act amending the vehicle dealers and manufacturers licensing act; amending K.S.A. 8-2409, 8-2410, 8-2413, 8-2414, 8-2415, 8-2416, 8-2417 and 8-2419 and repealing the existing sections.

On roll call, the vote was: Yeas 114; Nays 8; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Barnes, Benlon, Bethell, Bollier, Bowers, Brookens, T. Brown, Brunk, Burgess, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, 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, Kerschen, Kiegerl, King, Kleebe, 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, 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, Williams, Winn, B. Wolf, K. Wolf, Worley.

Nays: A. Brown, Burroughs, Huebert, Kelley, Kinzer, Patton, Whitham, Yoder.

Present but not voting: None.

Absent or not voting: Ballard, Fund, Johnson.

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

#### COMMITTEE OF THE WHOLE

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

Recommended that **SB 394**, **SB 373** be passed.

**SCR 1614** be passed over and retain a place on the calendar.

Committee report to **HB 2671** be adopted; also, on motion of Rep. Bethell to amend, Rep. Swenson requested a ruling on the amendment being germane to the bill. The Rules Vice-Chair ruled the amendment germane. The question reverted back to the motion of Rep. Bethell and the bill be amended on page 2, following line 1, by inserting the following:

"New Sec. 2. (a) There is hereby established, within and as a part of the insurance department, a division of the state fire marshal, the head of which shall be the state fire marshal. Under the supervision of the insurance commissioner, the state fire marshal shall administer the division of the state fire marshal. The insurance commissioner shall appoint the state fire marshal, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and the state fire marshal shall serve at the pleasure of the insurance commissioner. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as state fire marshal shall exercise any power, duty or function as state fire marshal until confirmed by the senate. Any person appointed as state fire marshal shall have a knowledge of building construction and, at the time of appointment, shall have had not less than five years of experience in fire safety inspection and investigation. The state fire marshal shall maintain an office in the city of Topeka.

(b) This section shall take effect on and after July 1, 2010.

New Sec. 3. (a) The state fire marshal's office created by K.S.A. 75-1510 through 75-1517, and amendments thereto, is hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing state fire marshal's office and the existing state fire marshal are hereby transferred to and conferred and imposed upon, the Kansas department of insurance and the division of state fire marshal and the state fire marshal established by this act.

(c) Except as otherwise provided by this act, the Kansas department of insurance and the state fire marshal established by this act shall be the successor in every way to the powers, duties and functions of the state fire marshal's office and the existing state fire marshal in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department

of insurance and the state fire marshal established by this act shall be deemed to have the same force and effect as if performed by the state fire marshal's office and the state fire marshal, respectively, in which such powers, duties and functions were vested prior to the effective date of this act.

(d) Except as otherwise provided by this act, whenever the state fire marshal's office or state fire marshal, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the division of state fire marshal within the Kansas department of insurance and the office of state fire marshal established by this act.

(e) Except as otherwise provided by this act, whenever the state fire marshal, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the state fire marshal established by this act.

(f) All rules and regulations of the state fire marshal's office or the state fire marshal in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the Kansas department of insurance, and the state fire marshal established by this act until revised, amended, revoked or nullified pursuant to law.

(g) All orders and directives of the office of state fire marshal or the state fire marshal in existence on the effective date of this act shall continue to be effective and shall be deemed to be orders and directives of the state fire marshal and the division of state fire marshal, Kansas department of insurance established by this act, until revised, amended or nullified pursuant to law.

(h) On the effective date of this act, the state fire marshal and Kansas department of insurance shall succeed to whatever right, title or interest the office of state fire marshal has acquired in any real property in this state, and the state fire marshal shall hold the same for and in the name of the state of Kansas. On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the office of state fire marshal or the state fire marshal to acquire, hold or dispose of real property or any interest therein, the Kansas department of insurance and the state fire marshal shall succeed to such power or authority.

(i) The state fire marshal and the division of state fire marshal of the Kansas department of insurance, established by this act shall be continuations of the office of state fire marshal and the state fire marshal.

(j) On the effective date of this act, all officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of the office of state fire marshal which are transferred by this act to the division of state fire marshal, Kansas department of insurance, and who, in the opinion of the commissioner of insurance and the state fire marshal, are necessary to perform the powers, duties and functions of the division of state fire marshal, shall be transferred to, and shall become officers and employees of the Kansas department of insurance.

(k) Officers and employees of the office of state fire marshal transferred by this act shall retain all retirement benefits and leave balances and rights which had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this act shall affect the classified status of any transferred person employed by the office of state fire marshal prior to the date of transfer. When such classified positions become vacant, such positions shall be in the unclassified service.

(l) This section shall take effect on and after July 1, 2010.

Sec. 4. From and after July 1, 2010, K.S.A. 2009 Supp. 40-110 is hereby amended to read as follows: 40-110. (a) The commissioner of insurance is hereby authorized to appoint an assistant commissioner of insurance, *the state fire marshal as provided by section 1, and amendments thereto*, actuaries, two special attorneys who shall have been regularly admitted to practice, an executive secretary, policy examiners, two field representatives, and a secretary to the commissioner. Such appointees shall each receive an annual salary to be de-

terminated by the commissioner of insurance, within the limits of available appropriations. The commissioner is also authorized to appoint, within the provisions of the civil service law, and available appropriations, other employees as necessary to administer the provisions of this act. The field representatives authorized by this section may be empowered to conduct inquiries, investigations or to receive complaints. Such field representatives shall not be empowered to make, or direct to be made, an examination of the affairs and financial condition of any insurance company in the process of organization, or applying for admission or doing business in this state.

