

# Journal of the Senate

FORTY-SEVENTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Monday, March 19, 2012, 10:00 a.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with forty senators present.  
Invocation by Reverend Fred S. Hollomon:

Heavenly Father,

At this stage of the session  
Sometimes we may admit  
Some of us could tend to be  
Less considerate.

So Help us to remember  
When we arrive, O God,  
To be sure to give the doormen  
At least a friendly nod.

And to our secretaries  
Help us to kindly speak,  
And not postpone a hearty thanks  
“Till Secretaries” Week.

And keep us all from treating  
The clerks like furniture,  
But show appreciation  
For the hours they endure.

Don't let us take for granted  
Our interns and our aides,  
And the reader is a person  
Who deserves an accolade.

And don't forget the people  
Working in and on this place;  
Most of them seem pleased  
When I greet them face to face.

I know I could go on and on  
Mentioning people we ignore.

But my minute is almost gone  
So I will say no more.

I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2521; Substitute HB 2634.**

Announcing passage of **SB 303**, as amended.

Also, passage of **SB 290.**

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2521; Substitute HB 2634** were thereupon introduced and read by title.

#### REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2637**, as amended by House Committee of the Whole, be amended on page 1, following line 4, by inserting:

"New Section 1. (a) The provisions of sections 1 through 11, and amendments thereto, shall be known and may be cited as the professional employer organization registration act.

(b) The provisions of sections 1 through 11, and amendments thereto, shall take effect and be in force from and after January 1, 2014.

New Sec. 2. As used in sections 1 through 11, and amendments thereto:

(a) "Client" means any person who enters into a professional employer agreement with a professional employer organization.

(b) "Co-employer" means either a professional employer organization or a client.

(c) "Co-employment relationship" means a relationship which is intended to be an ongoing relationship rather than a temporary or project-specific relationship, and wherein the rights, duties and obligations of an employer which arise out of an employment relationship have been allocated between the employer and a professional employer organization as co-employers pursuant to a professional employer agreement entered into in accordance with the provisions of sections 1 through 11, and amendments thereto. Under a co-employment relationship:

(1) The professional employer organization is entitled to enforce only those employer rights, and is subject to only those employer obligations, that are specifically allocated to the professional employer organization by the professional employer agreement or by the provisions of sections 1 through 11, and amendments thereto;

(2) the client is entitled to enforce those employer rights, and is obligated to provide and perform those employer obligations, that are allocated to such client by the professional employer agreement or by the provisions of sections 1 through 11, and amendments thereto; and

(3) the client also is entitled to enforce any employer right, and is obligated to perform any obligation of an employer, that is not specifically allocated to the professional employer organization by the professional employer agreement or by the provisions of sections 1 through 11, and amendments thereto.

(d) (1) "Covered employee" means an individual having a co-employment

relationship with a professional employer organization and a client, who has received written notice of the co-employment relationship with the professional employer organization and the client, and such co-employment relationship was entered into pursuant to a professional employer agreement entered into in accordance with the provisions of sections 1 through 11, and amendments thereto.

(2) The term "covered employee" shall include individuals who are officers, directors, shareholders, partners or managers of the client, or members of a limited liability company that is a client, if: (A) The professional employer organization and the client have expressly agreed in the professional employer agreement that such individuals are covered employees; (B) such individuals satisfy the provisions of paragraph (1); and (C) such individuals act as operational managers or perform day-to-day operational services for the client.

(e) "Department" means the department of labor.

(f) "Person" means any individual, partnership, corporation, limited liability company, association or any other form of legally recognized entity.

(g) "Professional employer agreement" means a written contract entered into between a client and a professional employer organization that provides:

(1) For the co-employment of covered employees;

(2) for the allocation of employer rights and obligations between the client and the professional employer organization with respect to covered employees; and

(3) for the professional employer organization and the client to assume the responsibilities required by the provisions of sections 1 through 11, and amendments thereto.

(h) (1) "Professional employer organization" means any person engaged in the business of providing professional employer services. A person engaged in the business of providing professional employer services shall be considered a "professional employer organization" regardless of such person's use of the term staff leasing company, administrative employer, employee leasing company or any name other than professional employer organization in describing such person's business.

(2) For purposes of sections 1 through 11, and amendments thereto, the following shall not be considered a "professional employer organization," or as providing "professional employment services":

(A) Arrangements wherein a person, whose principal business activity is not entering into professional employer agreements, and which does not hold itself out as a professional employer organization, shares employees with a commonly owned company within the meaning of section 414(b) and (c) of the internal revenue code;

(B) independent contractor arrangements by which a person assumes responsibility for the product produced or service performed by such person or such person's agents and retains and exercises primary direction and control over the work performed by the individuals whose services are supplied under such arrangements; and

(C) providing temporary help services.

(i) "Professional employer group" means two or more professional employer organizations that are majority owned or commonly controlled by the same entity, parent or controlling person.

(j) "Professional employer services" means the service of entering into co-employment relationships.

(k) "Registrant" means a professional employer organization registered under the

provisions of sections 1 through 11, and amendments thereto.

(l) "Secretary" means the secretary of the department of labor.

(m) "Temporary help services" means services consisting of a person:

(1) Recruiting and hiring such person's own employees;

(2) locating other organizations that need the services of such employees;

(3) assigning such employees: (A) To perform work at or services for such other organizations to support or supplement such other organizations' workforces; (B) to provide assistance in special work situations, including employee absences, skill shortages or seasonal workloads; or (C) to perform special assignments or projects; and  
(4) customarily attempting to reassign such employees to other organizations when such employees finish an assignment.

