

# Journal of the House

FIFTEENTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, MONDAY, January 31, 2011, 11:00 a.m.

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

The roll was called with 121 members present.

Reps. Crum, Mosier, Peterson and Winn were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Our Heavenly Father,  
Thank you for a fresh start of a new week.  
The momentum is increasing  
and schedules are getting busier.  
Busy schedules often beget exhaustion;  
exhaustion begets frustration;  
frustration begets impatience;  
impatience begets a critical spirit;  
and a critical spirit begets unkindness.  
So, as we start a brand new week,  
remind us daily  
that our words and actions toward others  
will have much more of a lasting impact  
than our to-do lists and busy calendar.  
In Jesus' name I pray, Amen.

The Pledge of Allegiance was led by Rep. Kelly.

Kansas Trivia Question – In 1882 Jewish immigrants established a colony in Hodgeman County in Southwest Kansas. Four years later they abandoned the town; some moved to nearby settlements of Ravenna, Eminence, and Kalvesta. What was the name of the Jewish ghost town?

Answer: Beersheba

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

**HB 2128**, AN ACT concerning elections; relating to public service advertisements by candidates, by Committee on Elections.

**HB 2129**, AN ACT enacting the health care freedom act, by Representatives Landwehr, Mosier, Denning, Rubin, Alford, Arpke, Boman, Brown, Bruchman, Brunk, Calloway, Carlson, Cassidy, Collins, DeGraaf, Donohoe, Fawcett, Garber, Goico, Gonzalez, Goodman, Gordon, Gregory, Grosserode, Hayzlett, Hermanson, Hildabrand, Hoffman, M. Holmes, Howell, Huebert, Johnson, Kelley, Kerschen, Kiegerl, Kinzer, Kleeb, Mast, McLeland, Meigs, Mesa, Montgomery, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Powell, Prescott, Rhoades, Ryckman, Scapa, Schwartz, Seiwert, Siegfried, Smith, Spalding, Suellentrop, Vickrey, B. Wolf, K. Wolf and Worley.

HOUSE CONCURRENT RESOLUTION No. **HCR 5007**—

By Representatives Landwehr, Mosier, Denning, Rubin, Alford, Arpke, Boman, Bruchman, Brunk, Calloway, Carlson, Cassidy, Collins, Crum, DeGraaf, Donohoe, Fawcett, Garber, Goico, Gonzalez, Goodman, Gordon, Gregory, Grosserode, Hayzlett, Hermanson, Hildabrand, Hoffman, M. Holmes, Howell, Huebert, Johnson, Kelley, Kerschen, Kiegerl, Kinzer, Kleeb, Mast, McLeland, Meigs, Mesa, Montgomery, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Powell, Prescott, Rhoades, Ryckman, Scapa, Schwartz, Seiwert, Siegfried, Smith, Suellentrop, Vickrey, Weber and B. Wolf

A PROPOSITION to amend the constitution of the state of Kansas by adding a new article 16 thereto, concerning health care.

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

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: The constitution of the state of Kansas is amended by adding a new article 16 thereto to read as follows:

"Article 16. – HEALTH CARE

**“§1. Health care.** (a) To preserve the freedom of Kansans to provide for their health care:

“(1) A law or rule shall not compel, directly or indirectly, any person, employer or health care provider to participate in any health care system or purchase health insurance.

“(2) A person or employer may pay directly for lawful health care services and shall not be required to pay penalties or fines for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and shall not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

“(b) Subject to reasonable and necessary rules that do not substantially limit a person’s options, the purchase or sale of private health insurance or the participation in private health care systems shall not be prohibited by law or rule.

“(c) This section does not:

“(1) Affect which health care services a health care provider or hospital is required to perform or provide.

“(2) Affect which health care services are permitted by law.

“(3) Prohibit care provided pursuant to the provisions relating to workers compensation.

“(4) Prohibit care provided pursuant to the provisions relating to state employee benefit programs.

“(5) Affect laws or rules in effect as of August 1, 2009.

“(6) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing or penalizing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services.

“(d) For the purposes of this section:

“(1) “Compel” includes penalties or fines.

“(2) “Direct payment or pay directly” means payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service.

“(3) “Health care system” means any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants.

“(4) “Lawful health care services” means any health-related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation that may be provided by persons or businesses otherwise permitted to offer such services.

