

Journal of the Senate

TWENTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, February 15, 2012, 2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

The President introduced as guest chaplain, Rev. Joe Hishmeh, Lead Pastor, Fellowship Bible Church, Topeka, Kansas, who delivered the invocation.

Father in Heaven,

Thank you for each of these senators and for the opportunity they have to represent and respond to the needs and opportunities of the people of this blessed state of Kansas.

As they begin this session, I ask for them: your insight to see the truth; your grace to humble them; and your love to guide their thoughts, word and actions this session. I entrust each leader to you and for your glory on earth as it is in heaven.

In the name of Jesus I pray, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 430, AN ACT concerning taxation; relating to income tax rates, adjustment, procedure and requirements; credits; sales taxation, nexus presumptions; severance tax, exemptions; amending K.S.A. 79-32,176 and K.S.A. 2011 Supp. 40-2246, 79-32,110, 79-32,143, 79-32,197, 79-32,205, 79-32,210, 79-32,211a, 79-3635, 79-3702 and 79-4217 and repealing the existing sections, by Committee on Ways and Means.

SB 431, AN ACT concerning the credit union administrator; pertaining to certain positions in the unclassified service; amending K.S.A. 17-2234 and repealing the existing section, by Committee on Ways and Means.

SB 432, AN ACT concerning solid waste; relating to yard waste; amending K.S.A. 2011 Supp. 65-3402 and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **HB 2503**, **HB 2588**.

Assessment and Taxation: **SB 428**.

KPERS Select: **SB 429**.
Public Health and Welfare: **HB 2525**.
Ways and Means: **SB 427**; **HB 2515**.

REFERRAL OF APPOINTMENTS

The following appointments made by the Governor and submitted to the Senate for confirmation, were referred to Committees as indicated:

By the Governor:

Social and Rehabilitation Services, Secretary:

Phyllis Gilmore, serves at the pleasure of the Governor.
(Ways and Means)

University of Kansas Hospital Authority, Member:

Greg Graves, to serve a four year term to expire March 15, 2015.
(Public Health and Welfare)

University of Kansas Hospital Authority, Member:

Sharon Lindenbaum, to serve a four year term to expire March 15, 2015.
(Public Health and Welfare)

University of Kansas Hospital Authority, Member:

Alex Ammar, to serve a four year term to expire March 15, 2015.
(Public Health and Welfare)

MESSAGE FROM THE HOUSE

Announcing passage of **Substitute HB 2207, HB 2486, HB 2489, HB 2505, HB 2510, HB 2526**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Substitute HB 2207, HB 2486, HB 2489, HB 2505, HB 2510, HB 2526 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

On motion of Senator V. Schmidt the Senate nonconcurrent in the House amendments to **SB 211** and requested a conference committee be appointed.

The President appointed Senators V. Schmidt, Brungardt and Kelly as a conference committee on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Marshall introduced the following Senate resolution, which was read:
SENATE RESOLUTION No. 1818—

A RESOLUTION congratulating and commending the Pittsburg State University football team for winning the 2011 NCAA Division II National Championship.

WHEREAS, The Pittsburg State University Gorillas football team defeated Wayne State University Warriors by a score of 35-21 to win the 2011 NCAA Division II Football National Championship in Florence, Alabama on December 17, 2011; and

WHEREAS, Pittsburg State University finished the 2011 season with a 13-1 record and won the MIAA Conference Championship; and

WHEREAS, Pittsburg State University had 12 players earn All-MIAA honors in 2011. Pittsburg State University also had 15 players earn All-Super Region Four honors and nine players captured NCAA Division II All-America recognition. Sophomore linebacker Nate Dreiling was named the Division II Defensive Player of the Year by Don Hansen and senior quarterback Zac Dickey was chosen to play in the Casino Del Sol College All-Star Game; and

WHEREAS, Four Pittsburg State Gorillas earned national or district academic honors, including one Capital One Academic All-American selection and one winner of the NCAA Elite 89 Award; and

WHEREAS, The Pittsburg State University football program has produced 17 Academic All-Americans since 2000, the highest total among all Division II football programs over that period; and

WHEREAS, The 110-student team posted a cumulative 3.0 grade point average during the fall 2011 semester. During the fall 2011 semester, seven football players achieved a perfect 4.0 GPA and 17 others earned Dean's Scholastic Honors; and

WHEREAS, Pittsburg State University football team earned the MIAA Community Engagement Award of Excellence for their program's many civic and charitable activities, including the creation of Coach Tim Beck's "Ladies Night at the Pitt" fundraiser, which benefits the Via Christi Cancer Center and Angels Among Us. The football team also took part in the relief efforts for the victims of the May 22, 2011, Joplin tornado; and

WHEREAS, Pittsburg State University has the most all-time wins of any football program in NCAA Division II; and

WHEREAS, The 2011 National Championship is the fourth football national championship in the history of Pittsburg State University: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Pittsburg State University Gorillas for winning the 2011 NCAA Division II National Championship. We also commend PSU for its history of outstanding athletic and academic achievements and wish all the coaches, staff and players continued success in the future; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Senator Marshall.

On emergency motion of Senator Marshall **SR 1818** was adopted unanimously.

Senator Marshall congratulated and commended the Pittsburg State University football team for winning the 2011 NCAA Division II National Championship. The Pittsburg State University football team were introduced as follows: John Brown, Jake Catloth, Andrew Castaneda, Zac Dickey, Nate Dreiling, Will Grissom, Ty Henry, Cody Holland, J.R. Jones, Aaron Kolich, Levi Kuntzsch, Chase McCoy, Cody Moore, Elijah Olabode, Jason Peete, Nick Pugh, Luke Rampy, Bryant Sanchez, Aaron Sawyer, Kell Smalley, Chas Smith, Jason Spradling, Luke Stringer, Jon Thomas, Gus Toca, Joe

Uzzel, Solomon Watkins, Briceton Wilson, Joe Windscheffel, Spencer Worthington, Shawn Naccarato, Jim Johnson, Chris Kelly, Joan Cleland, Malcolm Turner, Jacob Anselmi and Paul Beck. Also in attendance were Pittsburg State University President Dr. Steve Scott, Coach Tim Beck, Coach Steve Rumpy, Coach Dave Wiemers and Coach John Pierce. The Senate acknowledged their achievement with a standing ovation.

Senator Marshall introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1819—

A RESOLUTION congratulating and commending Pittsburg State University's Coach Tim Beck for being named the 2011 Liberty Mutual NCAA Division II Football Coach of the Year.

WHEREAS, Coach Tim Beck began his coaching career with Pittsburg State University as a graduate assistant in 1987; and

WHEREAS, Coach Beck has served on the coaching staff of his alma mater for 25 years, including 16 years as offensive coordinator, and was named PSU's 14th head football coach in 2009; and

WHEREAS, Coach Beck, in his second year as head coach of the Gorillas, led the team to a 13-1 record, the MIAA Conference Championship and the NCAA Division II National Championship; and

WHEREAS, Coach Beck and his team earned the MIAA Community Engagement Award of Excellence for their program's many civic and charitable activities, including the creation of Coach Beck's "Ladies Night at the Pitt" fundraiser which benefits the Via Christi Cancer Center and Angels Among Us; and

WHEREAS, Coach Beck and his team took part in relief efforts for the victims of the May 22, 2011, Joplin tornado; and

WHEREAS, Coach Beck was selected the 2011 Liberty Mutual NCAA Division II Coach of the Year. In recognition of this award, Pittsburg State received \$20,000 for its general scholarship fund and Liberty Mutual donated \$50,000 to the charities of Coach Beck's choosing: Angels Among Us, Mirza Shrine Temple-Hospital Dads, Bradley Richard Research Fund of the Aplastic Anemica and MDS International Fund and Our Lady of Lourdes Catholic Church Memorial Fund. Coach Beck also was selected as the 2011 MIAA Conference Coach of the Year, the 2011 FieldTurf NCAA Division II Coach of the Year as well as the 2011 Don Hansen NCAA Division II Coach of the Year: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Pittsburg State University's Coach Tim Beck for being named the 2011 Liberty Mutual NCAA Division II Football Coach of the Year and for his many civic and charitable activities. We wish Coach Beck continued success, both on and off the football field, in the future; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Senator Bob Marshall.