(b) The appointees authorized by this section shall take the proper official oath and shall be in no way interested, except as policyholders, in any insurance company. In the absence of the commissioner of insurance the assistant commissioner shall perform the duties of the commissioner of insurance, but shall in all cases execute papers in the name of the commissioner of insurance, as assistant. The commissioner of insurance shall be responsible for all acts of an official nature done and performed by the commissioner's assistant or any person employed in such office. All the appointees authorized by this section shall hold their office at the will and pleasure of the commissioner of insurance.

Sec. 5. From and after July 1, 2010, K.S.A. 75-1511 is hereby amended to read as follows: 75-1511. All the jurisdiction, rights, powers, duties and authority now vested in or imposed upon the Kansas state department of inspections and registration or the director thereof which were transferred to said department or the director thereof from the state fire marshal by the provisions of chapter 285 of the Laws of 1933, and including the jurisdiction, rights, powers, duties and authority conferred, imposed and provided in chapter 31, section 72-4605, 75-1503 and 75-1505 to 75-1509, both sections inclusive, of the General Statutes of 1935 and acts amendatory thereof and supplemental thereto are hereby transferred to, vested in and imposed upon the state fire marshal created in this act *and subject to the supervision of the commissioner of insurance.*

Sec. 6. From and after July 1, 2010, K.S.A. 75-1515 is hereby amended to read as follows: 75-1515. The attorney general shall appoint, with the approval of the state fire marshal *and the commissioner of insurance*, an assistant attorney general who shall be the attorney for the state fire marshal and the ~~office~~ *division* of the state fire marshal. Such attorney shall receive an annual salary fixed by the attorney general with the approval of the state fire marshal *and the commissioner of insurance*. Such salary shall be paid from moneys appropriated for the *division of the state fire marshal*.

Sec. 7. From and after July 1, 2010, K.S.A. 75-1516 is hereby amended to read as follows: 75-1516. The assistant attorney general appointed under K.S.A. 75-1515, *and amendments thereto*, shall be the legal advisor for the ~~office~~ *division* of the state fire marshal. The assistant attorney general appointed under K.S.A. 75-1515, *and amendments thereto*, shall appear for and on behalf of the state fire marshal, or any of the deputies of the state fire marshal, in any litigation that may arise in the discharge of the duties of the ~~office~~ *division* of the state fire marshal.

Sec. 8. On July 1, 2010, K.S.A. 75-1511, 75-1515 and 75-1516 and K.S.A. 2009 Supp. 40-110 and 75-1510 are hereby repealed.”;

And by renumbering the remaining sections accordingly;

In the title, in line 10, by striking all after the first semicolon; in line 11, by striking all before the period and inserting “amending K.S.A. 31-157, 75-1511, 75-1515 and 75-1516 and K.S.A. 2009 Supp. 40-110 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 75-1510”; and **HB 2671** be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 213** be adopted; and the substitute bill be passed.

On motion of Rep. M. Holmes to amend **HB 2107**, the motion did not prevail and the bill be passed.

Committee report to **HB 2682** be adopted; also, on motion of Rep. Peck be referred to Committee on Insurance.

#### REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **SB 393** be passed.

Committee on **Agriculture and Natural Resources** recommends **SB 380** be amended on page 1, in line 13, by striking “of the department”; in line 16, by striking “consideration”; in line 17, by striking “by” and inserting “approval of”; after line 26, by inserting the following:

“(d) Public cabins owned or operated by the department shall be subject to the transient guest taxes of K.S.A. 12-1692 through 12-16,100, and amendments thereto.

(e) Any time a public cabin owned or operated by the department is reserved, the department shall disclose any extra taxes, fees, charges or surcharges that will be added to the price of the reservation. If the exact amount of any tax, fee, charge or surcharge is not known, an estimate shall be provided.

“Sec. 2. K.S.A. 32-1015 is hereby amended to read as follows: 32-1015. (a) It is unlawful for any person to:

(1) Destroy any muskrat house, beaver dam, mink run or any hole, den or runway of any furbearing animal, or cut down or destroy any tree that is the home, habitat or refuge of any furbearing animal;

(2) hunt deer ~~or elk~~ in this state in an area where a firearms season for the taking of deer ~~or elk~~ is occurring, *or hunt elk in this state in an area where a firearms season for the taking of elk is occurring*, unless such person is wearing clothing of a highly visible nature in a color, an amount worn and a location on such person’s body prescribed by rules and regulations adopted by the secretary pursuant to K.S.A. 32-805, and amendments thereto;

(3) do any act or engage in any activity within any state park, state lake, recreational ground, wildlife area or sanctuary, natural area or other area under the control of the secretary which is in violation of or contrary to law or rules and regulations of the secretary;

(4) use any manner or means of taking fish which may escape from a private water fishing impoundment and kill or endanger fish in another such impoundment or in public waters;

(5) remove fish from a private water fishing impoundment without the consent of the owner or tenant having possession and control of such impoundment; or

(6) place, erect or cause to be placed or erected any seine, screen, net, weir, fishdam or other obstruction in or across any of the waters, rivers, creeks, ponds, streams, sloughs or other watercourses within the jurisdiction of this state in such a manner as will obstruct the free passage of fish up and down and through such watercourses.