“(5) “Penalties or fines” means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee with a similar effect established by law or rule by a government established, created or controlled agency that is used to punish or discourage the exercise of rights protected under this section.”

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

*“Explanatory statement.* The purpose of this health care freedom amendment is to preserve constitutionally the right and freedom of Kansans to provide for their health care. This proposition would not affect which health care services a health care provider or hospital is required to perform or provide; would not affect which health care services are permitted by law; would not prohibit care provided pursuant to the general provisions relating to workers compensation; would not prohibit care pursuant to the provisions relating to state employee benefit programs; would not affect laws or rules in effect as of August 1, 2009; or would not affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services. Nothing in this amendment is meant to discourage anyone from purchasing health insurance.

“A vote for this proposition would preserve constitutionally the right of a person, employer or health care provider to be free from laws or rules compelling participation in any health care system; preserve constitutionally the right of a person or employer to purchase lawful health care services directly from a health care provider; preserve constitutionally the right of a health care provider to accept direct payment from a person or employer for lawful health care services; and preserve constitutionally the

right to have the ability to purchase or sell health insurance in private health care systems.

“A vote against this proposition would provide for no constitutional right of a person, employer or health care provider to be free from laws and rules compelling participation in any health care system; would provide for no constitutional right of a person or employer to purchase lawful health care services directly from a health care provider; would provide for no constitutional right of a health care provider to accept direct payment from a person or employer for lawful health care services; and would provide for no constitutional right to have the ability to purchase or sell health insurance in private health care systems.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2012 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

#### **REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to committees as indicated:

Commerce and Economic Development: **HB 2125**.

Elections: **HB 2126**.

Energy and Utilities: **HB 2122**.

Financial Institutions: **HB 2124**.

Government Efficiency: **HB 2120**.

Judiciary: **HB 2121, HB 2123**.

Local Government: **HB 2127**.

#### **CONSENT CALENDAR**

No objection was made to **HB 2056** appearing on the Consent Calendar for the first day.

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

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

The following bills were thereupon introduced and read by title:

**HB 2130**, AN ACT concerning labor organizations; relating to political activities; amending K.S.A. 75-4333 and repealing the existing section, by Committee on Commerce and Economic Development.

**HB 2131**, AN ACT concerning employment; relating to misclassification of employees; amending K.S.A. 2010 Supp. 79-3234 and repealing the existing section, by Committee on Commerce and Economic Development.

**HB 2132**, AN ACT relating to motor vehicles; providing for the issuance of gold star

family license plates; amending K.S.A. 2010 Supp. 8-1,141 and 8-1,147 and repealing the existing sections, by Committee on Veterans, Military and Homeland Security.

**HB 2133**, 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, by Committee on Joint Committee on Special Claims Against the State.

On motion of Rep. Siegfried, the House recessed until 5:00 p.m.

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## EARLY EVENING SESSION

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

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 2134**, AN ACT concerning workers compensation; amending K.S.A. 44-503a, 44-510c, 44-510d, 44-510e, 44-510f, 44-515, 44-516, 44-520, 44-525, 44-528, 44-531, 44-534a, 44-536 and 44-5a01 and K.S.A. 2010 Supp. 44-501, 44-508, 44-510b, 44-510h, 44-510k, 44-511 and 44-523 and repealing the existing sections; also repealing K.S.A. 44-510a and 44-520a, by the Committee on Commerce and Economic Development.

**HB 2135**, AN ACT concerning taxation; relating to misclassification of employees to avoid tax withholding, contributions and reporting requirements; amending K.S.A. 2010 Supp. 79-3234 and repealing the existing section; also repealing K.S.A. 2010 Supp. 44-766, by Committee on Commerce and Economic Development.