On emergency motion of Senator Marshall **SR 1819** was adopted unanimously.

Senator Marshall introduced and congratulated Pittsburg State University's Coach Tim Beck for being named the 2011 Liberty Mutual NCAA Division II Football Coach of the Year. The Senate acknowledged Tim Beck with a standing ovation.

Senator McGinn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1820—

A RESOLUTION proclaiming and celebrating the 125th anniversary of the founding of Bethel College, North Newton, Kansas.

WHEREAS, Bethel College was founded on May 11, 1887, by members of the Newton community and the Kansas Conference of Mennonites with the goal of educating good citizens and passing on the Christian faith, named "Bethel" for the Hebrew Bible term meaning "house of God"; and

WHEREAS, Bethel College was incorporated by the State of Kansas on May 23, 1887, when the charter signed by its 33 founders was submitted to the Secretary of State; and

WHEREAS, Bethel College was the first institution of higher learning to be established under the auspices of the Mennonite denomination in North America; and

WHEREAS, Bethel College honors with gratitude the vision of its three founding fathers, prominent leaders in the City of Newton and Harvey County; David Goerz, John J. Krehbiel and Bernhard Warkentin; and of its first president, Cornelius H. Wedel; and

WHEREAS, Bethel College has, through its history, educated and graduated citizens of and leaders for Newton, North Newton, Harvey County, the State of Kansas, the nation and the world; and

WHEREAS, Bethel College is the only Kansas private college to be listed by Forbes.com in "America's Best Colleges 2011-12," is the highest-ranking Kansas institution in the Washington Monthly college guide for 2011-12, and consistently appears in the top tier of U.S. News & World Report's annual college rankings; and

WHEREAS, Bethel College is first in the state and in the top 100 nationally in percentage of bachelor's degree graduates who go on to earn Ph.D. degrees; and

WHEREAS, Bethel College is one of only a handful of colleges or universities nationwide to offer its students a four-year graduation guarantee; and

WHEREAS, Bethel College is today a thriving liberal arts institution known for academic excellence, character and service: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we do hereby proclaim the year 2012 as Bethel College's quasiquicentennial year. We celebrate its rich legacy, consistent progress and wide-ranging achievements and applaud its continued growth. We recognize Bethel College as the first Mennonite college in North America and as a distinguished institution of higher learning dedicated to the liberal arts; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to the President of Bethel College and to the Chairman of the board of directors of Bethel College.

On emergency motion of Senator McGinn **SR 1820** was adopted unanimously.

Senator McGinn introduced Bethel College President Perry White, his wife Darlene, former Bethel College President LaVerne Epp and his wife Marilyn for recognition of their support of celebrating the 125th anniversary of the founding of Bethel College, Newton, Kansas. The Senate acknowledged the guests with a standing ovation.

Senator Huntington introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1821—

A RESOLUTION recognizing and honoring Gayle Addington for 19 years of service to the Kansas Senate.

WHEREAS, Gayle Addington provided 19 years of exemplary service to the Kansas Senate. Gayle served as an assistant to Senator Audrey Langworthy, district 7, for eight years; Senator David Corbin, district 16, for four years; Senator David Wysong, district 7, for five years and Senator Terrie Huntington, district 7, for two years; and

WHEREAS, Gayle professionally and efficiently handled all correspondence, wrote thank you notes, calmed worried and anxious callers, became a close personal friend and knew as much about senate district 7 as the senators for whom she worked; and

WHEREAS, When working for Senator Corbin, Gayle made a seamless transition from communicating by phone and mail to primarily communicating by e-mail. Gayle's knowledge of computers and e-mail helped make contacting constituents very manageable and easy for her senators; and

WHEREAS, Gayle developed agendas for all budget subcommittees and kept her senators on schedule; and

WHEREAS, Gayle always received compliments from constituents, who recognized her knowledge of issues, her calming voice and her always cheerful and friendly personality: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize and honor Gayle Addington for her 19 years of service to the Kansas Senate and thank her for her outstanding work. We wish her success in all her future endeavors; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Senator Terrie Huntington.

On emergency motion of Senator Huntington **SR 1821** was adopted unanimously.

Senator Huntington introduced and recognized Gayle Addington for nineteen years of service to the Kansas Senate. Also in attendance were Senator Audrey Langworthy, Senator David Corbin and Senator David Wysong. The Senate acknowledged Gayle Addington's achievement with a standing ovation.

REPORT ON ENROLLED BILLS

SR 1814, SR 1815, SR 1816, SR 1817 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 15, 2012.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 355, SB 416** be passed.

Also, **SB 352** be amended on page 2, in line 16, by striking "matter" and inserting "manner";

On page 6, in line 16, by striking "of K.S.A. 44-703,"; in line 17, by striking "and amendments thereto";

On page 29, following in line 12, by inserting:

"(iii) violation of a written drug or alcohol policy of the employer of which

the employee had knowledge and which constituted a required condition of employment;”;

Also, on page 29, in line 13, by striking “(iii)” and inserting “(iv)”;

On page 30, in line 18, by striking the period and inserting “; or “; in line 19, by striking “(iv)” and inserting “(v)”;

On page 51, following line 37, by inserting:

"Sec. 7. K.S.A. 2011 Supp. 44-710a is hereby amended to read as follows: 44-710a. (a) Classification of employers by the secretary. The term "employer" as used in this section refers to contributing employers. The secretary shall classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts with a view of fixing such contribution rates as will reflect such experience. If, as of the date such classification of employers is made, the secretary finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the secretary finds incorrect or insufficient, the secretary shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the secretary at the time, and notify the employing unit thereof by mail addressed to its last known address. Unless such employing unit shall file the report or a corrected or sufficient report as the case may be, within 15 days after the mailing of such notice, the secretary shall compute such employing unit's rate of contributions on the basis of such estimates, and the rate as so determined shall be subject to increase but not to reduction on the basis of subsequently ascertained information. The secretary shall determine the contribution rate of each employer in accordance with the requirements of this section.

(1) New employers. (A) No employer will be eligible for a rate computation until there have been 24 consecutive calendar months immediately preceding the computation date throughout which benefits could have been charged against such employer's account.

(B) (i) For the rate year 2007 and each rate year thereafter, each employer who is not eligible for a rate contribution shall pay contributions equal to 4% of wages paid during each calendar year with regard to employment except such employers engaged in the construction industry shall pay a rate equal to 6%.

(ii) For rate years prior to 2007, employers who are not eligible for a rate computation shall pay contributions at an assigned rate equal to the sum of 1% plus the greater of the average rate assigned in the preceding calendar year to all employers in such industry sector or the average rate assigned to all covered employers during the preceding calendar year, except that in no instance shall any such assigned rate be less than 2%. Employers engaged in more than one type of industrial activity shall be classified by principal activity. All rates assigned will remain in effect for a complete calendar year. If the sale or acquisition of a new establishment would require reclassification of the employer to a different industry sector, the employer would be promptly notified, and the contribution rate applicable to the new industry sector would become effective the following January 1.

(iii) For purposes of this subsection (a), employers shall be classified by industrial activity in accordance with standard procedures as set forth in rules and regulations adopted by the secretary.

(C) "Computation date" means June 30 of each calendar year with respect to

rates of contribution applicable to the calendar year beginning with the following January 1. In arriving at contribution rates for each calendar year, contributions paid on or before July 31 following the computation date for employment occurring on or prior to the computation date shall be considered for each contributing employer who has been subject to this act for a sufficient period of time to have such employer's rate computed under this subsection (a).