(n) "Working capital" means current assets less current liabilities, as such terms are used by generally accepted accounting principles.

New Sec. 3. (a) Nothing in the provisions of sections 1 through 11, and amendments thereto, or in any professional employer agreement shall:

(1) Affect, modify or amend any collective bargaining agreement, or the rights or obligations of any client, professional employer organization or covered employee under the national labor relations act, 29 U.S.C. § 151 *et seq.*, or the railway labor act, 45 U.S.C. § 151 *et seq.*;

(2) diminish, abolish or remove the rights of covered employees as to a client, or the obligations of such client to a covered employee, whether existing prior to or after the effective date of the professional employer agreement, including, but not limited to, rights and obligations arising from civil rights laws guaranteeing nondiscrimination in employment practices;

(3) affect, modify or amend any contractual relationship or restrictive covenant between a covered employee and any client in effect at the time a professional employer agreement becomes effective, nor prohibit or amend any contractual relationship or restrictive covenant that is entered into subsequently between a client and a covered employee. A professional employer organization shall have no responsibility or liability in connection with, or arising out of, any such existing or new contractual relationship or restrictive covenant unless the professional employer organization has specifically agreed otherwise in writing; or

(4) create any new or additional enforceable right of a covered employee against a professional employer organization that is not specifically provided by the professional employer agreement or by the provisions of sections 1 through 11, and amendments thereto.

(b) (1) Nothing in the provisions of sections 1 through 11, and amendments thereto, or in any professional employer agreement shall affect, modify or amend any local, state or federal licensing, registration or certification requirement applicable to any client or covered employee.

(2) A covered employee who is required to be licensed, registered or certified pursuant to local, state or federal law or rules and regulations shall be deemed to be an employee solely of the client for purposes of any such license, registration or certification requirement.

(3) A professional employer organization shall not be deemed to engage in any occupation, trade, profession or other activity that is subject to licensing, registration or certification requirements, or is otherwise regulated by a governmental entity solely by

entering into and maintaining a co-employment relationship with a client or covered employee who is subject to such requirements or regulations.

(4) A client shall have the sole right to direct and control the professional or licensed activities of covered employees and of the client's business. Such covered employees and clients shall remain subject to regulation by the regulatory or governmental entity responsible for licensing, registration or certification of such covered employees or clients.

(c) With respect to a bid, contract, purchase order or agreement entered into with the state or a political subdivision of the state, a client's status or certification as a small, minority-owned, disadvantaged or woman-owned business enterprise, or as a historically underutilized business, shall not be affected because the client has entered into a professional employer agreement with a professional employer organization, or uses the services of a professional employer organization.

New Sec. 4. (a) A person engaged in the business of providing professional employer services pursuant to co-employment relationships in which all or a majority of the employees of a client are covered employees shall be registered pursuant to this section.

(b) A person who is not registered pursuant to this section shall not offer or provide professional employer services in this state, and shall not use the names PEO, professional employer organization, staff leasing company, employee leasing company, administrative employer or any other name or title representing professional employer services.

(c) Each applicant for registration shall submit an application to the secretary in such form and manner as prescribed by the secretary. The application shall contain the following information:

(1) The name or names under which the professional employer organization conducts business;

(2) the address of the principal place of business of the professional employer organization, and the address of each office the professional employer organization maintains in this state;

(3) the professional employer organization's taxpayer or employer identification number;

(4) a list, by jurisdiction, of each name under which the professional employer organization has operated in the preceding five years, including any alternative names, names of predecessors and, if known, successor business entities;

(5) a statement of ownership, which shall include the name and evidence of the business experience of any person that, individually, or acting in concert with one or more other persons, owns or controls, directly or indirectly, 15% or more of the equity interest of the professional employer organization;

(6) a statement of management, which shall include the name and evidence of the business experience of any individual who serves as president, chief executive officer or otherwise has the authority to act as senior executive officer of the professional employer organization; and

(7) a financial statement setting forth the financial condition of the professional employer organization or professional employer group, which shall comply with the provisions of subsection (h).

(d) (1) Each professional employer organization operating within this state as of the

effective date of this act shall complete its initial registration not later than 180 days after the effective date of this act. Such initial registration shall be valid until 180 days from the end of the professional employer organization's first fiscal year that is more than one year after the effective date of this act.

(2) Each professional employer organization not operating within this state as of the effective date of this act shall complete its initial registration prior to initiating operations within this state. If a professional employer organization not registered in this state becomes aware that an existing client, not based in this state, has employees and operations in this state, the professional employer organization shall either decline to provide professional employer services for those employees, or notify the secretary within five business days of the professional employer organization's knowledge of this fact and file a limited registration application pursuant to subsection (g), or a full registration if there are more than 50 covered employees employed by such client. The secretary may issue an interim operating permit for the period of time the application is pending if the professional employer organization is currently registered or licensed by another state, and the secretary determines it is in the best interests of the potential covered employees.

(e) Within 180 days after the end of a registrant's fiscal year, such registrant shall renew its registration by notifying the secretary of any changes in the information provided in such registrant's most recent registration or renewal. A registrant's existing registration shall remain in effect for the period of time the renewal application is pending.