### REPORTS OF STANDING COMMITTEES

The Committee on **Appropriations** recommends **HB 2014** be amended: On page 1, in line 8, by striking "year" and inserting "years"; in line 9, before "appropriations" by inserting "June 30, 2012, and June 30, 2013,";

On page 2, by striking all in lines 33 through 43;

On page 3, by striking all in lines 1 through 12;

And by renumbering sections accordingly;

On page 4, following line 5, by inserting the following:

"(c) (1) In addition to the other purposes for which expenditures may be made by the department of administration from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2011 for the department of administration, as authorized by chapter 6 or chapter 165 of the 2010 Session Laws of Kansas or by this or other appropriation act of the 2011 regular session of the legislature, expenditures shall be made by the secretary of administration for fiscal year 2011 to review the state real property inventory prepared pursuant to section 61(r) of chapter 165 of the 2010 Session Laws of Kansas, evaluate the state real property, and prepare from such

inventory and other information a prioritized report of 10% of state real property that could be sold, subject to existing restrictions: *Provided further*, That, on or before March 8, 2011, the secretary of administration shall provide a copy of such prioritized report to the governor, the chief clerk of the house of representatives, the secretary of the senate, and the chairs of the committee on appropriations of the house of representatives and the committee on ways and means of the senate.

(2) As used in this subsection, "state real property" includes each tract of real property owned by the state of Kansas, or any state agency, as defined by K.S.A. 75-3701, and amendments thereto, and includes all buildings, facilities and other improvements thereon.";

On page 6, in line 31, by striking "\$371,426" and inserting "\$300,000";

On page 10, by striking all in lines 32 through 41;

On page 11, by striking all in lines 3 through 7, and inserting the following:

“(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2011, the following:

Operations (including legislative post audit committee).....\$39,587”;

On page 14, in line 13, before the period, by inserting “: *Provided*, That no expenditures shall be made for salaries and wages from the increased expenditure authority provided by this subsection for expenditures for salaries and wages and other operating expenditures from the state workers compensation self-insurance fund: *Provided further*, That, on and after the effective date of this act, during fiscal year 2011, no expenditures shall be made by the Kansas health policy authority from the state workers compensation self-insurance fund to convert and appoint persons performing contractual services for the Kansas health policy authority to be state employees of the Kansas health policy authority”; in line 18, before the period, by inserting “: *Provided*, That no expenditures shall be made for salaries and wages from the increased expenditure authority provided by this subsection for expenditures for salaries and wages and other operating expenditures from the cafeteria benefits fund: *Provided further*, That, on and after the effective date of this act, during fiscal year 2011, no expenditures shall be made by the Kansas health policy authority from the cafeteria benefits fund to convert and appoint persons performing contractual services for the Kansas health policy authority to be state employees of the Kansas health policy authority”; in line 23, before the period, by inserting “: *Provided*, That no expenditures shall be made for salaries and wages from the increased expenditure authority provided by this subsection for expenditures for salaries and wages and other operating expenditures from the dependent care assistance program fund: *Provided further*, That, on and after the effective date of this act, during fiscal year 2011, no expenditures shall be made by the Kansas health policy authority from the dependent care assistance program fund to convert and appoint persons performing contractual services for the Kansas health policy authority to be state employees of the Kansas health policy authority”; following line 38, by inserting the following:

“(b) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2011, the following:

Pregnancy maintenance initiative.....\$100,000”;

On page 15, in line 32, by striking “\$183,370” and inserting “\$180,370”;

On page 20, in line 18, before “DEPARTMENT” by inserting “KANSAS”; in line 23, by striking “\$73,240” and inserting “\$65,000”; in line 28, by striking “\$11,290” and

inserting “\$7,000”; in line 33, by striking “\$6,748” and inserting “\$4,000”; following line 33, by inserting the following:

“(d) In addition to the other purposes for which expenditures may be made by the above agency from the parks fee fund for fiscal year 2011, expenditures may be made by the above agency from the following capital improvement account or accounts of the parks fee fund for fiscal year 2011 for the following capital improvement project or projects, subject to the expenditure limitations prescribed therefor:

Pratt operations office sewer line upgrade .....\$70,950

(e) In addition to the other purposes for which expenditures may be made by the above agency from the wildlife fee fund for fiscal year 2011, expenditures may be made by the above agency from the following capital improvement account or accounts of the wildlife fee fund for fiscal year 2011 for the following capital improvement project or projects, subject to the expenditure limitations prescribed therefor:

Pratt operations office sewer line upgrade .....\$378,400

(f) In addition to the other purposes for which expenditures may be made by the above agency from the boating fee fund for fiscal year 2011, expenditures may be made by the above agency from the following capital improvement account or accounts of the boating fee fund for fiscal year 2011 for the following capital improvement project or projects, subject to the expenditure limitations prescribed therefor:

Pratt operations office sewer line upgrade .....\$23,650

(g) In addition to the other purposes for which expenditures may be made by the above agency from the wildlife restoration fund for fiscal year 2011, expenditures may be made by the above agency from the following capital improvement account or accounts of the wildlife restoration fund for fiscal year 2011 for the following capital improvement project or projects, subject to the expenditure limitations prescribed therefor:

Rehabilitation and repair.....\$260,000”;

Also on page 20, following line 38, by inserting the following:

“Sec. 49.