(2) Eligible employers. (A) A reserve ratio shall be computed for each eligible employer by the following method: Total benefits charged to the employer's account for all past years shall be deducted from all contributions paid by such employer for all such years. The balance, positive or negative, shall be divided by the employer's average annual payroll, and the result shall constitute the employer reserve ratio.

(B) Negative account balance employers as defined in subsection (d) shall pay contributions at the rate of 5.4% for each calendar year.

(C) Eligible employers, other than negative account balance employers, who do not meet the average annual payroll requirements as stated in subsection (a)(2) of K.S.A. 44-703, and amendments thereto, will be issued the maximum rate indicated in subsection (a)(3)(C) of this section until such employer establishes a new period of 24 consecutive calendar months immediately preceding the computation date throughout which benefits could have been charged against such employer's account by resuming the payment of wages. Contribution rates effective for each calendar year thereafter shall be determined as prescribed below.

(D) As of each computation date, the total of the taxable wages paid during the 12-month period prior to the computation date by all employers eligible for rate computation, except negative account balance employers, shall be divided into 51 approximately equal parts designated in column A of schedule I as "rate groups," except, with regard to a year in which the taxable wage base changes. The taxable wages used in the calculation for such a year and the following year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during the entire twelve-month period prior to the computation date. The lowest numbered of such rate groups shall consist of the employers with the most favorable reserve ratios, as defined in this section, whose combined taxable wages paid are less than 1.96% of all taxable wages paid by all eligible employers. Each succeeding higher numbered rate group shall consist of employers with reserve ratios that are less favorable than those of employers in the preceding lower numbered rate groups and whose taxable wages when combined with the taxable wages of employers in all lower numbered rate groups equal the appropriate percentage of total taxable wages designated in column B of schedule I. Each eligible employer, other than a negative account balance employer, shall be assigned an experience factor designated under column C of schedule I in accordance with the rate group to which the employer is assigned on the basis of the employer's reserve ratio and taxable payroll. If an employer's taxable payroll falls into more than one rate group the employer shall be assigned the experience factor of the lower numbered rate group. If one or more employers have reserve ratios identical to that of the last employer included in the next lower numbered rate group, all such employers shall be assigned the experience factor designated to such last employer, notwithstanding the position of their taxable payroll in column B of schedule I.

SCHEDULE I—Eligible Employers

Column A Rate group	Column B Cumulative taxable payroll	Column C Experience factor (Ratio to total wages)
1	Less than 1.96% .....	.025%
2	1.96% but less than 3.92 .....	.40
3	3.92 but less than 5.88 .....	.80
4	5.88 but less than 7.84 .....	.12
5	7.84 but less than 9.80 .....	.16
6	9.80 but less than 11.76 .....	.20
7	11.76 but less than 13.72 .....	.24
8	13.72 but less than 15.68 .....	.28
9	15.68 but less than 17.64 .....	.32
10	17.64 but less than 19.60 .....	.36
11	19.60 but less than 21.56 .....	.40
12	21.56 but less than 23.52 .....	.44
13	23.52 but less than 25.48 .....	.48
14	25.48 but less than 27.44 .....	.52
15	27.44 but less than 29.40 .....	.56
16	29.40 but less than 31.36 .....	.60
17	31.36 but less than 33.32 .....	.64
18	33.32 but less than 35.28 .....	.68
19	35.28 but less than 37.24 .....	.72
20	37.24 but less than 39.20 .....	.76
21	39.20 but less than 41.16 .....	.80
22	41.16 but less than 43.12 .....	.84
23	43.12 but less than 45.08 .....	.88
24	45.08 but less than 47.04 .....	.92
25	47.04 but less than 49.00 .....	.96
26	49.00 but less than 50.96	1.00
27	50.96 but less than 52.92	1.04
28	52.92 but less than 54.88	1.08
29	54.88 but less than 56.84	1.12
30	56.84 but less than 58.80	1.16
31	58.80 but less than 60.76	1.20
32	60.76 but less than 62.72	1.24
33	62.72 but less than 64.68	1.28
34	64.68 but less than 66.64	1.32
35	66.64 but less than 68.60	1.36
36	68.60 but less than 70.56	1.40
37	70.56 but less than 72.52	1.44
38	72.52 but less than 74.48	1.48
39	74.48 but less than 76.44	1.52
40	76.44 but less than 78.40	1.56
41	78.40 but less than 80.36	1.60
42	80.36 but less than 82.32	1.64
43	82.32 but less than 84.28	1.68

44	84.28 but less than 86.24	1.72
45	86.24 but less than 88.20	1.76
46	88.20 but less than 90.16	1.80
47	90.16 but less than 92.12	1.84
48	92.12 but less than 94.08	1.88
49	94.08 but less than 96.04	1.92
50	96.04 but less than 98.00	1.96
51	98.00 and over	2.00

(E) Negative account balance employers shall, in addition to paying the rate provided for in subsection (a)(2)(B) of this section, pay a surcharge based on the size of the employer's negative reserve ratio, the calculation which is provided for in subsection (a)(2) of this section. The amount of the surcharge shall be determined from column B2 of schedule II of this section for calendar years 2012, 2013, 2014 and from column B1 of schedule II of this section for each calendar year after 2014. Each negative account balance employer who does not satisfy the requirements to have an average annual payroll, as defined by subsection (a)(2) of K.S.A. 44-703, and amendments thereto, shall be assigned a surcharge of equal to the maximum negative ratio surcharge from column B2 of schedule II of this section for calendar years 2012, 2013 and 2014. From calendar year 2015 forward each negative account balance employer who does not satisfy the requirements to have an average annual payroll, as defined by subsection (a)(2) of K.S.A. 44-703, and amendments thereto, shall be assigned a surcharge equal to the maximum negative ratio surcharge from column B1 of schedule II of this section. Funds from the surcharge paid according to this subsection (a)(2)(E), and amendments thereto, shall be used to pay principal and interest due on funds received from the federal unemployment account under title XII of the social security act, (42 U.S.C. § 1321 to 1324), in the following manner:

(i) For each calendar year 2012, 2013 and 2014, an additional 0.10% of the taxable wages paid by all negative account balance employers with a negative reserve ratio between 0.0% and 19.9% shall be designated an interest assessment surcharge and paid into the employment security interest assessment fund for the purpose of paying interest due and owing on funds received from the federal unemployment account under title XII of the social security act. The total surcharges assessed, including the additional 0.10% surcharge mentioned above, on such employers are listed in schedule II column B2. For the calendar year 2015, and each calendar year thereafter, the surcharge rate for negative balance employers with a negative reserve ratio between 0.0% and 19.9% shall be as listed in schedule II column B1.

(ii) For the calendar year 2012, and each calendar year thereafter, an additional surcharge on negative balance employers with negative reserve ratio of 20.0% and higher shall be designated an interest assessment surcharge and deposited in the employment security interest assessment fund. The additional surcharge shall be used for the purposes of paying interest due and owing on fund received from the federal unemployment account under title XII of the social security act. The total surcharge including the additional surcharge on such employers is listed in schedule II column B3 of this section.

(iii) For any succeeding year in which interest is due and owing on funds received from the federal unemployment account under title XII of the social security act, the secretary of labor may adjust the surcharge amounts necessary to pay such

interest;

(iv) the portion of such surcharge used for the payment of such interest shall not be included in the calculation of such employers reserve ratio pursuant to subsection (a)(2). The portion of such surcharge used for the payment of principal shall be included in the calculation of such employers reserve ratio pursuant to subsection (a)(2); and

(v) if the amounts collected under this subsection are in excess of the amounts needed to pay interest due, the amounts in excess shall remain in the employment security interest assessment fund to be used to pay interest in future years. Whenever the secretary certifies all interest payments have been paid pursuant to this section, any excess funds remaining in the employment security interest assessment fund shall be transferred to the employment security trust fund for the purpose of paying any remaining principal amount due for advances described in this section. In the event that the amount transferred from the employment security interest assessment fund exceeds such remaining amount of principal due, the balance shall be used for the purposes of the employment security trust fund.