(f) Professional employer organizations in a professional employer group may satisfy any reporting and financial requirements of this section on a combined or consolidated basis, provided that each member of the professional employer group guarantees the financial capacity obligations required by section 6, and amendments thereto, of each other member of the professional employer group. In the case of a professional employer group that submits a combined or consolidated audited financial statement, including entities that are not professional employer organizations or that are not in the professional employer group, the controlling entity of the professional employer group under the consolidated or combined statement must guarantee the obligations of the professional employer organizations in the professional employer group.

(g) (1) A professional employer organization is eligible for a limited registration if such professional employer organization:

(A) Submits a written request for limited registration in such form and manner as prescribed by the secretary;

(B) is domiciled outside this state, and is licensed or registered as a professional employer organization in another state;

(C) does not maintain an office in this state, or directly solicit clients located or domiciled within this state; and

(D) does not have more than 50 covered employees employed or domiciled in this state on any given day.

(2) A limited registration is valid for one year, and may be renewed.

(3) A professional employer organization requesting limited registration under this subsection shall provide the secretary with such information and documentation as required by the secretary to show that the professional employer organization qualifies

for a limited registration.

(4) The provisions of section 6, and amendments thereto, shall not apply to applicants for limited registration.

(h) At the time of initial registration, the applicant shall submit the most recent audit of the applicant or such applicant's parent holding company, which audit shall not be older than 13 months. Thereafter, a professional employer organization or professional employer group shall file on an annual basis, within 180 days after the end of the professional employer organization's or parent holding company's fiscal year, a succeeding audit. An applicant may apply to the secretary for an extension of time to submit such audit, but any such request shall be accompanied by a letter from the auditor stating the reasons for the delay and the anticipated audit completion date. For the initial application, if the closing date of the audited financial statements required by this section is older than three months from the date of the application, the application also shall include updated, though unaudited, financial statements for the most recent quarter. The financial statement shall be prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant licensed to practice in the jurisdiction in which such accountant is located, and shall be without qualification as to the going concern status of the professional employer organization. A professional employer group may submit combined or consolidated audited financial statements to meet the requirements of this section. A professional employer organization that has not had sufficient operating history to have audited financials based upon at least 12 months of operating history shall meet the financial capacity requirements of subsection (f) and present financial statements reviewed by a certified public accountant.

(i) The department shall maintain a list of professional employer organizations registered under this section, and such list shall be readily available to the public by electronic or other means.

(j) The secretary, to the extent practical, shall permit the acceptance of electronic filings, including applications, documents, reports and other filings required by the secretary under this section. The secretary may provide for the acceptance of electronic filings and other assurance documents by an independent and qualified entity approved by the secretary that provides satisfactory assurance of compliance acceptable to the secretary consistent with, or in lieu of, the requirements of this section and section 6, and amendments thereto. The secretary shall permit a professional employer organization to authorize such entity approved by the secretary to act on the professional employer organization's behalf in complying with the registration requirements of this section, including electronic filings of information and payment of registration fees. Use of such an approved entity shall be optional and not mandatory for a registrant. Nothing in this subsection shall limit or change the secretary's authority to register or terminate registration of a professional employer organization, or to investigate or enforce any provision of sections 1 through 11, and amendments thereto.

(k) All records, reports and other information obtained from a professional employer organization under this section, except to the extent necessary for the proper administration of the provisions of sections 1 through 11, and amendments thereto, by the secretary, shall be confidential and shall not be published or open to public inspection other than to employees of the department in the performance of such employee's official duties.

New Sec. 5. (a) Upon filing an initial application for registration, a professional employer organization shall pay a fee in an amount not to exceed \$1,000.

(b) Upon filing a renewal application for registration, a professional employer organization shall pay a fee in an amount not to exceed \$500.

(c) Upon filing an initial or a renewal application for limited registration, a professional employer organization shall pay a fee in an amount not to exceed \$500.

(d) Upon filing an initial or a renewal application for registration, a professional employer group shall pay a fee in an amount determined by the secretary and adopted by rules and regulations.

(e) The secretary shall adopt rules and regulations establishing the fees to be charged pursuant to this section in such amounts as deemed reasonably necessary by the secretary for the administration of the provisions of sections 1 through 11, and amendments thereto, subject to the limitations on fee amounts set forth in subsections (a), (b) and (c).

(f) There is hereby created the professional employer organization fee fund. The secretary shall remit all moneys received from fees or penalties 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 to the credit of the professional employer organization fee fund. All expenditures from the professional employer organization fee fund shall be for the purposes of the administration of the provisions of sections 1 through 11, and amendments thereto, and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary, or the secretary's designee.

New Sec. 6. Except as provided by subsections (g) and (j) of section 4, and amendments thereto, each professional employer organization, or collectively each professional employer group shall either:

(a) Maintain positive working capital upon registration as reflected in the financial statements submitted to the secretary with the initial registration application and each renewal application; or

(b) for a professional employer organization or professional employer group that does not have sufficient positive working capital as required in subsection (a), submit a bond, irrevocable letter of credit or securities with a minimum market value in an amount equal to the sum of the amount that would be necessary for such professional employer organization or professional employer group to comply with subsection (a) plus \$100,000 to the secretary at such time as the professional employer organization or professional employer group does not have sufficient working capital. Such bond shall be held by a depository designated by the secretary securing payment by the professional employer organization of all taxes, wages, benefits or other entitlement due to or with respect to covered employees, if the professional employer organization does not make such payments when due.