ATTORNEY GENERAL – KANSAS BUREAU OF INVESTIGATION

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2011, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Project safe neighborhoods fund.....\$114,408

Social security administration reimbursement – federal fund.....No limit

Sec. 50. (a) On and after the effective date of this act, no expenditures shall be made from any moneys appropriated for the fiscal year ending June 30, 2011, from the state general fund by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by chapter 6 or chapter 165 of the 2010 Session Laws of Kansas or by this or other appropriation act of the 2011 regular session of the legislature, by any state agency for any professional or trade associations membership fees or dues or subscriptions for professional or trade magazines for state officers or employees: *Provided*, That the amount equal to the aggregate of any savings under this subsection from each account of the state general fund of each state agency for the year ending June 30, 2011, as determined and certified by the director of the budget, after consultation with the director of legislative research, to the director of accounts and

reports, is hereby lapsed: *Provided further*, That, at the same time that each certification is made by the director of the budget to the director of accounts and reports under this subsection, the director of the budget shall deliver a copy of such certification to the director of legislative research.

Sec. 51. (a) (1) On the effective date of this act, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2011, in each account of the state general fund of each state agency, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by chapter 6 or chapter 165 of the 2010 Session Laws of Kansas, or by this or other appropriation act of the 2011 regular session of the legislature, that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions, other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, and longevity payments authorized by law, for state officers, as defined by this section, for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2011, as determined by the director of the budget after consultation with the director of legislative research and upon certification to the director of accounts and reports, the amount equal to 7.5% of the amount so determined is hereby lapsed: *Provided, however*, That the lapse provided for in this subsection (a)(1) shall not apply to the appropriations or reappropriations for fiscal year 2011 in any account of the state general fund for the state board of regents or any regents state agency, as defined by this section.

(2) On the effective date of this act, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2011, in each account of the state economic development initiatives fund of each state agency, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by chapter 6 or chapter 165 of the 2010 Session Laws of Kansas, or by this or other appropriation act of the 2011 regular session of the legislature, that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions, other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, and longevity payments authorized by law, for state officers, as defined by this section, for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2011, as determined by the director of the budget after consultation with the director of legislative research and upon certification to the director of accounts and reports, the amount equal to 7.5% of the amount so determined is hereby lapsed.

(3) On the effective date of this act, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2011, in each account of the state water plan fund of each state agency, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by chapter 6 or chapter 165 of the 2010 Session Laws of Kansas, or by this or other appropriation act of the 2011 regular session of the legislature, that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions, other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, and longevity payments authorized by law, for state officers, as defined by this section, for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year



2011, as determined by the director of the budget after consultation with the director of legislative research and upon certification to the director of accounts and reports, the amount equal to 7.5% of the amount so determined is hereby lapsed.