SCHEDULE II—Surcharge on Negative Accounts

Column A	Column B1	Column B2	ColumnB3
Negative Reserve Ratio	Surcharge as a percent of	Surcharge as a percent of	Surcharge as a percent of
	taxable wages	taxable wages	taxable wages
Less than 2.0%.....	0.20%.....	0.30%	
2.0% but less than 4.0.....		0.40.....	0.50
4.0 but less than 6.00.60.....		0.70	
6.0 but less than 8.00.80.....		0.90	
8.0 but less than 10.0.....		1.00.....	1.10
10.0 but less than 12.0.....		1.20.....	1.30
12.0 but less than 14.0.....		1.40.....	1.50
14.0 but less than 16.0.....		1.60.....	1.70
16.0 but less than 18.0.....		1.80.....	1.90
18.0 but less than 20.0.....		2.00.....	2.10
20.0 but less than 22.0.....		2.00.....	2.20
22.0 but less than 24.0.....		2.00.....	2.40
24.0 but less than 26.0.....		2.00.....	2.60
26.0 but less than 28.0.....		2.00.....	2.80
28.0 but less than 30.0.....		2.00.....	3.00
30.0 but less than 32.0.....		2.00.....	3.20
32.0 but less than 34.0.....		2.00.....	3.40
34.0 but less than 36.0.....		2.00.....	3.60
36.0 but less than 38.0.....		2.00.....	3.80
38.0 and over.....	2.00.....		4.00

(3) Planned yield. (A) The average required yield shall be determined from schedule III of this section, and the planned yield on total wages in column B of schedule III shall be determined by the reserve fund ratio in column A of schedule III. The reserve fund ratio shall be determined by dividing total assets in the employment security fund provided for in subsection (a) of K.S.A. 44-712, and amendments thereto,

excluding all moneys credited to the account of this state pursuant to section 903 of the federal social security act, as amended, which have been appropriated by the state legislature, whether or not withdrawn from the trust fund, and excluding contributions not yet paid on July 31 by total payrolls for contributing employers for the preceding fiscal year which ended June 30.

SCHEDULE III—Fund Control

Ratios to Total Wages

Column A	Column B
Reserve Fund Ratio	Planned Yield
4.500 and over	0.00
4.475 but less than 4.500.....	0.01
4.450 but less than 4.475.....	0.02
4.425 but less than 4.450.....	0.03
4.400 but less than 4.425.....	0.04
4.375 but less than 4.400.....	0.05
4.350 but less than 4.375.....	0.06
4.325 but less than 4.350.....	0.07
4.300 but less than 4.325.....	0.08
4.275 but less than 4.300.....	0.09
4.250 but less than 4.275.....	0.10
4.225 but less than 4.250.....	0.11
4.200 but less than 4.225.....	0.12
4.175 but less than 4.200.....	0.13
4.150 but less than 4.175.....	0.14
4.125 but less than 4.150.....	0.15
4.100 but less than 4.125.....	0.16
4.075 but less than 4.100.....	0.17
4.050 but less than 4.075.....	0.18
4.025 but less than 4.050.....	0.19
4.000 but less than 4.025.....	0.20
3.950 but less than 4.000.....	0.21
3.900 but less than 3.950.....	0.22
3.850 but less than 3.900.....	0.23
3.800 but less than 3.850.....	0.24
3.750 but less than 3.800.....	0.25
3.700 but less than 3.750.....	0.26
3.650 but less than 3.700.....	0.27
3.600 but less than 3.650.....	0.28
3.550 but less than 3.600.....	0.29
3.500 but less than 3.550.....	0.30
3.450 but less than 3.500.....	0.31
3.400 but less than 3.450.....	0.32
3.350 but less than 3.400.....	0.33
3.300 but less than 3.350.....	0.34
3.250 but less than 3.300.....	0.35
3.200 but less than 3.250.....	0.36
3.150 but less than 3.200.....	0.37

3.100 but less than 3.150.....	0.38
3.050 but less than 3.100.....	0.39
3.000 but less than 3.050.....	0.40
2.950 but less than 3.000.....	0.41
2.900 but less than 2.950.....	0.42
2.850 but less than 2.900.....	0.43
2.800 but less than 2.850.....	0.44
2.750 but less than 2.800.....	0.45
2.700 but less than 2.750.....	0.46
2.650 but less than 2.700.....	0.47
2.600 but less than 2.650.....	0.48
2.550 but less than 2.600.....	0.49
2.500 but less than 2.550.....	0.50
2.450 but less than 2.500.....	0.51
2.400 but less than 2.450.....	0.52
2.350 but less than 2.400.....	0.53
2.300 but less than 2.350.....	0.54
2.250 but less than 2.300.....	0.55
2.200 but less than 2.250.....	0.56
2.150 but less than 2.200.....	0.57
2.100 but less than 2.150.....	0.58
2.050 but less than 2.100.....	0.59
2.000 but less than 2.050.....	0.60
1.975 but less than 2.000.....	0.61
1.950 but less than 1.975.....	0.62
1.925 but less than 1.950.....	0.63
1.900 but less than 1.925.....	0.64
1.875 but less than 1.900.....	0.65
1.850 but less than 1.875.....	0.66
1.825 but less than 1.850.....	0.67
1.800 but less than 1.825.....	0.68
1.775 but less than 1.800.....	0.69
1.750 but less than 1.775.....	0.70
1.725 but less than 1.750.....	0.71
1.700 but less than 1.725.....	0.72
1.675 but less than 1.700.....	0.73
1.650 but less than 1.675.....	0.74
1.625 but less than 1.650.....	0.75
1.600 but less than 1.625.....	0.76
1.575 but less than 1.600.....	0.77
1.550 but less than 1.575.....	0.78
1.525 but less than 1.550.....	0.79
1.500 but less than 1.525.....	0.80
1.475 but less than 1.500.....	0.81
1.450 but less than 1.475.....	0.82
1.425 but less than 1.450.....	0.83
1.400 but less than 1.425.....	0.84

1.375 but less than 1.400.....	0.85
1.350 but less than 1.375.....	0.86
1.325 but less than 1.350.....	0.87
1.300 but less than 1.325.....	0.88
1.275 but less than 1.300.....	0.89
1.250 but less than 1.275.....	0.90
1.225 but less than 1.250.....	0.91
1.200 but less than 1.225.....	0.92
1.175 but less than 1.200.....	0.93
1.150 but less than 1.175.....	0.94
1.125 but less than 1.150.....	0.95
1.100 but less than 1.125.....	0.96
1.075 but less than 1.100.....	0.97
1.050 but less than 1.075.....	0.98
1.025 but less than 1.050.....	0.99
1.000 but less than 1.025.....	1.00
0.900 but less than 1.000.....	1.01
0.800 but less than 0.900.....	1.02
0.700 but less than 0.800.....	1.03
0.600 but less than 0.700.....	1.04
0.500 but less than 0.600.....	1.05
0.400 but less than 0.500.....	1.06
0.300 but less than 0.400.....	1.07
0.200 but less than 0.300.....	1.08
0.100 but less than 0.200.....	1.09
Less than 0.100%.....	1.10

(B) Adjustment to taxable wages. The planned yield as a percent of total wages, as determined in this subsection (a)(3), shall be adjusted to taxable wages by multiplying by the ratio of total wages to taxable wages for all contributing employers for the preceding fiscal year ending June 30, except, with regard to a year in which the taxable wage base changes. The taxable wages used in the calculation for such a year and the following year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during all of the preceding fiscal year ending June 30.