(b) Subsection (a)(1) shall not be construed to prohibit a legal owner or occupant of land from cutting trees on such land.

Sec. 3. K.S.A. 32-1015 is hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 9, by striking all after “concerning”; in line 10, by striking all before the period and inserting “the department of wildlife and parks; amending K.S.A. 32-1015 and repealing the existing section”; and the bill be passed as amended.

Committee on **Appropriations** recommends **SB 73** be amended by substituting a new bill to be designated as “House Substitute for SENATE BILL No. 73,” as follows:

“HOUSE Substitute for SENATE BILL No. 73

Committee on Appropriations

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, and June 30, 2015, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2009 Supp. 2-223, 12-5256, 40-3403, 55-193, 72-8814, 75-2319, 75-6702, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-34,171, 79-4801 and 82a-953a and repealing the existing sections.”;

and the substitute bill be passed.

(**H. Sub. for SB 73** was thereupon introduced and read by title.)

Committee on **Commerce and Labor** recommends **SB 377** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 377,” as follows:

“HOUSE Substitute for SENATE BILL No. 377

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.

(H. Sub. for SB 377 was thereupon introduced and read by title.)

Committee on **Commerce and Labor** recommends **SB 531** be amended on page 8, by striking all in lines 33 through 39; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 434** be amended on page 3, in line 3, by striking “and the offender has knowledge”; by striking all in line 4; in line 5, by striking “fender is employed”; in line 35, by striking “is a severity level 5, person felony” and inserting “as provided in:

(1) Subsection (a)(5) is a severity level 4, person felony; and

(2) subsections (a)(1), (2), (3), (4), (6), (7), (8), (9) or (10) is a severity level 5, person felony”;

On page 4, in line 4, by striking “2007” and inserting “2009”; in line 6, by striking “2007” and inserting “2009”; in line 7, by striking “2007” and inserting “2009”; in line 18, after “the” by inserting “revised”; also in line 18, by striking “K.S.A. 38-1601” and inserting “K.S.A. 2009 Supp. 38-2301”;

On page 5, in line 6, by striking “correctional institution” and inserting “state correctional institution or facility”; in line 7, by striking “correctional institution” and inserting “state correctional institution or facility”; also in line 7, by striking “or”; in line 11, by striking “and” and inserting “or

(D) defined as contraband by rules and regulations adopted by the commissioner of the juvenile justice authority, in a juvenile correctional facility by an employee of a juvenile correctional facility, except as provided by subsection (b)(3); and”;

On page 11, in line 12, after “21-3715” by inserting a comma; also in line 12, after “thereto” by inserting “, or any attempt or conspiracy as defined in K.S.A. 21-3301 or 21-3302, and amendments thereto, to commit such offense.”; in line 14, after “21-3716” by inserting a comma; in line 15, after “thereto” by inserting “, or any attempt or conspiracy to commit such offense.”; also in line 15, by striking “presumed” and inserting “presumptive”;

On page 13, after line 20, by inserting the following:

“Sec. 4. K.S.A. 2009 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628 prior to its repeal; K.S.A. 21-4635 through 21-4638, and amendments thereto; K.S.A. 8-1567, and amendments thereto; K.S.A. 21-4642, and amendments thereto; and K.S.A. 21-4624, and amendments thereto, an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated murder, committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(3) Except as provided by K.S.A. 1993 Supp. 21-4628 prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(4) An inmate sentenced to imprisonment for a violation of subsection (a) of K.S.A. 21-3402, and amendments thereto, committed on or after July 1, 1996, but prior to July 1,

1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

(c) (1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608 and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

(d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 1 through 4 crimes and drug severity levels 1 and 2 crimes must serve 36 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes and drug severity level 3 crimes must serve 24 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 7 through 10 crimes and drug severity level 4 crimes must serve 12 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(D) (i) The sentencing judge shall impose the postrelease supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated. In that event, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to subsection (e) of K.S.A. 21-4714, and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the parole board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718, and amendments thereto.

(vi) Upon petition, the parole board may provide for early discharge from the postrelease supervision period upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant

to subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the parole board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated, shall be registered according to the offender registration act, K.S.A. 22-4901 through 22-4910, and amendments thereto.

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(2) As used in this section, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, and amendments thereto; or

(K) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section.

"Sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the Kansas parole board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724, and amendments thereto, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the Kansas parole board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628 prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for

which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the Kansas parole board.

(g) Subject to the provisions of this section, the Kansas parole board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, for deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The Kansas parole board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least the month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the Kansas parole board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the parole board will review the inmates proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on post-



release supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) (1) Before ordering the parole of any inmate, the Kansas parole board shall have the inmate appear ~~before~~ either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the Kansas parole board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to 10 years but any such deferral shall require the board to state the basis for its findings.