(b) On the effective date of this act, notwithstanding the provisions of K.S.A. 2-1904, 17-2233, 20-155, 20-318, 20-3122, 20-3124, 25-4119a, 32-801, 40-102, 40-110, 44-1003, 46-137a, 46-137b, 46-1102, 46-1210, 46-1211, 46-1212a, 48-203, 72-7602, 74-560, 74-601, 74-630, 74-2434, 74-2613, 74-3203a, 74-4908, 74-5002a, 74-8005, 74-8105, 74-8703, 75-412, 75-622, 75-711, 75-2535, 75-2701, 75-2935b, 75-3101, 75-3102, 75-3103, 75-3104, 75-3108, 75-3110, 75-3111, 75-3120f, 75-3120g, 75-3120h, 75-3120j, 75-3122, 75-3123, 75-3124, 75-3125, 75-3126, 75-3135, 75-3136, 75-3137, 75-3141, 75-3148, 75-3149, 75-3150, 75-3212, 75-3223, 75-3702a, 75-5001, 75-5101, 75-5203, 75-5301, 75-5601, 75-5701, 75-5702, 75-5708, 75-5903, 75-6301, 75-7001, 76-714 and 76-715 and K.S.A. 2010 Supp. 75-3135a, 75-7206, 75-7207, 75-7402 and 75-7427, and amendments thereto, or any other statute, the rate of compensation for each state officer, as defined by this section, is hereby reduced by 7.5% for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2011, and shall not be increased for any payroll period chargeable to fiscal year 2011: *Provided*, That the secretary of administration is hereby authorized and directed to implement and administer the provisions of this section to provide for such reductions: *Provided further*, That the secretary of administration shall ensure that such reductions to the rate of compensation of the state officers subject to the provisions of this section for the fiscal year 2011 have been implemented: *And provided further*, That the secretary of administration is hereby authorized to reduce any such rate of compensation to implement the provisions of this section: *And provided further*, That no such reduction prescribed by this subsection shall apply to payroll periods commencing on or after June 12, 2011.

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2011, provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by chapter 6 or chapter 165 of the 2010 Session Laws of Kansas, or by this or other appropriation act of the 2011 regular session of the legislature, or by the state finance council, on each special revenue fund in the state treasury is hereby decreased for fiscal year 2011 by the amount equal to 7.5% of the aggregate amount that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions, other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, and longevity payments authorized by law, for state officers, as defined by this section, for all payroll periods commencing on or after the effective date of this act which are chargeable to fiscal year 2011 for such special revenue fund, as determined by the director of the budget, after consultation with the director of legislative research, and certified to the director of accounts and reports.

(d) On the effective date of this act, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2011, in each account of the state general fund of the state board of regents and of each regents state agency, as defined by this section, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, chapter 6 or chapter 165 of the 2010 Session Laws of Kansas, or by this or other appropriation act of the 2011 regular session of the legislature, that is

budgeted for salaries and wages, including per diem compensation, and any associated employer contributions other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, and longevity payments authorized by law, for state officers, as defined by this section, for all payroll periods commencing on or after the effective date of this act which are chargeable to fiscal year 2011, as determined by the director of the budget after consultation with the director of legislative research, the director of the budget shall certify the amount equal to 7.5% of the amount so determined in each such account to the director of accounts and reports in accordance with this subsection: *Provided*, That, upon receipt of such certification, the director of accounts and reports shall transfer each amount certified from the respective account of the state general fund of each regents state agency, as defined by this section, to a deferred maintenance support account of the state general fund, which is hereby established for such regents state agency and which is hereby appropriated from the state general fund for fiscal year 2011: *Provided further*, That, upon receipt of such certification, the director of accounts and reports shall transfer the amount certified to be transferred from each account of the state general fund of the state board of regents to the deferred maintenance support account of the state general fund of each regents state agency, as defined by this section, which shall be the proportional amount determined and specified by the director of the budget for such regents state agency in such certification, after consultation with the director of legislative research, as bearing the same relation to the total amount to be transferred from the account of the state board of regents as the amount transferred to the deferred maintenance support account of the state general fund of the regents state agency from all other accounts of the state general fund of that regents state agency bears to all amounts transferred to deferred maintenance support accounts of the state general fund of all regents state agencies pursuant to this subsection: *And provided further*, That all expenditures from each deferred maintenance support account of the state general fund established for a regents state agency under this subsection shall be for the same uses and purposes and under the same procedures and authorizations as expenditures made from the deferred maintenance support fund of such regents state agency.

(e) As used in this section, (1) “state agency” has the meaning ascribed thereto by K.S.A. 75-3701, and amendments thereto, and includes the governor’s department, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance, each agency of the executive branch, the legislature and each agency of the legislative branch, the judicial branch and each agency of the judicial branch;

(2) “state officer” means (A) the governor, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance, each secretary of a department or other chief executive officer of a department of the executive branch, each member of a board, commission, council or authority of the executive branch, (B) each member of the legislature, each legislative officer specified in K.S.A. 46-137b, and amendments thereto, (C) each justice of the supreme court, each judge of the court of appeals, each district judge, each district magistrate judge, and (D) each other state officer in the executive branch, legislative branch or judicial branch of state government whose position is specified by statute or is otherwise determined to be a salaried officer of the state as that phrase is used in section 15 of article 1 or section 13 of article 3 of the constitution of the state of Kansas, and in any case “state officer” includes all

salaries of the state as that phrase is used in section 15 of article 1 or section 13 of article 3 of the constitution of the state of Kansas;

(3) "regents state agency" means the university of Kansas, the university of Kansas medical center, Kansas state university, Kansas state university veterinary medical center, Kansas state university extension systems and agriculture research programs, Wichita state university, Emporia state university, Pittsburg state university and Fort Hays state university; and

(4) "compensation" means any salary or per diem compensation provided by law for a state officer.