(C) Effective rates. (i) Except with regard to rates for negative account balance employers, employer contribution rates to be effective for the ensuing calendar year shall be computed by adjusting proportionately the experience factors from schedule I of this section to the required yield on taxable wages. For the purposes of this subsection (a)(3), all rates computed shall be rounded to the nearest .01% and for calendar year 1983 and ensuing calendar years, the maximum effective contribution rate shall not exceed 5.4%.

(ii) For rate year 2007 and subsequent rate years, employers who are current in filing quarterly wage reports and in payment of all contributions due and owing, shall be issued a contribution rate based upon the following reduction: for rate groups 1 through 5, the rates would be reduced to 0.00%; for rate groups 6 through 28, the rates would be reduced by 50%; for rate groups 29 through 51, the rates would be reduced by 40%.

(iii) In order to be eligible for the reduced rates for rate year 2007, the employer must file all late reports and pay all contributions due and owing within a 30-day period following the date of mailing of the amended rate notice.

(iv) In order to be eligible for the reduced rates for rate year 2008 and subsequent rate years, employers must file all reports due and pay all contributions due and owing on or before January 31 of the applicable year, except that the reduced rates for otherwise eligible employers shall not be effective for any rate year if the average high cost multiple of the employment security trust fund balance falls below 1.2 as of the computation date of that year's rates. For the purposes of this provision, the average high cost multiple is the reserve fund ratio, as defined by subsection (a)(3)(A), divided by the average high benefit cost rate. The average high benefit cost rate shall be determined by averaging the three highest benefit cost rates over the last 20 years from the preceding fiscal year which ended June 30. The high benefit cost rate is defined by dividing total benefits paid in the fiscal year by total payrolls for covered employers in the fiscal year.

(b) Successor classification. (1) (A) For the purposes of this subsection (b), whenever an employing unit, whether or not it is an "employing unit" within the meaning of subsection (g) of K.S.A. 44-703, and amendments thereto, becomes an employer pursuant to subsection (h)(4) of K.S.A. 44-703, and amendments thereto, or is an employer at the time of acquisition and meets the definition of a "successor employer" as defined by subsection (dd) of K.S.A. 44-703, and amendments thereto, and thereafter transfers its trade or business, or any portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management or control of the two employers, then the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. These experience factors consist of all contributions paid, benefit experience and annual payrolls of the predecessor employer. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and such trade or business is performed by the employer to whom the workforce is transferred.

(B) If, following a transfer of experience under subparagraph (A), the secretary determines that a substantial purpose of the transfer or business was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to such account.

(2) A successor employer as defined by subsection (h)(4) or subsection (dd) of K.S.A. 44-703, and amendments thereto, may receive the experience rating factors of the predecessor employer if an application is made to the secretary or the secretary's designee in writing within 120 days of the date of the transfer.

(3) Whenever an employing unit, whether or not it is an "employing unit" within the meaning of subsection (g) of K.S.A. 44-703, and amendments thereto, acquires or in any manner succeeds to a percentage of an employer's annual payroll which is less than 100% and intends to continue the acquired percentage as a going business, the employing unit may acquire the same percentage of the predecessor's experience factors if: (A) The predecessor employer and successor employing unit make an application in writing on the form prescribed by the secretary, (B) the

application is submitted within 120 days of the date of the transfer, (C) the successor employing unit is or becomes an employer subject to this act immediately after the transfer, (D) the percentage of the experience rating factors transferred shall not be thereafter used in computing the contribution rate for the predecessor employer, and (E) the secretary finds that such transfer will not tend to defeat or obstruct the object and purposes of this act.

(4) (A) The rate of both employers in a full or partial successorship under paragraph (1) of this subsection shall be recalculated and made effective on the first day of the next calendar quarter following the date of transfer of trade or business.

(B) If a successor employer is determined to be qualified under paragraph (2) or (3) of this subsection to receive the experience rating factors of the predecessor employer, the rate assigned to the successor employer for the remainder of the contributions year shall be determined by the following:

(i) If the acquiring employing unit was an employer subject to this act prior to the date of the transfer, the rate of contribution shall be the same as the contribution rate of the acquiring employer on the date of the transfer.

(ii) If the acquiring employing unit was not an employer subject to this act prior to the date of the transfer, the successor employer shall have a newly computed rate for the remainder of the contribution year which shall be based on the transferred experience rating factors as they existed on the most recent computation date immediately preceding the date of acquisition. These experience rating factors consist of all contributions paid, benefit experience and annual payrolls.

(5) Whenever an employing unit is not an employer at the time it acquires the trade or business of an employer, the unemployment experience factors of the acquired business shall not be transferred to such employing unit if the secretary finds that such employing unit acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such employing unit shall be assigned the applicable industry rate for a "new employer" as described in subsection (a)(1) of this section. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the secretary shall use objective factors which may include the cost of acquiring the business, whether the employer continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(6) Whenever an employer's account has been terminated as provided in subsections (d) and (e) of K.S.A. 44-711, and amendments thereto, and the employer continues with employment to liquidate the business operations, that employer shall continue to be an "employer" subject to the employment security law as provided in subsection (h)(8) of K.S.A. 44-703, and amendments thereto. The rate of contribution from the date of transfer to the end of the then current calendar year shall be the same as the contribution rate prior to the date of the transfer. At the completion of the then current calendar year, the rate of contribution shall be that of a "new employer" as described in subsection (a)(1) of this section.

(7) No rate computation will be permitted an employing unit succeeding to the experience of another employing unit pursuant to this section for any period subsequent to such succession except in accordance with rules and regulations adopted

by the secretary. Any such regulations shall be consistent with federal requirements for additional credit allowance in section 3303 of the federal internal revenue code of 1986, and consistent with the provisions of this act.

(c) Voluntary contributions. Notwithstanding any other provision of the employment security law, any employer may make voluntary payments for the purpose of reducing or maintaining a reduced rate in addition to the contributions required under this section. Such voluntary payments may be made only during the thirty-day period immediately following the date of mailing of experience rating notices for a calendar year. All such voluntary contribution payments ~~shall may~~ be paid ~~prior to the expiration of 120 days after the beginning of the year for which such rates are effective at any time.~~ The amount of voluntary contributions shall be credited to the employer's account as of the next preceding computation date and the employer's rate shall be computed accordingly, except that no employer's rate shall be reduced more than five rate groups as provided in schedule I of this section as the result of a voluntary payment. An employer not having a negative account balance may have such employer's rate reduced not more than five rate groups as provided in schedule I of this section as a result of a voluntary payment. An employer having a negative account balance may have such employer's rate reduced to that prescribed for rate group 51 of schedule I of this section by making a voluntary payment in the amount of such negative account balance or to that rate prescribed for rate groups 50 through 47 of schedule I of this section by making an additional voluntary payment that would increase such employer's reserve ratio to the lower limit required for such rate groups 50 through 47. Under no circumstances shall voluntary payments be refunded in whole or in part.

(d) As used in this section, "negative account balance employer" means an eligible employer whose total benefits charged to such employer's account for all past years have exceeded all contributions paid by such employer for all such years.