(2) *Inmates whose parole board hearings were deferred for more than five years prior to July 1, 2010, shall have their cases reviewed by the parole board on or before July 1, 2012. Such review shall begin with the inmates with the oldest deferral date and progress to the most recent.*

(k) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(l) The Kansas parole board shall adopt rules and regulations in accordance with K.S.A. 77-415 et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the Kansas parole board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

(2) to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so;

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized not-for-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable; and

(5) unless it finds compelling circumstances which would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the parole board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the Kansas parole board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the Kansas parole board grants the parole of an inmate, the board, within 10 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to the effective date of this act who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section for offenders convicted of severity level 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity level 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity level 5 and 6 crimes on the sentencing guidelines grid for nondrug crimes and severity level 3 crimes on the sentencing guidelines grid for drug crimes on or before January 1, 2001.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the Kansas parole board. When the board orders

the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(v) Whenever the Kansas parole board or the court orders a person to be electronically monitored, the board or court shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board or court shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.”;

And by renumbering the remaining sections accordingly;

On page 17, in line 16, after “21-4704” by inserting “, 22-3717”;

In the title, in line 15, after the semicolon by inserting “deferral of parole board hearings;” in line 16, after “21-4704” by inserting “, 22-3717”; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 435** be amended on page 1, after line 22, by inserting the following:

“Section 1. K.S.A. 22-2501 is hereby amended to read as follows: 22-2501. When a lawful arrest is effected a law enforcement officer may reasonably search ~~the person arrested and the area within such person's immediate presence for the purpose of~~

~~—(a) Protecting the officer from attack;~~

~~—(b) Preventing the person from escaping; or~~

~~—(c) Discovering the fruits, instrumentalities, or evidence of a crime; to the full extent allowed by and consistent with the constitution of the United States.”;~~

And by renumbering the remaining sections accordingly;

In the title, in line 10, by striking “repealing K.S.A. 22-2501” and inserting “concerning criminal procedure”; in line 12, before the period, by inserting “; amending K.S.A. 22-2501 and repealing the existing section”; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 459** be amended on page 3, in line 33, by striking “may” and inserting “shall”; in line 34, before the period by inserting “or, upon agreement of the county or district attorney and the juvenile offender's attorney of record, the court may modify the adult sentence previously ordered pursuant to subsection (a)(2)”; and the bill be passed as amended.

Committee on **Education** recommends **SB 359** be amended on page 1, in line 23, by striking “each school year” and inserting “school year 2010-2011 and in each school year thereafter”;

On page 2, after line 40, by inserting the following:

“(h) In school year 2009-2010 and to the extent that appropriations are available, each school district which has provided special education or related services for an exceptional child whose IEP provides for services which cost in excess of \$25,000 for such school year is eligible to receive catastrophic state aid in an amount equal to 75% of that portion of the costs, incurred by the district in the provision of special education or related services for the child, that is in excess of \$25,000. School districts shall not be eligible for catastrophic state aid for amounts expended but which are reimbursed or otherwise financed with state aid received under K.S.A. 72-978, and amendments thereto, or aid received under federal law.

Sec. 2. K.S.A. 2009 Supp. 72-978 is hereby amended to read as follows: 72-978. (a) Each year, the state board of education shall determine the amount of state aid for the provision of special education and related services each school district shall receive for the ensuing school year. The amount of such state aid shall be computed by the state board as provided in this section. The state board shall:

(1) Determine the total amount of general fund and local option budgets of all school districts;

(2) subtract from the amount determined in paragraph (1) the total amount attributable to assignment of transportation weighting, program weighting, special education weighting and at-risk pupil weighting to enrollment of all school districts;

(3) divide the remainder obtained in paragraph (2) by the total number of full-time equivalent pupils enrolled in all school districts on September 20;

(4) determine the total full-time equivalent enrollment of exceptional children receiving special education and related services provided by all school districts;

(5) multiply the amount of the quotient obtained in paragraph (3) by the full-time equivalent enrollment determined in paragraph (4);

(6) determine the amount of federal funds received by all school districts for the provision of special education and related services;

(7) determine the amount of revenue received by all school districts rendered under contracts with the state institutions for the provisions of special education and related services by the state institution;

(8) add the amounts determined under paragraphs (6) and (7) to the amount of the product obtained under paragraph (5);

(9) determine the total amount of expenditures of all school districts for the provision of special education and related services;

(10) subtract the amount of the sum obtained under paragraph (8) from the amount determined under paragraph (9); and

(11) multiply the remainder obtained under paragraph (10) by 92%.

The computed amount is the amount of state aid for the provision of special education and related services aid a school district is entitled to receive for the ensuing school year.

(b) Each school district shall be entitled to receive:

(1) Reimbursement for actual travel allowances paid to special teachers at not to exceed the rate specified under K.S.A. 75-3203, and amendments thereto, for each mile actually traveled during the school year in connection with duties in providing special education or related services for exceptional children; such reimbursement shall be computed by the state board by ascertaining the actual travel allowances paid to special teachers by the school district for the school year and shall be in an amount equal to 80% of such actual travel allowances;

(2) reimbursement in an amount equal to 80% of the actual travel expenses incurred for providing transportation for exceptional children to special education or related services; such reimbursement shall not be paid if such child has been counted in determining the transportation weighting of the district under the provisions of the school district finance and quality performance act;

(3) reimbursement in an amount equal to 80% of the actual expenses incurred for the maintenance of an exceptional child at some place other than the residence of such child for the purpose of providing special education or related services; such reimbursement shall not exceed \$600 per exceptional child per school year; and

(4) *subject to the provisions of subsection (f) and* except for those school districts entitled to receive reimbursement under subsection (c) or (d), after subtracting the amounts of reimbursement under paragraphs (1), (2) and (3) of this subsection (a) from the total amount appropriated for special education and related services under this act, an amount which bears the same proportion to the remaining amount appropriated as the number of full-time equivalent special teachers who are qualified to provide special education or related services to exceptional children and are employed by the school district for approved special education or related services bears to the total number of such qualified full-time equivalent special teachers employed by all school districts for approved special education or related services.