New Sec. 7. (a) No person shall knowingly enter into a co-employment relationship in which less than a majority of the employees of the client in this state are covered employees, or in which less than half of the payroll of the client in this state is attributable to covered employees.

(b) Except as otherwise provided in sections 1 through 11, and amendments thereto, or in the professional employer agreement, in each co-employment relationship:



(1) The client shall be entitled to exercise all rights and shall be obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship;

(2) the professional employer organization shall be entitled to exercise only those rights and obligated to perform only those duties and responsibilities specifically required by the provisions of sections 1 through 11, and amendments thereto, or in the professional employer agreement. The rights, duties and obligations of the professional employer organization as co-employer with respect to any covered employee shall be limited to those arising pursuant to the professional employer agreement or as required by the provisions of sections 1 through 11, and amendments thereto, during the term of co-employment by the professional employer organization of such covered employee; and

(3) the client retains the exclusive right to direct and control the covered employees as is necessary to conduct the client's business, to discharge any of the client's fiduciary responsibilities or to comply with any licensure requirements applicable to the client or to the covered employees.

(c) Except as otherwise provided in sections 1 through 11, and amendments thereto, the co-employment relationship between the client and the professional employer organization, and between each co-employer and each covered employee, shall be governed by the professional employer agreement. Each professional employer agreement shall include the following:

(1) The allocation of rights, duties and obligations as described in this section;

(2) that the professional employer organization shall have the responsibility to pay wages to covered employees, to withhold, collect, report and remit payroll-related and unemployment taxes and, to the extent the professional employer organization has assumed such responsibility in the professional employer agreement, to make payments for employee benefits for covered employees;

(3) that, in addition to the client's right to hire, discipline and terminate a covered employee, the professional employer organization shall have a right to hire, discipline and terminate a covered employee only as may be necessary to fulfill the professional employer organization's responsibilities under the provisions of sections 1 through 11, and amendments thereto, or the professional employer agreement.

(d) For purposes of this section, wages do not include any obligation between a client and a covered employee for payments beyond, or in addition to, the covered employee's salary, draw or regular rate of pay, such as bonuses, commissions, severance pay, deferred compensation, profit sharing or vacation, sick or other paid time off pay, unless the professional employer organization has expressly agreed to assume liability for such payments in the professional employer agreement.

(e) With respect to each professional employer agreement entered into by a professional employer organization, such professional employer organization shall provide written notice to each covered employee affected by such agreement. The professional employer organization shall provide and the client is required to post the following notices in a conspicuous place at the client's worksite:

(1) Notice of the general nature of the co-employment relationship between and among the professional employer organization, the client and such covered employees; and

(2) any notices required by the state relating to unemployment compensation and

minimum wages.

(f) Except as otherwise provided in the professional employer agreement:

(1) A client shall be solely responsible for the quality, adequacy or safety of the goods or services produced or sold in the client's business;

(2) a client shall be solely responsible for directing, supervising, training and controlling the work of the covered employees with respect to the business activities of the client and solely responsible for the acts, errors or omissions of the covered employees with regard to such activities;

(3) a client shall not be liable for the acts, errors or omissions of a professional employer organization, or of any covered employee of the client and a professional employer organization when such covered employee is acting under the express direction and control of the professional employer organization;

(4) nothing in this subsection shall limit any contractual liability or obligation specifically provided in a professional employer agreement;

(5) a covered employee is not, solely as the result of being a covered employee of a professional employer organization, an employee of the professional employer organization for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation or any other liability insurance carried by the professional employer organization unless the covered employee is included for such purposes by specific reference in the professional employer agreement and in any applicable prearranged employment contract, insurance contract or bond;

(6) a professional employer organization shall not sell, solicit or negotiate insurance on behalf of a client, covered employee or other employee of a client except through a person or entity licensed to do so pursuant state law;

(7) a professional employer organization shall sponsor health and workers' compensation plans for its covered employees only on a fully insured basis from an insurance carrier admitted to do business in this state;

(8) for purposes of this state or any county, municipality or other political subdivision thereof:

(A) Covered employees whose services are subject to sales tax shall be deemed the employees of the client for purposes of collecting and levying sales tax on the services performed by the covered employee, and nothing in the provisions of sections 1 through 11, and amendments thereto, shall be construed to relieve a client of any sales tax liability with respect to such client's goods or services;

(B) any tax or assessment imposed upon professional employer services or any business license or other fee which is based upon gross receipts shall allow a deduction from the gross income or receipts of the business derived from performing professional employer services that is equal to that portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement;

(C) any tax assessed or assessment or mandated expenditure on a per capita or per employee basis shall be assessed against the client for covered employees and against the professional employer organization for its employees who are not covered employees co-employed with a client, and any benefits or monetary consideration that

meets the requirements of mandates imposed on a client and that are received by covered employees through the professional employer organization either through payroll or through benefit plans sponsored by the professional employer organization shall be credited against the client's obligation to fulfill such mandates; and

(D) in the case of a tax or an assessment imposed or calculated upon the basis of total payroll, the professional employer organization shall be eligible to apply any small business allowance or exemption available to the client for the covered employees for the purpose of computing the tax.

New Sec. 8. A client and a professional employer organization shall each be deemed an employer under the laws of this state for purposes of sponsoring retirement and employee welfare benefit plans for its covered employees.