(e) There is hereby established in the state treasury, separate and apart from all public moneys or funds of this state, an employment security interest assessment fund, which shall be administered by the secretary as provided in this act. Moneys in the employment security fund established by K.S.A 44-712, and amendments thereto, and employment security interest assessment fund established by 44-710, and amendments thereto, shall not be invested in the pooled money investment portfolio established under K.S.A 75-4234, and amendments thereto. Notwithstanding the provisions of subsection (a) of K.S.A. 44-712, K.S.A. 44-716, K.S.A. 44-717 and K.S.A. 75-4234, and amendments thereto, or any like provision the secretary shall remit all moneys received from employers pursuant to the interest payment assessment established in section (a)(2)(E), and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the employment security interest assessment fund. All moneys in this fund which are received from employers pursuant to the interest payment assessment established in section (a)(2)(E), and amendments thereto, shall be expended solely for the purposes and in the amounts found by the secretary necessary to pay any principal and interest due and owing the United States department of labor resulting from any advancements made to the Kansas employment security fund pursuant to the provisions of title XII of the social security act (42 U.S.C. § 1321 to 1324) except as may be otherwise provided under section (a) (2)(E), and amendments thereto. Notwithstanding any provision of this section, all

moneys received and credited to this fund pursuant to section (a)(2)(E), and amendments thereto, pursuant to section (a)(2)(E), and amendments thereto, shall remain part of the employment security interest assessment fund and shall be used only in accordance with the conditions specified in section (a)(2)(E), and amendments thereto.

(f) The secretary of labor shall annually prepare and submit a certification as to the solvency and adequacy of the amount credited to the state of Kansas' account in the federal employment security trust fund to the governor and the employment security advisory council. The certification shall be submitted on or before December 1 of each calendar year and shall be for the 12-month period ending on June 30 of that calendar year. In arriving at the certification contributions paid on or before July 31 following the 12-month period ending date of June 30 shall be considered. Each certification shall be used to determine the need for any adjustment to schedule III in subsection (a)(3)(A) and to assist in preparing legislation to accomplish any such adjustment.";

And by renumbering sections accordingly;

On page 70, in line 37, after "44-710," by inserting "44-710a,";

On page 1, in the title, in line 2, after "44-710," by inserting "44-710a,"; and the bill be passed as amended.

Committee on **Education** recommends **SB 69** be amended on page 1, by striking all in lines 30 through 35; in line 36, by striking "(5)" and inserting "(3)";

On page 2, in line 4, by striking "and dating violence"; in line 8, by striking "and dating violence"; in line 9, after "event." by inserting "The board of education shall adopt such plan through a process that includes representation of parents, school employees, school administrators and the community through the school site councils, established pursuant to K.S.A. 72-6439, and amendments thereto."; in line 11, after "plan" by inserting "shall be published on the school district's website with a link prominently posted on the home page of such website, and distributed annually to parents and guardians who have children enrolled in a school in the school district. The plan also"; in line 14, by striking "and dating violence"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 71** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 71," as follows:

"Substitute for SENATE BILL NO. 71

By Committee on Financial Institutions and Insurance

"AN ACT concerning insurance; pertaining to line of insurance and reporting requirements; pertaining to fingerprints and criminal record checks for certain insurance agents and public adjusters; amending K.S.A. 2011 Supp. 40-4903, 40-4905, 40-5504 and 40-5505 and repealing the existing sections.";

And the substitute bill be passed.

Committee on **Public Health and Welfare** recommends **SB 326** be amended on page 3, in line 3, by striking "birth to five, in public or nonpublic"; by striking all in lines 4 through 6; in line 7, by striking "months for dental examination"; and inserting "who are dentally underserved are targeted";

On page 5, in line 32, by striking "2010" and inserting "2011"; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 342** be amended on page 3, following line 1 by inserting:

"Sec. 5. K.S.A. 2011 Supp. 8-1560c is hereby amended to read as follows: 8-1560c (a) Any conviction or forfeiture of bail or bond for violating a maximum posted or authorized speed limit for 30 miles per hour or more but not exceeding 54 miles per hour on any highway, by not more than six miles per hour, shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto, except that a conviction of exceeding the maximum speed limit within a safety corridor shall be considered a moving violation pursuant to K.S.A. 8-255, and amendments thereto.

(b) Any conviction of forfeiture of bail or bond for violating the maximum posted or authorized speed limit of 55 miles per hour or more but not exceeding 75 miles per hour on any highway, by not more than 10 miles per hour, shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto, except that a conviction of exceeding the maximum speed limit within a safety corridor shall be considered a moving violation pursuant to K.S.A. 8-255, and amendments thereto.";

On page 12, in line 19, after "thereto." by inserting "A person may not enter into a diversion agreement in lieu of further criminal proceedings that would prevent such person's conviction of exceeding the maximum speed limit in a safety corridor from appearing on the person's record."; also on page 12, in line 43, after "Supp." by inserting "8-1560c,";

By renumbering sections accordingly;

On page 1, in the title, in line 3, after "Supp." by inserting "8-1560c,"; and the bill be passed as amended.

Committee on **Utilities** recommends **SB 374** be passed.

Also, **SB 384** be amended on page 4, in line 14, after "hearing" by inserting ", one member representing a law enforcement officer";

On page 7, in line 32, after "state." by inserting "For each PSAP within a county, such moneys shall be distributed to each PSAP in an amount proportional to the PSAP's population as a percentage share of the population of the county. If there is no PSAP within a county, then such moneys shall be distributed to the PSAP providing service to such county. Such moneys distributed to counties and PSAPs only shall be used for the uses authorized in K.S.A. 2011 Supp. 12-5375, and amendments thereto."; and the bill be passed as amended.

SB 419 be amended on page 1, in line 17, by striking all after "(b)"; by striking all in lines 18 through 22; in line 23, by striking all before the period and inserting "Submission of information pertaining to an affected utility's portfolio requirement shall be determined by rules and regulations promulgated by the commission or by order of the commission"; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

On motion of Senator Emler, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator McGinn in the chair.

On motion of Senator McGinn the following report was adopted:

Recommended **SB 306, SB 320, SB 335, SB 341, SB 369, SB 386, SB 403, SB 404; HB 2451** be passed.

The committee report on **SB 307**, recommending a **Sub SB 307**, be adopted and the substitute bill be passed.

SB 281, SB 305, SB 316, SB 324, SB 325, SB 331, SB 348 be amended by adoption of the committee amendments, and the bills be passed as amended.

HCR 5017 be adopted.

SB 299 be amended by motion of Senator Brumgardt, on page 15, following line 40, by inserting:

"Sec. 15. K.S.A. 79-4101 is hereby amended to read as follows: 79-4101. (a) For the purpose of providing revenue which may be used by the state, counties and cities in the enforcement of the provisions of this act, from and after the effective date of this act, for the privilege of engaging in the business of selling alcoholic liquor by retailers or farm wineries to consumers in this state or selling alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments, public venues or caterers in this state, there is hereby levied and there shall be collected and paid a tax at the rate of 8% upon the gross receipts received from: (1) The sale of alcoholic liquor by retailers, microbreweries or farm wineries to consumers within this state; and (2) the sale of alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments, public venues or caterers in this state.

(b) The tax imposed by this section shall be in addition to the license fee imposed on distributors, retailers, microbreweries and farm wineries by K.S.A. 41-310, and amendments thereto.

Sec. 16. K.S.A. 79-4102 is hereby amended to read as follows: 79-4102. The tax levied under K.S.A. 79-4101, and amendments thereto, shall be paid by the consumer or user to the retailer, microbrewery or farm winery or by the club, drinking establishment, public venue or caterer to the distributor. It shall be the duty of each retailer, microbrewery, farm winery or distributor in this state to collect from the purchaser the full amount of the tax imposed by this act, or an amount equal as nearly as possible or practicable, to the average equivalent thereof.

Sec. 17. K.S.A. 79-4103 is hereby amended to read as follows: 79-4103. On or before the 25th day of each calendar month, every person engaged in the business of selling alcoholic liquor at retail, every microbrewery selling beer to consumers, every farm winery selling wine to consumers in this state and every distributor selling alcoholic liquor or cereal malt beverage to clubs, drinking establishments, public venues or caterers in this state during the preceding calendar month shall make a return to the director of taxation upon forms prescribed and furnished by the director, stating: (a) The name and address of the seller; (b) the total amount of gross sales subject to the tax imposed by K.S.A. 79-4101, and amendments thereto, during the preceding calendar month; and (c) any other pertinent information the director requires. The person making the return shall, at the time of making the return, pay to the director of taxation the amount of tax imposed by K.S.A. 79-4101, and amendments thereto. The director of taxation may extend the time for making returns and paying the tax for any period not to exceed 60 days, under rules and regulations adopted by the secretary of revenue.