Each special teacher who is qualified to assist in the provision of special education or related services to exceptional children shall be counted as  $\frac{2}{5}$  full-time equivalent special teacher who is qualified to provide special education or related services to exceptional children.

(c) Each school district which has paid amounts for the provision of special education and related services under an interlocal agreement shall be entitled to receive reimbursement under subsection (b)(4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services under the interlocal agreement, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all school districts in the current school year who have entered into such interlocal agreement for provision of such special education and related services.

(d) Each contracting school district which has paid amounts for the provision of special education and related services as a member of a cooperative shall be entitled to receive reimbursement under subsection (b)(4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services by the cooperative, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all contracting school districts in the current school year by such cooperative for provision of such special education and related services.

(e) No time spent by a special teacher in connection with duties performed under a contract entered into by the Kansas juvenile correctional complex, the Atchison juvenile correctional facility, the Beloit juvenile correctional facility, the Larned juvenile correctional facility, or the Topeka juvenile correctional facility and a school district for the provision of special education services by such state institution shall be counted in making computations under this section.

(f) (1) *In school year 2011-2012 and in each school year thereafter, the state board of education shall determine the minimum and maximum amount of state aid that a school district may receive under paragraph (4) of subsection (b) for the current school year as follows:*

(A) *Determine the total amount of moneys appropriated as state aid for the provision of special education and related services to all school districts for the current school year;*

(B) *subtract the amount of moneys paid to all school districts under paragraphs (1), (2) and (3) of subsection (b) of this section, 72-983 and K.S.A. 2009 Supp. 72-998, and amendments thereto, for the current school year;*

(C) *divide the remainder obtained under (B) by the total full-time equivalent enrollment of all school districts in the current school year;*

(2) (A) *multiply the quotient obtained under (1) (C) by the full-time equivalent enrollment of the school district in the current school year;*

(B) *multiply the product obtained under (2) (A) by .75. The product is the minimum amount of state aid the district may receive under paragraph (4) of subsection (b) for the current school year;*

(C) *multiply the quotient obtained under (2) (A) by 1.50. The product is the maximum amount of state aid the district may receive under paragraph (4) of subsection (b) for the current school year.*

(3) *If the amount determined under paragraph (4) of subsection (b) is less than the product obtained under (2)(B), the district shall receive state aid in an amount equal to the product obtained under (2)(B), plus any amount determined under paragraph (5) of this subsection.*

(4) *If the amount determined under paragraph (4) of subsection (b), plus any amount determined under paragraph (5) of this subsection, is greater than the product obtained under (2)(C), the district shall receive state aid in an amount equal to the product obtained under (2)(C). The balance of state aid remaining after determining the amount of state aid payable to districts under this paragraph shall be reallocated to districts as provided by paragraph (5) of this subsection.*

(5) *The balance of state aid remaining after determining the amount of state aid payable to districts under paragraph (4) of this subsection shall be reallocated to districts which have not received state aid in an amount equal to the product obtained under (2)(B). Such state aid shall be reallocated to such districts in the same manner as the original allocation. If the balance is insufficient to pay each such district the minimum amount specified in this subsection, the state board shall prorate the balance among such districts.”;*

And by renumbering the remaining sections accordingly;

Also on page 2, in line 41, by striking “is” and inserting “and K.S.A. 2009 Supp. 72-978 are”;

In the title, in line 12, after “72-983” by inserting “and K.S.A. 2009 Supp. 72-978”; also in line 12, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Education Budget** recommends **HB 2718** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

**Education Budget Committee** recommends **HB 2446**, as amended by House Committee, be amended by adoption of the amendments recommended by Education Budget Committee on February 12, 2010, as reported on page 919 of the Journal of the House and the bill, as printed with amendments by House Committee, be further amended on page 1, in line 17, by striking all after "(1)"; by striking all in line 18 and inserting "(A) "Property" means any tangible, intangible or other personal property.

(B) "Property" does not mean real property."; in line 31, by striking "includes" and inserting "means"; also in line 31, by striking " , devise";

On page 2, in line 31, by striking all after the period; by striking all in lines 32 through 35;

On page 3, in line 6, by striking "rents,"; and the bill be passed as amended.

**Education Budget Committee** recommends **HB 2559** be amended on page 1, in line 40, by striking all after "(8)";

On page 2, in line 3, by striking all after "(9)"; in line 4, by striking "buildings and"; in line 18, by striking all after "(11)"; in line 19, by striking "buildings or any"; in line 23, by striking all after "(12)"; in line 24, by striking "of buildings or any"; and the bill be passed as amended.