Sec. 52. (a) (1) On the effective date of this act, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2011, in each account of the state general fund of each state agency, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by chapter 6 or chapter 165 of the 2010 Session Laws of Kansas, or by this or other appropriation act of the 2011 regular session of the legislature, that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions, other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, and longevity payments authorized by law, for executive branch employees, as defined by this section, for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2011, as determined by the director of the budget after consultation with the director of legislative research and upon certification to the director of accounts and reports, the amount equal to 7.5% of the amount so determined is hereby lapsed: *Provided, however,* That the lapse provided for in this subsection (a) (1) shall not apply to the appropriations or reappropriations for fiscal year 2011 in any account of the state general fund for the state board of regents or any regents state agency, as defined by this section.

(2) On the effective date of this act, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2011, in each account of the state economic development initiatives fund of each state agency, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by chapter 6 or chapter 165 of the 2010 Session Laws of Kansas, or by this or other appropriation act of the 2011 regular session of the legislature, that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions, other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, and longevity payments authorized by law, for executive branch employees, as defined by this section, for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2011, as determined by the director of the budget after consultation with the director of legislative research and upon certification to the director of accounts and reports, the amount equal to 7.5% of the amount so determined is hereby lapsed.

(3) On the effective date of this act, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2011, in each account of the state water plan fund of each state agency, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by chapter 6 or chapter 165 of the 2010 Session Laws of Kansas, or by this or other appropriation act of the 2011 regular session of the

legislature, that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions, other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, and longevity payments authorized by law, for executive branch employees, as defined by this section, for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2011, as determined by the director of the budget after consultation with the director of legislative research and upon certification to the director of accounts and reports, the amount equal to 7.5% of the amount so determined is hereby lapsed.

(b) On the effective date of this act, notwithstanding the provisions of K.S.A. 2-1904, 17-2233, 20-155, 20-318, 20-3122, 20-3124, 25-4119a, 32-801, 40-102, 40-110, 44-1003, 46-137a, 46-137b, 46-1102, 46-1210, 46-1211, 46-1212a, 48-203, 72-7602, 74-560, 74-601, 74-630, 74-2434, 74-2613, 74-3203a, 74-4908, 74-5002a, 74-8005, 74-8105, 74-8703, 75-412, 75-622, 75-711, 75-2535, 75-2701, 75-2935b, 75-3101, 75-3102, 75-3103, 75-3104, 75-3108, 75-3110, 75-3111, 75-3120f, 75-3120g, 75-3120h, 75-3120j, 75-3122, 75-3123, 75-3124, 75-3125, 75-3126, 75-3135, 75-3136, 75-3137, 75-3141, 75-3148, 75-3149, 75-3150, 75-3212, 75-3223, 75-3702a, 75-5001, 75-5101, 75-5203, 75-5301, 75-5601, 75-5701, 75-5702, 75-5708, 75-5903, 75-6301, 75-7001, 76-714 and 76-715 and K.S.A. 2010 Supp. 75-3135a, 75-7206, 75-7207, 75-7402 and 75-7427, and amendments thereto, or any other statute, the rate of compensation for each executive branch employee is hereby reduced by 7.5% for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2011, and shall not be increased for any payroll period chargeable to fiscal year 2011: *Provided*, That the secretary of administration is hereby authorized and directed to implement and administer the provisions of this section to provide for such reductions: *Provided further*, That the secretary of administration shall ensure that such reductions to the rate of compensation of the executive branch employee subject to the provisions of this section for the fiscal year 2011 have been implemented: *And provided further*, That the secretary of administration is hereby authorized to reduce any such rate of compensation to implement the provisions of this section: *And provided further*, That no such reduction prescribed by this subsection shall apply to payroll periods commencing on or after June 12, 2011.