New Sec. 9. (a) It shall be a violation of the provisions of sections 1 through 11, and amendments thereto:

(1) For a person to knowingly offer or provide professional employer services or use the names PEO, professional employer organization, staff leasing, employee leasing, administrative employer or other title representing professional employer services without registering in accordance with section 4, and amendments thereto;

(2) for a person to knowingly provide false or fraudulent information to the secretary in conjunction with any registration application, renewal or in any report required under the provisions of sections 4 or 6, and amendments thereto;

(3) for a person to knowingly make a material misrepresentation to the secretary, or other governmental agency to which such person is required to submit a report or information;

(4) for a professional employer organization or a controlling person of a professional employer organization to be convicted of a crime: (A) That relates to the operation of a professional employer organization; (B) that relates to the ability of the professional employer organization or a controlling person of a professional employer organization to operate a professional employer organization; or (C) pursuant to 18 U.S.C. § 1033; or

(5) for a person to willfully violate any provision of sections 1 through 11, and amendments thereto, or any rule or regulation adopted by the secretary pursuant thereto.

(b) Upon a finding, and after notice and an opportunity for a hearing, that a professional employer organization, or a controlling person of a professional employer organization, or a person offering professional employer services has committed a violation under this section, the secretary may:

(1) Deny the application for registration;

(2) revoke, restrict or refuse to renew a registration;

(3) impose a civil fine in an amount not to exceed \$10,000 for each material violation of the provisions of sections 1 through 11, and amendments thereto;

(4) place the registrant on probation for such period of time and subject to such conditions as the secretary shall specify; or

(5) issue an order to cease and desist those professional employer organization activities and services specified in such order.

(c) The provisions of this section shall be subject to the Kansas judicial review act.

New Sec. 10. The secretary shall adopt such rules and regulations as the secretary deems necessary to implement and enforce the provisions of sections 1 through 11, and amendments thereto.

New Sec. 11. If any provision of sections 1 through 11, and amendments thereto, or any portion thereof, is declared invalid or unconstitutional, such invalidity shall not affect the validity or constitutionality of the remaining provisions of sections 1 through 11, and amendments thereto.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, before "amending" by inserting "creating the professional employer organization registration act;"; and the bill be passed as amended.

Also, **HB 2673** be amended on page 1, by striking all in lines 6 and 7 and inserting:

"Section 1. K.S.A. 2011 Supp. 44-324 is hereby amended to read as follows: 44-324. (a) Any proceeding by one or more employees to assert any claim arising under or pursuant to this act may be brought in any court of competent jurisdiction.

(b) ~~Whenever the secretary determines under K.S.A. 44-322a, and amendments thereto, that an employee has a valid claim for unpaid wages and determines that the amount of the claim is less than \$10,000, the secretary, upon the written request of the employee, shall take an assignment of the claim in trust for such employee and shall take action appropriate to enforce or defend such claim. Whenever the secretary determines under K.S.A. 44-322a, and amendments thereto, that an employee has a valid claim for unpaid wages and determines that the amount of the claim is equal to or greater than \$10,000, the secretary, upon the written request of the employee, may take an assignment of the claim in trust for such employee and if the assessment is taken, shall take action appropriate to enforce or defend such claim. With the written consent of the assignor, the secretary may settle or adjust any claim assigned pursuant to this subsection. Whenever the secretary takes an assignment of a claim in trust for an employee under this section, the secretary shall charge and collect a fee therefor which fee shall be fixed by rules and regulations adopted by the secretary. The fee fixed by rules and regulations shall be in an amount of not more than \$25 per claim assigned under this section.~~

(c) If the secretary prevails on behalf of the employee, the court shall award a judgment to the agency in an amount equal to the cost of reasonable attorney fees for such action.

(d) There is hereby created the wage claims assignment fee fund. The secretary shall remit all moneys received for assignment and attorney fees charged and collected under this section 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. Ten percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the wage claims assignment fee fund. All expenditures from the wage claims assignment fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

Sec. 2. K.S.A. 2011 Supp. 44-5,104 is hereby amended to read as follows: 44-5,104. (a) Each insurance company or group-funded self-insurance plan providing workers compensation insurance coverage in Kansas shall maintain and shall provide accident prevention programs upon request of the covered employer as a prerequisite for authority to provide such insurance or coverage. The accident prevention programs shall be adequate to furnish accident prevention services required by the nature of the

operations of the policyholders or other covered entities and the accident prevention services shall include surveys, recommendations, training programs, consultations, analyses of accident causes, industrial hygiene and industrial health services to implement the program of accident prevention services at no cost to the insured. The accident prevention programs shall be staffed with field safety representatives. Each field safety representative shall be a person who is: (1) A college graduate who has a bachelor's degree in science, industrial hygiene, safety or loss control, or engineering, (2) a registered professional engineer, (3) a certified safety professional, who has attained the designation from the board of certified safety professionals, (4) a certified industrial hygienist, who has attained the designation from the American board of industrial hygiene, (5) an individual with five years of experience in occupational safety and health, (6) a person who is working under direct supervision of a person who meets the qualification requirements of this section, (7) a person who has attained the designation of associate in loss control management or associate in risk management from the insurance institute of America, who has attained the designation of occupational safety and health technologist from the board of certified safety professionals, or who has attained any other comparable designation or certification by a recognized organization as determined by the secretary of labor, or (8) an individual who has completed a certified training program in accident prevention services approved by the secretary of labor. The insurance company or group-funded self-insurance plan may employ qualified personnel, retain qualified independent contractors, contract with the policyholder to provide qualified accident prevention personnel and services, or use a combination of such methods to fulfill the obligations imposed by this section. Accident prevention personnel shall have the qualifications required for field safety representatives.