**Education Budget Committee** recommends **SB 362** be amended on page 2, by striking all in lines 9 through 17 and inserting the following:

"(c) For school years 2009-2010, 2010-2011 and 2011-2012, all contracts of employment of teachers, as defined in K.S.A. 72-5436, and amendments thereto, except contracts entered into under the provisions of K.S.A. 72-5412a, and amendments thereto, shall be deemed to continue for the next succeeding school year unless written notice of termination or non-renewal is served as provided in this subsection. Written notice to terminate a contract may be served by a board upon any teacher prior to the time the contract has been completed, and written notice of intention to nonrenew a contract shall be served by a board upon any teacher on or before May 15. A teacher shall give written notice to a board that the teacher does not desire continuation of a contract on or before May 30 or, if applicable, not later than 15 days after the issuance of a unilateral contract as authorized by K.S.A. 72-5428a, and amendments thereto, whichever is the later date.";

On page 3, by striking all in lines 3 through 10 and inserting the following:

"(c) For school years 2009-2010, 2010-2011 and 2011-2012, written notice of a board's intention to not renew the contract of employment of an administrator shall be given to the administrator on or before May 15 of the year in which the term of the administrator's contract expires. An administrator shall give written notice to a board on or before May 30 of the administrator's rejection of renewal of a contract of employment.

Sec. 3. K.S.A. 2009 Supp. 72-5445 is hereby amended to read as follows: 72-5445. (a) (1) Subject to the provisions of ~~subsection (b)~~ *subsections (b) and (c)*, the provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, apply only to: (A) Teachers who have completed not less than three consecutive years of employment, and been offered a fourth contract, in the school district, ~~area vocational-technical school~~ or community college by which any such teacher is currently employed; and (B) teachers who have completed not less than two consecutive years of employment, and been offered a third contract, in the school district, ~~area vocational-technical school~~ or community college by which any such teacher is currently employed if at any time prior to the current employment the teacher has completed the years of employment requirement of subpart (A) in any school district; ~~area vocational-technical school~~ or community college in this state.

(2) Any board may waive, at any time, the years of employment requirements of provision (1) for any teachers employed by it.

(3) The provisions of this subsection are subject to the provisions of K.S.A. 72-5446, and amendments thereto.

(b) The provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, do not apply to any teacher whose license has been nonrenewed or revoked by the state board of education for the reason that the teacher: (1) Has been convicted of a felony under K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto; (2) has been convicted of a felony described in any section of article 34 of chapter 21 of the Kansas Statutes Annotated or an act described in K.S.A. 21-3412 or K.S.A. 21-3412a, and amendments

thereto, if the victim is a minor or student; (3) has been convicted of a felony described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, or has been convicted of an act described in K.S.A. 21-3517 and amendments thereto, if the victim is a minor or student; (4) has been convicted of any act described in any section of article 36 of chapter 21 of the Kansas Statutes Annotated; (5) has been convicted of a felony described in article 37 of chapter 21 of the Kansas Statutes Annotated; (6) has been convicted of an attempt under K.S.A. 21-3301, and amendments thereto, to commit any act specified in this subsection; (7) has been convicted of any act which is described in K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments thereto; (8) has been convicted in another state or by the federal government of an act similar to any act described in this subsection; or (9) has entered into a criminal diversion agreement after having been charged with any offense described in this subsection.

*(c) (1) The provisions of this paragraph (1) shall apply to a teacher described in subsection (a)(1)(A). After a teacher has completed not less than three consecutive years of employment, the board of education of the school district and the teacher may enter into an agreement under which the school district may offer the teacher a contract of employment for a fourth and fifth year and the teacher agrees that the provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, shall not apply to such teacher unless a sixth contract is offered to the teacher.*

*(2) The provisions of this paragraph (2) shall apply to a teacher described in subsection (a)(1)(B). After a teacher has completed not less than two consecutive years of employment, the board of education of the school district and the teacher may enter into an agreement under which the school district may offer the teacher a contract of employment for a third and fourth year and the teacher agrees that the provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, shall not apply to such teacher unless a fifth contract is offered to the teacher.”;*

And by renumbering the remaining sections accordingly;

Also on page 3, in line 11, after “72-5437” by inserting “and 72-5445”;

In the title, in line 11, after “72-5437” by inserting “and 72-5445”; and the bill be passed as amended.

Committee on **Government Efficiency and Fiscal Oversight** recommends **HB 2249** be amended by substituting a new bill to be designated as “Substitute for HOUSE BILL No. 2249,” as follows:

“Substitute for HOUSE BILL No. 2249

By Committee on Government Efficiency and Fiscal Oversight

“AN ACT concerning state agencies; relating to the whistleblowers act; employee award program; amending K.S.A. 2009 Supp. 75-2973 and 75-37,105 and repealing the existing sections.”;

and the substitute bill be passed.

**(Sub. HB 2249** was thereupon introduced and read by title.)

Committee on **Insurance** recommends **SB 388** be amended on page 2, after line 28, by inserting the following:

“New Sec. 2. (a) The Kansas health policy authority shall conduct a study on the topic of requiring insurance companies to reimburse clinical marriage and family therapists, clinical professional counselors and clinical psychotherapists. Such study shall be designed to:

(1) Determine the impact that coverage for such therapists, counselors and psychotherapists has had on the state health care benefits program as described in article 65 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto;

(2) provide data on utilization of such therapists, counselors and psychotherapists by individuals covered for direct reimbursements for services provided by such therapists, counselors and psychotherapists;

(3) determine the cost of providing coverage for such therapists, counselors and psychotherapists;

(4) compare the costs of coverage between individuals under the state health care benefits program covered by insurance companies which provide direct reimbursement for services provided by such therapists, counselors and psychotherapists to individuals under the state

health care benefits program covered by insurance companies which do not provide such direct reimbursement;

(5) compare the amount of premiums charged by insurance companies which provide reimbursement for services provided by such therapists, counselors and psychotherapists to the amount of premiums charged by insurance companies which do not provide such direct reimbursement;

(6) determine whether mandated direct reimbursement for such therapists, counselors and psychotherapists should be continued under the state health care benefits program.