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2011, provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by chapter 6 or chapter 165 of the 2010 Session Laws of Kansas, or by this or other appropriation act of the 2011 regular session of the legislature, or by the state finance council, on each special revenue fund in the state treasury is hereby decreased for fiscal year 2011 by the amount equal to 7.5% of the aggregate amount that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions, other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, and longevity payments authorized by law, for executive branch employees, as defined by this section, for all payroll periods commencing on or after the effective date of this act which are chargeable to fiscal year 2011 for such special revenue fund, as determined by the director of the budget, after consultation with the director of legislative research, and certified to the director of accounts and reports.

(d) On the effective date of this act, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2011, in each account of the state general fund of the state board of regents and of each regents state agency, as defined by this section, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, chapter 6 or chapter 165 of the 2010 Session Laws of Kansas, or by this or other appropriation act of the 2011 regular session of the legislature, that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, and longevity payments authorized by law, for executive branch employees, as defined by this section, for all payroll periods commencing on or after the effective date of this act which are chargeable to fiscal year 2011, as determined by the director of the budget after consultation with the director of legislative research, the director of the budget shall certify the amount equal to 7.5% of the amount so determined in each such account to the director of accounts and reports in accordance with this subsection: *Provided*, That, upon receipt of such certification, the director of accounts and reports shall transfer each amount certified from the respective account of the state general fund of each regents state agency, as defined by this section, to a deferred maintenance support account of the state general fund, which is hereby established for such regents state agency and which is hereby appropriated from the state general fund for fiscal year 2011: *Provided further*, That, upon receipt of such certification, the director of accounts and reports shall transfer the amount certified to be transferred from each account of the state general fund of the state board of regents to the deferred maintenance support account of the state general fund of each regents state agency, as defined by this section, which shall be the proportional amount determined and specified by the director of the budget for such regents state agency in such certification, after consultation with the director of legislative research, as bearing the same relation to the total amount to be transferred from the account of the state board of regents as the amount transferred to the deferred maintenance support account of the state general fund of the regents state agency from all other accounts of the state general fund of that regents state agency bears to all amounts transferred to deferred maintenance support accounts of the state general fund of all regents state agencies pursuant to this subsection: *And provided further*, That all expenditures from each deferred maintenance support account of the state general fund established for a regents state agency under this subsection shall be for the same uses and purposes and under the same procedures and authorizations as expenditures made from the deferred maintenance support fund of such regents state agency.

(e) As used in this section, (1) "state agency" has the meaning ascribed thereto by K.S.A. 75-3701, and amendments thereto, and includes the governor's department, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance, each agency of the executive branch, the legislature and each agency of the legislative branch, the judicial branch and each agency of the judicial branch;

(2) "state officer" means (A) the governor, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance, each secretary of a department or other chief executive officer of a department of the executive branch, each member of a board, commission, council or authority of the executive branch, (B) each member of the legislature, each legislative officer specified in K.S.A. 46-137b, and

amendments thereto, (C) each justice of the supreme court, each judge of the court of appeals, each district judge, each district magistrate judge, and (D) each other state officer in the executive branch, legislative branch or judicial branch of state government whose position is specified by statute or is otherwise determined to be a salaried officer of the state as that phrase is used in section 15 of article 1 or section 13 of article 3 of the constitution of the state of Kansas, and in any case “state officer” includes all salaried officers of the state as that phrase is used in section 15 of article 1 or section 13 of article 3 of the constitution of the state of Kansas;

(3) “regents state agency” means the university of Kansas, the university of Kansas medical center, Kansas state university, Kansas state university veterinary medical center, Kansas state university extension systems and agriculture research programs, Wichita state university, Emporia state university, Pittsburg state university and Fort Hays state university; and

(4) “compensation” means any salary or per diem compensation provided by law for a state officer; and

(5) “executive branch employee” means an employee of a state agency within the executive branch of state government who has an annual rate of compensation that is equal to or more than \$100,000 for fiscal year 2011 and who is not a state officer, as defined by this section.”;

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking “year” and inserting “years”; in line 2, before “for” by inserting “June 30, 2012, and June 30, 2013.”; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **HB 2049** be amended on page 1, following line 4, by inserting:

"Section 1. K.S.A. 2010 Supp. 21-36a05 is hereby amended to read as follows: 21-36a05. (a) It shall be unlawful for any person to cultivate, distribute or possess with the intent to distribute any of the following controlled substances or controlled substance analogs thereof:

(1) Opiates, opium or narcotic drugs, or any stimulant designated in subsection (d) (1), (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto;

(2) any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(3) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(4) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, subsection (g) of K.S.A. 65-4107 or subsection (g) of K.S.A. 65-4109, and amendments thereto;

(5) any substance designated in subsection (g) of K.S.A. 65-4105 and subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto; ~~or~~

(6) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto; *or*

(7) *any substance designated in subsection (h) of K.S.A. 65-1504, and amendments thereto.*

(b) It shall be unlawful for any person to distribute or possess with the intent to

distribute a controlled substance or a controlled substance analog designated in K.S.A. 65-4113, and amendments thereto.

(c) (1) Violation of subsection (a) is a drug severity level 3 felony, except that:

(A) Violation of subsection (a) is a drug severity level 2 felony if the trier of fact makes a finding that the offender is 18 or more years of age and the substance was distributed to or possessed with intent to distribute to a minor or the violation occurs on or within 1,000 feet of any school property;

(B) violation of subsection (a)(1) is a drug severity level 2 felony if that person has one prior conviction under subsection (a)(1), under K.S.A. 65-4161 prior to its repeal, or under a substantially similar offense from another jurisdiction; and

(C) violation of subsection (a)(1) is a drug severity level 1 felony if that person has two prior convictions under subsection (a)(1), under K.S.A. 65-4161 prior to its repeal, or under a substantially similar offense from another jurisdiction.

(2) Violation of subsection (b) is a class A nonperson misdemeanor, except that, violation of subsection (b) is a drug severity level 4 felony if the substance was distributed to or possessed with the intent to distribute to a child under 18 years of age.

(d) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.

Sec. 2. K.S.A. 2010 Supp. 21-36a06 is hereby amended to read as follows: 21-36a06. (a) It shall be unlawful for any person to possess any opiates, opium or narcotic drugs, or any stimulant designated in subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto, or a controlled substance analog thereof.

(b) It shall be unlawful for any person to possess any of the following controlled substances or controlled substance analogs thereof:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, subsection (g) of K.S.A. 65-4107 or subsection (g) of K.S.A. 65-4109, and amendments thereto;

(4) any substance designated in subsection (g) of K.S.A. 65-4105 and subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto;

(5) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto; ~~or~~

(6) any substance designated in K.S.A. 65-4113, and amendments thereto; *or*

(7) *any substance designated in subsection (h) of K.S.A. 65-1405, and amendments thereto.*

(c) (1) Violation of subsection (a) is a drug severity level 4 felony;

(2) violation of subsection (b) is a class A nonperson misdemeanor, except that, violation of subsection (b)(1) through (b)(5) *or (b)(7)* is a drug severity level 4 felony if that person has a prior conviction under such subsection, under K.S.A. 65-4162 prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense if the substance

involved was 3, 4-methylenedioxymethamphetamine (MDMA), marijuana ~~or tetrahydrocannabinol~~ as designated in subsection (d) of K.S.A. 65-4105, and amendments thereto, *or tetrahydrocannabinol in subsection (h) of K.S.A. 65-4150, and amendments thereto.*

(d) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.";

And by renumbering sections accordingly;

On page 8, in line 1, after "Supp." by inserting "21-36a05, 21-36a06 and"; also in line 1, by striking "is " and inserting "are";

On page 1, in the title, after "Supp." by inserting "21-36a05, 21-36a06 and"; in line 2, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Education** recommends **HB 2020** be passed.

Committee on **Rules and Journal** recommends **HR 6004** be amended by substituting a new resolution to be designated as "Substitute for House Resolution No. **6004**," as follows:

"Substitute for House Resolution No. **6004**

By Committee on Rules and Journal

A RESOLUTION adopting permanent rules of the House of Representatives for 2011-2012 biennium."; and the substitute resolution be adopted.

(Sub. **HR 6004** was thereupon introduced and read by title).

On motion of Rep. Siegfried, the House adjourned until 11:00 a.m., Wednesday, February 2, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

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