(b) The secretary of labor may conduct such inspections as the secretary deems necessary to determine the adequacy of the accident prevention services required by subsection (a) for each insurance company and group-funded self-insurance plan providing workers compensation insurance coverage in Kansas, including, but not limited to, random inspections and those based upon employer complaints. Documented employer complaints shall be appropriately investigated and the results shall be reported to the commissioner of insurance. The secretary shall not be required by this section to inspect each insurance company or group-funded self-insurance plan.

(c) A notice that accident prevention services are available to the policyholder from the insurance company shall appear in no less than ten-point boldface type on the front page of each workers compensation insurance policy or group-funded workers compensation self-insurance plan certificate of coverage delivered or issued for delivery in this state.

(d) At least once each year, each insurance company or group-funded self-insurance plan providing workers compensation insurance in Kansas shall submit to the director of ~~workers compensation~~ industrial safety and health detailed information on the type of accident prevention programs offered to the policyholders by the insurance company or to the covered entities by the group-funded self-insurance plan, as the case may be. The information shall include:

- (1) The amount of money spent by the insurance company or group-funded self-insured plan on accident prevention services;
- (2) the names, number and qualifications of field safety representatives employed;

- (3) the number of site inspections performed;
- (4) any accident prevention services made available under a contractual arrangement;
- (5) a specification and listing of the premium size of the risks to which accident prevention services were actually provided;
- (6) evidence of the effectiveness of and accomplishments in accident prevention; and
- (7) any additional information required by the director of ~~workers compensation~~ industrial safety and health.

(e) If the insurance company or group-funded self-insurance plan does not maintain or provide the accident prevention services required by this section, the director of ~~workers compensation~~ industrial safety and health shall notify the commissioner of insurance. Upon receiving such notification, the commissioner of insurance shall presume the insurance company or group-funded self-insurance plan knew or reasonably should have known of the violation and shall assess the penalty prescribed therefore pursuant to K.S.A. 40-2,125, and amendments thereto. The secretary shall send the information and results obtained pursuant to subsection (d) to the insurance commissioner who shall widely disseminate information about the program.

(f) The secretary of labor shall employ the personnel necessary to enforce the provisions of this section and shall employ sufficient safety inspectors to perform inspections at job sites or other work places and may audit accident prevention programs of each insurance company or group-funded self-insurance plan which is subject to this section to determine the adequacy of the accident prevention services provided. The safety inspectors shall have the qualifications required for field safety representatives by subsection (a).

(g) The insurance company or group-funded self-insurance plan, and any agent, servant, or employee thereof, shall have no liability with respect to any accident based on the allegation that such accident was caused or could have been prevented by a program, inspection or other activity or by a service undertaken or not undertaken by the insurance company or group-funded self-insurance plan for the prevention of accidents in connection with operations of the employer. This immunity shall not affect the liability of the insurance company or group-funded self-insurance plan for compensation or as otherwise provided in this act.

Sec. 3. K.S.A. 2011 Supp. 44-634 is hereby amended to read as follows: 44-634. It shall be the duty of the secretary of labor to collect, assort, arrange and present in annual reports to the governor, to be transmitted biennially by the governor to the legislature, statistical details relating to all labor and industrial pursuits in the state; to the subjects of cooperation, strikes and other labor difficulties; to trade unions and other labor organizations and their effect upon labor and capital; to other matters relating to the commercial, industrial, social, educational, moral and sanitary conditions prevailing within the state; and the exploitation of such other subjects as will tend to promote the permanent prosperity of the respective industries of the state.

It shall also be the duty of the secretary of labor to cause to be enforced all laws regulating the employment of children and minors; all laws established for the protection of health, lives and limbs of operators in workshops and factories, ~~on~~ on ~~railroads~~, and other places; and all laws enacted for the protection of the working classes now in force or that may hereafter be enacted. In the annual report the secretary

of labor shall also give an account of all proceedings which have been taken in accordance with the provisions of this act, or any of the other laws herein referred to, and in addition thereto such remarks, suggestions and recommendations as the secretary of labor may deem necessary for the information of the legislature.

Sec. 4. K.S.A. 2011 Supp. 44-636 is hereby amended to read as follows: 44-636.

(a) The secretary of labor shall have power to enter ~~any factory or mill, workshop, private works, any~~ public works or state agency or institution, ~~mercantile establishment, laundry or any other place of business where labor is or is intended to be performed for any purpose;~~ when the same are open or in operation, for the purpose of gathering facts and statistics such as are contemplated by this act, and to examine into the methods of protection from danger to employees and the sanitary conditions in and around such buildings and places and to keep a record thereof of such inspection.