(b) The Kansas health policy authority shall conduct an analysis to determine if proactive mental health care treatment results in reduced expenditures for future mental and physical health care services. Under such analysis the Kansas health policy authority shall compare expenditures of patients who receive such proactive mental health care treatments with those patients who do not.

(c) Such studies shall be completed no later than December 31, 2010 and shall be made available to all members of the house committee on insurance, the senate committee on financial institutions and insurance and all parties seeking passage of such legislation no later than the first day of the 2011 Kansas legislative session.

(d) The insurance department and all other departments, boards, agencies, officers and institutions and subdivisions thereof shall cooperate with the Kansas health policy authority in carrying out all duties prescribed pursuant to this section.”;

And by renumbering the remaining sections accordingly;

In the title, in line 9, by striking all after “to”; in line 10, by striking all before the semicolon and inserting “the regulation thereof”; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 455, SB 471, SB 519** be passed.

Committee on **Judiciary** recommends **SB 269** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 269,” as follows:

“HOUSE Substitute for SENATE BILL No. 269

By Committee on Judiciary

“AN ACT concerning compensation awards under eminent domain procedure; amending K.S.A. 26-511 and repealing the existing section.”; and the substitute bill be passed.

(**H. Sub. for SB 269** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **SB 305** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 305,” as follows:

“HOUSE Substitute for SENATE BILL No. 305

By Committee on Judiciary

“AN ACT concerning the Kansas tort claims act; relating to charitable health care providers; amending K.S.A. 2009 Supp. 75-6102 and repealing the existing section.”; and the substitute bill be passed.

(**H. Sub. for SB 305** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **SB 310** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 310,” as follows:

“HOUSE Substitute for SENATE BILL No. 310

By Committee on Judiciary

“AN ACT concerning marriage license fees; relating to poverty; amending K.S.A. 2009 Supp. 23-108a and repealing the existing section.”; and the substitute bill be passed.

(**H. Sub. for SB 310** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **SB 381** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 381,” as follows:

“HOUSE Substitute for SENATE BILL No. 381

By Committee on Judiciary

“AN ACT concerning crimes, punishment and criminal procedure; relating to justified threat or use of force; amending K.S.A. 21-3211, 21-3212, 21-3213, 21-3214, 21-3215, 21-3216, 21-3217 and 21-3218 and repealing the existing sections.”; and the substitute bill be passed.

(**H. Sub. for SB 381** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **SB 537** be amended on page 1, in line 14, by striking all after “(a)” and inserting “After the court has made a finding that a lien or claim



is fraudulent pursuant to”; in line 15, before “may” by inserting “the aggrieved person”; in line 17, after “the” by inserting “fraudulent”; also in line 17, by striking “alleged to violate such section”; also in line 17, after the period, by inserting “No action may be brought under this section against the filing office or filing officer as those terms are described in subsection (f) of K.S.A. 58-4301, and amendments thereto.”; by striking all in lines 26 through 37 and inserting the following:

“(d) The court may award the prevailing party the costs of the proceeding arising under this section, including reasonable attorney’s fees.

(e) After trial, and if the court makes a finding that a lien or claim is fraudulent pursuant to K.S.A. 58-4301, and amendments thereto, the court may:

(1) Order the defendant to pay \$500 or actual damages to the plaintiff for each violation of K.S.A. 58-4301, and amendments thereto;

(2) enjoin the defendant from filing any future liens or claims with any filing officer without approval of the court that enters the order; and

(3) enjoin the defendant from filing any future liens or claims that would violate K.S.A. 58-4301, and amendments thereto.”;

Also on page 1, in line 40, by striking “(1)”; in line 41, by striking all after “court”; by striking all in line 42; in line 43, by striking all before the period;

On page 2, by striking all in lines 1 through 4; and the bill be passed as amended.

Committee on **Local Government** recommends **SB 75** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 75,” as follows:

“HOUSE Substitute for SENATE BILL No. 75

By Committee on Local Government

“AN ACT relating to cemetery corporations; providing for certain enforcement actions by the secretary of state; amending K.S.A. 16-326 and repealing the existing section.”; and the substitute bill be passed.

(**H. Sub. for SB 75** was thereupon introduced and read by title.)

Committee on **Local Government** recommends **SB 118** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 118,” as follows:

“HOUSE Substitute for SENATE BILL No. 118

By Committee on Local Government

“AN ACT concerning cities; relating to annexation.”; and the substitute bill be passed.

(**H. Sub. for SB 118** was thereupon introduced and read by title.)

Committee on **Taxation** recommends **SB 427** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 427,” as follows:

“HOUSE Substitute for SENATE BILL No. 427

By Committee on Taxation

“AN ACT concerning taxation; relating to amnesty from assessment or payment of penalties and interest with respect to certain taxes; requirements and procedures.”; and the substitute bill be passed.

(**H. Sub. for SB 427** was thereupon introduced and read by title.)