Sec. 18. K.S.A. 79-41a01 is hereby amended to read as follows: 79-41a01. As used

in K.S.A. 79-41a01 through 79-41a09, and amendments thereto:

(a) "Alcoholic liquor" means alcoholic liquor, as defined by K.S.A. 41-102, and amendments thereto, and cereal malt beverage, as defined by K.S.A. 41-2701, and amendments thereto.

(b) "Caterer," "club," "drinking establishment," "public venue" and "temporary permit" have the meanings provided by K.S.A. 41-2601, and amendments thereto.

(c) "Gross receipts derived from the sale of alcoholic liquor" means the amount charged the consumer for a drink containing alcoholic liquor, including any portion of that amount attributable to the cost of any ingredient mixed with or added to the alcoholic liquor contained in such drink.

Sec. 19. K.S.A. 79-41a02 is hereby amended to read as follows: 79-41a02. (a) There is hereby imposed, for the privilege of selling alcoholic liquor, a tax at the rate of 10% upon the gross receipts derived from the sale of alcoholic liquor by any club, caterer, drinking establishment, public venue or temporary permit holder.

(b) The tax imposed by this section shall be paid by the consumer to the club, caterer, drinking establishment, public venue or temporary permit holder and it shall be the duty of each and every club, caterer, drinking establishment, public venue or temporary permit holder subject to this section to collect from the consumer the full amount of such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each club, caterer, drinking establishment, public venue or temporary permit holder collecting the tax imposed hereunder shall be responsible for paying over the same to the state department of revenue in the manner prescribed by K.S.A. 79-41a03, and amendments thereto, and the state department of revenue shall administer and enforce the collection of such tax.

Sec. 20. K.S.A. 2011 Supp. 79-41a03 is hereby amended to read as follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-41a02, and amendments thereto, shall become due and payable by the club, caterer, drinking establishment, public venue or temporary permit holder monthly, or on or before the 25th day of the month immediately succeeding the month in which it is collected, but any club, caterer, drinking establishment, public venue or temporary permit holder filing an annual or quarterly return under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607, and amendments thereto, shall, upon such conditions as the secretary of revenue may prescribe, pay the tax required by this act on the same basis and at the same time the club, caterer, drinking establishment, public venue or temporary permit holder pays such retailers' sales tax. Each club, caterer, drinking establishment, public venue or temporary permit holder shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross receipts derived from the sale of alcoholic liquor by the club, caterer, drinking establishment, public venue or temporary permit holder for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross receipts derived from the sale of alcoholic liquor shall be kept separate and apart from the records of other retail sales made by a club, caterer, drinking establishment, public venue or temporary permit holder in order to facilitate the examination of books and records as provided herein.

(b) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and

inspection of the books and records of a club, caterer, drinking establishment, public venue or temporary permit holder as may be necessary to determine the accuracy of such reports required hereunder.

(c) The secretary of revenue is hereby authorized to administer and collect the tax imposed hereunder and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any club, caterer, drinking establishment, public venue or temporary permit holder liable to pay the tax imposed hereunder refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617, and amendments thereto.

(d) The secretary of revenue shall remit all revenue collected under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Subject to the maintenance requirements of the local alcoholic liquor refund fund created under K.S.A. 79-41a09, and amendments thereto, 25% of the remittance shall be credited to the state general fund, 5% shall be credited to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and the balance shall be credited to the local alcoholic liquor fund created by K.S.A. 79-41a04, and amendments thereto.

(e) Whenever, in the judgment of the secretary of revenue, it is necessary, in order to secure the collection of any tax, penalties or interest due, or to become due, under the provisions of this act, the secretary may require any person subject to such tax to file a bond with the director of taxation under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

(f) The amount of tax imposed by this act shall be assessed within three years after the return is filed, and no proceedings in court for the collection of such taxes shall be begun after the expiration of such period except in the cases of fraud. In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may be begun at any time, within two years from the discovery of such fraud. No refund or credit shall be allowed by the director after three years from the date of payment of the tax as provided in this act unless before the expiration of such period a claim therefor is filed by the taxpayer, and no suit or action to recover on any claim for refund shall be commenced until after the expiration of six months from the date of filing a claim therefor with the director. Before the expiration of time prescribed in this section for the assessment of additional tax or the filing of a claim for refund, the director is hereby authorized to enter into an agreement in writing with the taxpayer consenting to the extension of the periods of limitations for the assessment of tax or for the filing of a claim for refund, at any time prior to the expiration of the periods of limitations. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Sec. 21. K.S.A. 79-41a04 is hereby amended to read as follows: 79-41a04. (a) There is hereby created, in the state treasury, the local alcoholic liquor fund. Moneys credited to such fund pursuant to this act or any other law shall be expended only for the purpose and in the manner provided by this act.

(b) All moneys credited to the local alcoholic liquor fund shall be allocated to the several cities and counties of the state as follows:

(1) Each city that has a population of more than 6,000 shall receive 70% of the amount which is collected pursuant to this act from clubs, public venues or drinking establishments located in such city, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made.

(2) Each city that has a population of 6,000 or less shall receive $46\frac{2}{3}\%$ of the amount which is collected pursuant to this act from clubs, public venues or drinking establishments located in such city, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made.

(3) Each county shall receive: (A) 70% of the amount which is collected pursuant to this act from clubs, public venues or drinking establishments located in such county and outside the corporate limits of any city, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made; and (B) $23\frac{1}{3}\%$ of the amount which is collected pursuant to this act from clubs, public venues or drinking establishments located in the county and within a city that has a population of 6,000 or less, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made.

(c) The state treasurer shall make distributions from the local alcoholic liquor fund in accordance with the allocation formula prescribed by subsection (b) on March 15, June 15, September 15 and December 15 of each year. The director of accounts and reports shall draw warrants on the state treasurer in favor of the several county treasurers and city treasurers on the dates and in the amounts determined under this section. Such distributions shall be paid directly to the several county treasurers and city treasurers.

(d) Except as otherwise provided by this subsection, each city treasurer of a city that has a population of more than 6,000, upon receipt of any moneys distributed under this section, shall deposit the full amount in the city treasury and shall credit $\frac{1}{3}$ of the deposit to the general fund of the city, $\frac{1}{3}$ to a special parks and recreation fund in the city treasury and $\frac{1}{3}$ to a special alcohol and drug programs fund in the city treasury. Each city treasurer of a city that has a population of 6,000 or less, upon receipt of any moneys distributed under this section, shall deposit the full amount in the city treasury and shall credit $\frac{1}{2}$ of the deposit to the general fund of the city and $\frac{1}{2}$ to a special parks and recreation fund in the city treasury. Moneys in such special funds shall be under the direction and control of the governing body of the city. Moneys in the special parks and recreation fund may be expended only for the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. One-half of the moneys distributed under this section to cities located in Butler county shall be deposited in a special community support program and parks and recreation fund in the city treasury. Moneys in the special community support program and parks and recreation fund may be expended only for: (1) The establishment and operation of a domestic violence program operated by a not-for-profit organization; or (2) the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. Moneys in the special alcohol and drug programs fund shall be

expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers.

(e) Except as otherwise provided by this subsection, each county treasurer, upon receipt of any moneys distributed under this section, shall deposit the full amount in the county treasury and shall credit to a special alcohol and drug programs fund in the county treasury 23 $\frac{1}{3}$ % of the amount which is collected pursuant to this act from clubs or drinking establishments located in the county and within a city that has a population of 6,000 or less, from caterers whose principal place of business is so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made; of the remainder, the treasurer shall credit $\frac{1}{3}$ to the general fund of the county, $\frac{1}{3}$ to a special parks and recreation fund in the county treasury and $\frac{1}{3}$ to the special alcohol and drug programs fund. Moneys in such special funds shall be under the direction and control of the board of county commissioners. Moneys in the special parks and recreation fund may be expended only for the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. One-third of the moneys distributed under this section to Butler county shall be deposited in a special community support program and parks and recreation fund in the county treasury. Moneys in the special community support program and parks and recreation fund may be expended only for: (1) The establishment and operation of a domestic violence program operated by a not-for-profit organization; or (2) the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. Moneys in the special alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers. In any county in which there has been organized an alcohol and drug advisory committee, the board of county commissioners shall request and obtain, prior to making any expenditures from the special alcohol and drug programs fund, the recommendations of the advisory committee concerning such expenditures. The board of county commissioners shall adopt the recommendations of the advisory committee concerning such expenditures unless the board, by unanimous vote of all commissioners, adopts a different plan for such expenditures.

(f) Each year, the county treasurer shall estimate the amount of money the county and each city in the county will receive from the local alcoholic liquor fund and from distributions pursuant to K.S.A. 79-41a05, and amendments thereto. The state treasurer shall advise each county treasurer, prior to June 1 of each year of the amount in the local alcoholic liquor fund that the state treasurer estimates, using the most recent available information, will be allocated to such county in the following year. The county treasurer shall, before June 15 of each year, notify the treasurer of each city of the estimated amount in dollars of the distribution to be made from the local alcoholic liquor fund and pursuant to K.S.A. 79-41a05, and amendments thereto.

Sec. 22. K.S.A. 79-41a06 is hereby amended to read as follows: 79-41a06. No club, drinking establishment, caterer, public venue or temporary permit holder shall sell any

alcoholic liquor without a registration certificate from the secretary of revenue. Application for such certificate shall be made to the secretary upon forms provided by the secretary and shall contain such information as the secretary deems necessary for the purposes of administering the provisions of this act. The registration certificate shall be conspicuously displayed in the licensed premises or permitted for which it is issued.

Upon violation of any of the provisions of K.S.A. 79-41a01 *et seq.*, and amendments thereto, or any of the terms of this act, and upon due notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the secretary may revoke such registration certificate.

Sec. 23. K.S.A. 79-41a07 is hereby amended to read as follows: 79-41a07. (a) The director of taxation or the director of alcoholic beverage control may enjoin any person from engaging in business as a club, drinking establishment, caterer, public venue or temporary permit holder when the club, drinking establishment, caterer, public venue or temporary permit holder is in violation of any of the provisions of K.S.A. 79-41a01 *et seq.*, and amendments thereto, or any of the terms of this act and shall be entitled in any proceeding brought for that purpose to have an order restraining the person from engaging in business as a club, drinking establishment, caterer, public venue or temporary permit holder. No bond shall be required for any such restraining order or for any temporary or permanent injunction issued in that proceeding.

(b) If a club, drinking establishment, public venue or caterer licensed by the director of alcoholic beverage control or a temporary permit holder violates any of the provisions of K.S.A. 79-41a01 *et seq.*, and amendments thereto, or any of the terms of this act, the director of alcoholic beverage control may suspend or revoke the license of such club, drinking establishment, public venue or caterer in accordance with K.S.A. 41-2609, and amendments thereto, or may impose a civil fine on the licensee or permit holder in the manner provided by K.S.A. 41-2633a, and amendments thereto.

Sec. 24. K.S.A. 79-41a08 is hereby amended to read as follows: 79-41a08. The tax imposed by this act shall be a lien upon the business and any property of the club, drinking establishment, caterer, public venue or permit holder which may be sold. The person acquiring such business or property shall withhold a sufficient amount of the purchase price thereof to cover the amount of any taxes due and unpaid by the seller, until the seller shall furnish the purchaser with a receipt from the secretary of revenue, as herein provided, showing that such taxes have been paid. The purchaser shall be personally liable for the payment of any unpaid taxes of the seller, to the extent of the value of the business or property received by the purchaser, and if a receipt is not furnished by such seller within 20 days from the date of sale of such business or property, the purchaser shall remit the amount of such unpaid taxes to the secretary on or before the 20th day of the month succeeding that in which such purchaser acquired such business or property.";

And by renumbering sections accordingly;

Also on page 15, in line 42, after "41-2614" by striking the first "and" and inserting a comma; also in line 42, after "41-2640" by inserting ", 79-4101, 79-4102, 79-4103, 79-41a01, 79-41a02, 79-41a04, 79-41a06, 79-41a07 and 79-41a08"; in line 43, by striking "and" and inserting a comma; also in line 43, after "41-2629" by inserting "and 79-41a03";

On page 1, in the title, in line 4, by striking the first "and" and inserting a comma;

also in line 4, after "41-2640" by inserting ", 79-4101, 79-4102, 79-4103, 79-41a01, 79-41a02, 79-41a04, 79-41a06, 79-41a07 and 79-41a08"; also in line 4, by striking the last "and" and inserting a comma; in line 5, after "41-2629" by inserting "and 79-41a03"

Senator Longbine made a motion to further amend **SB 299** on page 12, in line 33, by striking "\$10,000" and inserting "\$7,500"; in line 35, by striking "\$20,000" and inserting "\$10,000" and **SB 299** be passed as amended.

SB 102 be amended by adoption of the committee amendments.

Senator Pilcher-Cook offered an amendment on page 9, following line 34, by inserting:

"Sec. 7. K.S.A. 25-4153b is hereby amended to read as follows: 25-4153b. (a) No political committee, a major purpose of which is to expressly advocate the nomination, election or defeat of a clearly identified candidate for the legislature or to make contributions or expenditures for the nomination, election or defeat of a clearly identified candidate for the legislature, shall be established by a member of the legislature.

(b) Any political committee currently in existence, a major purpose of which is to expressly advocate the nomination, election or defeat of a clearly identified candidate for the legislature or to make contributions or expenditures for the nomination, election or defeat of a clearly identified candidate for the legislature, established by a member of the legislature is hereby abolished. All moneys in such political committees shall be returned to the donors.";

And by renumbering sections accordingly;

Also on page 2; in line 36 before "46-268," by inserting "25-4153b,";

On page 1, in the title, in line 1, by striking "the" and inserting "elections and"; also in line 1, by striking "commission"; in line 2, before "46-268" by inserting "25-4153b,"

A ruling of the chair was requested as to the germaneness of the amendment to the bill. The Chair ruled the amendment not germane, the chair was challenged.

Upon the showing of five hands a roll call was requested.

On roll call, the vote was: Yeas 20; Nays 18; Present and Passing 1; Absent or Not Voting 1.

Yeas: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Longbine, McGinn, Morris, Owens, A. Schmidt, V. Schmidt, Schodorf, Teichman, Umbarger, Vratil.

Nays: Abrams, Apple, Bruce, Donovan, Kelsey, King, Love, Lynn, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Taddiken, Wagle.

Present and Passing: Marshall.

Absent or Not Voting: Reitz.

The ruling of the Chair was sustained.

The committee returned to **SB 102** and Senator Francisco moved to further amend **SB 102** on page, in line 3, by striking "\$330" and inserting "\$400"; in line 9, by striking "\$80" and inserting "\$30" and **SB 102** be passed as further amended.

SB 309 be passed over and retain a place on the calendar.

ORIGINAL MOTION

Pursuant to Rule 56, Senator Emler moved to extend the time to April 27, 2012, for the Committee on Ways and Means to act on the appointment of Earl McVicker.

The motion carried.

On motion of Senator Emler, the Senate adjourned until 2:30 p.m, Thursday, February 16, 2012.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*
PAT SAVILLE, *Secretary of the Senate.*