Committee on **Transportation** recommends **SB 302** be amended by substituting a new bill to be designated as “HOUSE Substitute for SENATE BILL No. 302,” as follows:

“HOUSE Substitute for SENATE BILL No. 302

By Committee on Transportation

“AN ACT relating to transportation; providing for a transportation works for Kansas program; relating to the financing thereof; amending K.S.A. 12-1775, 68-416, 68-20,120, 68-2320, 68-2321 and 68-2328 and K.S.A. 2009 Supp. 12-6a35, 12-6a36, 12-1774, 12-1774a, 12-17,148, 12-17,149, 68-2315, 68-2331, 75-5063 and 75-5064 and repealing the existing sections; also repealing K.S.A. 68-2314a.”; and the substitute bill be passed.

(**H. Sub. for SB 302** was thereupon introduced and read by title.)

#### REPORT OF STANDING COMMITTEE

Your Committee on **Calendar and Printing** recommends on requests for resolutions and certificates that

**Request No. 100**, by Representative Olson, congratulating William Miller of Building Erection Services Company for being named an outstanding Olathe business;

**Request No. 101**, by Representative Olson, congratulating Bill Miller of Midwest Crane & Rigging for being named an outstanding Olathe business;

**Request No. 102**, by Representative Hayzlett, commending Beaver Game Farm in recognition of outstanding support of our military;

**Request No. 103**, by Representative Fund, congratulating Brian Threadgold on his appointment to the Kansas Works State Board;

**Request No. 104**, by Representative Kiegerl, congratulating Georann Whitmann on being named Spring Hill Teacher of the Year;

**Request No. 105**, by Representative Kiegerl, congratulating Megan Sandberg on being named Spring Hill Teacher of the Year;

**Request No. 106**, by Representatives Burgess, Fund and S. Gatewood, congratulating Seaman High School Baseball recognizing one of the top baseball programs in Kansas and their 25th anniversary season, 1986-2010;

**Request No. 107**, by Representatives Burgess, Fund and S. Gatewood, congratulating Steve Bushnell, Seaman High School Baseball Coach, recognizing one of the top baseball programs in Kansas and their 25th anniversary season, 1986-2010;

**Request No. 108**, by Representative A. Brown, congratulating Joseph Dvorak on receiving the Eagle Scout Award;

**Request No. 109**, by Representative Crum, congratulating Jake Goldenstein for winning the Southeast Regional Winner of the "If I Were Mayor" essay contest;

**Request No. 110**, by Representative Mah, congratulating Bradley Nicks on receiving the 2009 Milken Family Foundation National Educator Award;

**Request No. 111**, by Representative Brunk, congratulating Tiffany Nickel as Ms. Wheelchair Kansas;

**Request No. 112**, by Representative Hermanson, congratulating Keller Williams Realty, Home Town Partners, on their outstanding volunteer service;

**Request No. 113**, by Representative Schwartz, congratulating Francis Schnelle on celebrating her 100th birthday on March 19, 2010;

**Request No. 114**, by Representative Rardin, congratulating Roger Lee Ward III and Dana Marie Ward of Marathon Moving and Delivery, LLC for the 2009 KSBDC Emerging Business of the Year;

**Request No. 115**, by Representative Hineman, honoring Sonny Weinhardt for serving 57 years as a Kansas state high school athletics events official;

**Request No. 116**, by Representatives Hawk and Carlin, congratulating the A.Q. Miller School of Journalism and Mass Communications at Kansas State University;

be approved and the Chief Clerk of the House be directed to order the printing of said certificates and order drafting of said resolutions.

On motion of Rep. Merrick, the committee report was adopted.

#### **INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS**

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6030—

By Representatives K. Wolf and Benlon

A RESOLUTION promoting public awareness of the risk of colon cancer, recognizing March as Colon Cancer Awareness Month and commending the Kansas Association of Health Plans, the American Cancer Society and the Kansas Insurance Commissioner for their efforts to fight this disease through encouraging regular colon cancer screenings.

WHEREAS, The month of March is Colon Cancer Awareness Month; and

WHEREAS, Colon cancer is the third leading cause of cancer deaths in American; and

WHEREAS, It is estimated that there will be 1,300 new colon cancer cases and 510 deaths in Kansas this year from this deadly disease; and

WHEREAS, Colon cancer is preventable when polyps are found and removed prior to becoming cancerous; and

WHEREAS, Colon cancer is also highly treatable when found in its early stages; and

WHEREAS, One half of the colon cancer deaths each year could be prevented if persons age 50 and older were screened according to the American Society guidelines; and

WHEREAS, All of the members of the Kansas Association of Health Plans: Blue Cross and Blue Shield of Kansas, Blue Cross and Blue Shield of Kansas City, Children's Mercy Family Health Partners, Coventry Health Care of Kansas, Preferred Health Systems, Unicare, and UnitedHealthcare, provide insurance coverage for preventative colon screening according to American Cancer Society guidelines: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we promote public awareness of the risk of colon cancer, recognize March as Colon Cancer Awareness Month and that we commend the Kansas Association of Health Plans, the American Cancer Society and the Kansas Insurance Commissioner for their joint effort to save lives by encouraging all Kansans to fight colon cancer through the use of lifesaving preventative colon cancer screenings; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives be directed to send enrolled copies of this resolution to Steve Robino, President of the Kansas Association of Health Plans, Christopher Masoner, Legislative/GR Director of the American Cancer Society, and The Honorable Sandy Praeger, Kansas Insurance Commissioner.

#### CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **HB 2733** from Committee on Federal and State Affairs and referral to Committee on Elections.

On motion of Rep. Merrick, the House adjourned until 9:00 a.m., Monday, March 22, 2010.

SUSAN W. KANNARR, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