If it shall be found upon such investigation that the heating, lighting, ventilation, occupant capacity or sanitary arrangement of any such establishment or place is such as to be injurious to the health of persons employed or residing therein, or that the means of egress in case of fire or other disaster are not sufficient, or that the belting, shafting, gearing, ~~elevators,~~ drums, saws, cogs or machinery, in any such establishment or place are so located or are in a condition so as to be dangerous, or are not sufficiently guarded, or that the vats, pans or any other structures filled with molten metal, hot liquid or hazardous materials or substances are not surrounded with proper safeguards for preventing accidents, injury or illness to those persons in, or near them, or that the construction or condition of any building or buildings, or any boiler, machinery or other appurtenances in or about any place as described in this section is such as to be dangerous or injurious to the persons employed or residing therein, or that the methods of operation are such as to be unnecessarily dangerous or injurious to the persons employed or residing therein, or that any other condition which is within the control of the owner, proprietor, agent, administrator or lessee of any such building, establishment or place to be found to be dangerous or injurious to any persons employed therein or to any other person or persons, the secretary or the authorized agent of the secretary after making such inspection shall notify in writing the owner, proprietor, agent, administrator or lessee of such building, establishment, or place. Such notification may also include an order that requires the provisions of such safeguards or safety devices or the making of such alterations or additions or changes in methods of operation or the taking of any other measures the secretary may deem appropriate and necessary for the safety and protection of the employees or other persons endangered by such conditions and the amount of time granted by the secretary for making any such alterations, additions, changes or taking such other methods as required. Such amount of time shall not exceed 60 days after service of the notice and the order unless an extension thereof is requested for good cause shown by the person named in the order, and such extension is granted by the secretary or the authorized agent of the secretary.

(b) The notification required by subsection (a) shall include notice of the right to a hearing concerning any order included therein. Any such order shall become final unless within 15 days after service of the notice and order, the person or persons named therein shall request in writing a hearing by the secretary. If a request is made for a hearing the date of the hearing shall not be more than 30 days after such request is made. Orders under subsection (a), and hearings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

(c) No person, firm or corporation, nor any officer, agent or employee thereof, shall remove or require to be removed, or made ineffective any practical safeguard around or safety attachment to any machinery, vats, pan, or other apparatus or device mentioned in this section while the same is in use, ~~except for the purpose of immediately making repairs thereto, and all safeguards or safety attachments so removed shall be promptly replaced before the dangerous machine, apparatus or device is returned to normal use or operation. Except as otherwise provided,~~ No person shall require or permit the operation of, or operate, the dangerous machine, apparatus or device without the required safeguards or safety attachments.

(d) If the secretary of labor determines that conditions or products in any place of employment are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately, or before such danger can be eliminated through the enforcement provisions otherwise provided by law, the secretary may, in accordance with the provisions of K.S.A. 77-536, and amendments thereto, order the immediate taking of any steps necessary to avoid, correct or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct or remove such imminent danger or to prevent any avoidable loss of production facilities or product.

(e) Upon issuance of the order authorized by subsection (d) ~~of this section~~ and upon the request of any party who is adversely affected thereby, the secretary shall fix a place and time for a hearing to be held on such order in accordance with the provisions of the Kansas administrative procedure act.

(f) No person shall discharge or in any manner discriminate against any employee because such employee has filed a complaint with, or furnished information to, the secretary of labor concerning conditions or situations alleged to be unsafe or hazardous or otherwise covered by the provisions of this act.

(g) Any person who willfully violates any provision of this section or any lawful order issued pursuant to this section shall be guilty of a misdemeanor and shall be subject to a fine of not less than \$25 nor more than \$100. Each day that such violation exists shall constitute a separate offense.

(h) An action brought pursuant to this section shall not constitute a bar to enforcement of the provisions of this section by injunction or other appropriate remedy, and upon request of the secretary of labor, the attorney general shall have the power to institute and maintain in the name of the state any and all appropriate enforcement procedures.

(i) The provisions of this section shall not apply to any employer or place of employment that is subject to the provisions of the occupational safety and health act of 1970, 29 U.S.C. § 651 *et seq.*, except as provided in 29 C.F.R. § 1908 *et seq.*

Sec. 5. K.S.A. 44-603, 44-617, 44-625 and 44-628 and K.S.A. 2011 Supp. 44-324, 44-5,104, 44-601b, 44-607, 44-608, 44-609, 44-610, 44-611, 44-612, 44-614, 44-615, 44-616, 44-618, 44-619, 44-620, 44-621, 44-623, 44-624, 44-626, 44-631, 44-634 and 44-636 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1 by striking all following "ACT"; by striking all in lines 2 and 3 and inserting "concerning labor; relating to employment standards; accident prevention; powers and duties of the secretary of labor regarding labor and



wage disputes and workplace inspections; amending K.S.A. 2011 Supp. 44-324, 44-5,104, 44-634 and 44-636 and repealing the existing sections; also repealing K.S.A. 44-603, 44-617, 44-625 and 44-628 and K.S.A. 2011 Supp. 44-601b, 44-607, 44-608, 44-609, 44-610, 44-611, 44-612, 44-614, 44-615, 44-616, 44-618, 44-619, 44-620, 44-621, 44-623, 44-624, 44-626 and 44-631.";

And the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2313**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL NO. 2313," as follows:

"SENATE Substitute for HOUSE BILL NO. 2313  
By Committee on Judiciary

"AN ACT concerning juvenile offenders; relating to out-of-state juvenile offender registration.";

And the substitute bill be passed.

On motion of Senator Emler the Senate recessed until 11:00 a.m.

—————

The Senate met pursuant to recess with President Morris in the chair.

## MESSAGE FROM THE HOUSE

Announcing passage of **SB 294**, as amended by **House Substitute for SB 294**.

## REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **HB 2684** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2011 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2011 Supp. 75-4315d, and amendments thereto, or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2011 Supp. 75-4315d, and amendments thereto, to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts

or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, except documents relating to the appointment of persons to fill a vacancy in an elected office.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except as provided herein. The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or

evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable

individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) ~~the ombudsman of corrections;~~ the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901 *et seq.*, and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 *et seq.*, and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third-party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; or (C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.

(46) Any information or material received by the register of deeds of a county from military discharge papers (DD Form 214). Such papers shall be disclosed: To the military dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the dischargee; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.

(47) Information that would reveal the location of a shelter or a safehouse or similar place where persons are provided protection from abuse or the name, address, location or other contact information of alleged victims of stalking, domestic violence or sexual assault.

(48) Policy information provided by an insurance carrier in accordance with subsection (h)(1) of K.S.A. 44-532, and amendments thereto. This exemption shall not be construed to preclude access to an individual employer's record for the purpose of verification of insurance coverage or to the department of labor for their business purposes.

(49) An individual's e-mail address, cell phone number and other contact information which has been given to the public agency for the purpose of public agency notifications or communications which are widely distributed to the public.

(50) Information provided by providers to the local collection point administrator or to the 911 coordinating council pursuant to the Kansas 911 act, and amendments thereto, upon request of the party submitting such records.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.";

And by renumbering sections accordingly;

Also on page 1, in line 6, after "74-7407" by inserting "and K.S.A. 2011 Supp. 45-221";

On page 1, in the title, in line 1, by striking all after "ACT"; by striking all in line 2; in line 3, by striking all before the period and inserting "concerning the ombudsman of corrections; amending K.S.A. 2011 Supp. 45-221 and repealing the existing section; also repealing K.S.A. 74-7402, 74-7403, 74-7404, 74-7406 and 74-7407"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **SB 405** be amended on page 1, in line 5, after the second comma by inserting "as allowed by a local environmental or sanitary code which has been approved by the Kansas department of health and environment,"; in line 11, by striking "and"; in line 12, after "(2)" by inserting ""private wastewater system" means a wastewater system serving a single-family residence designed and constructed to collect, store and dispose of domestic waste, including those systems that function by soil absorption, evaporation, transpiration, holding tanks or any combination thereof. "Private wastewater system" does not include any system that directly discharges domestic waste onto the ground surface or into watercourses without a permit issued pursuant to K.S.A. 65-165, and amendments thereto; and

(3) ";

And the bill be passed as amended.

The Committee on **Ways and Means** recommends **HB 2382**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL NO. 2382," as follows:

"SENATE Substitute for HOUSE BILL NO. 2382

By Committee on Ways and Means

"AN ACT concerning economic development; concerning the STAR bonds financing act; relating to the provisions regarding STAR bond projects; extending the sunset date; regarding bond interest rates; amending K.S.A. 2011 Supp. 10-1009 and 12-17,179 and repealing the existing sections.";

And the substitute bill be passed.

#### COMMITTEE OF THE WHOLE

On motion of Senator J. 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 Owens in the chair.

The morning session recommended:

**HB 2503, HB 2516, HB 2517, HB 2563, HB 2631; Sub HB 2659; HB 2660** be amended by the adoption of the committee amendments, and the bills be passed as amended.

The committee report on **SB 327** recommending a **Sub SB 327** be adopted, and the substitute bill be passed.

The committee report on **SB 412** recommending a **Sub SB 412** be adopted, and the substitute bill be passed.

The committee report on **HB 2596** recommending a **Senate Sub for HB 2596** be adopted, and the substitute bill be passed.

The committee report on **HB 2730** recommending a **Senate Sub for HB 2730** be adopted, and the substitute bill be passed.

**HB 2604** be amended by motion of Senator Taddiken on page 1, in line 5, after "K.S.A." by inserting "2-1426 and K.S.A."; also in line 5, by striking "is" and inserting ", 2-1424a and 2-1425 are";

On page 1, in the title, in line 1, after "K.S.A." by inserting "2-1426 and K.S.A."; also in line 1, after "2-1233" by inserting ", 2-1424a and 2-1425"; also in line 1, by striking "fertilizer and"; in line 2, by striking "pesticide compliance and administration fund" and inserting "agriculture" and **HB 2604** be passed as amended.

**HB 2416** be amended by adoption of the committee amendments, be further amended by motion of Senator V. Schmidt, on page 1, in the title, in line 1, by striking "the division of"; also in line 1, by striking "of the department" in line 2, by striking "of health and environment" and **HB 2416** be passed as further amended.

**HB 2502, HB 2649, HB 2471** be passed over and retain a place on the calendar.

The committee rose and reported progress (see Committee of the whole, afternoon session.)

## REPORTS OF STANDING COMMITTEES

The Committee on **Natural Resources** recommends **SB 271** be amended on page 1, in line 4, after "(a)" by inserting "As used in this section, "pore space" means openings between or within geologic material under surface lands, which may be referred to as voids or interstices. (b)";

Also on page 1, in line 12, by striking "mineral"; by striking all in lines 16 through 20; in line 21, by striking "Nothing in this section shall be construed to change or alter the"; by striking all in lines 22 and 23; in line 24, by striking "determining" and inserting "To determine"; in line 27, after the second "surface", by inserting "and regardless of whether a severed pore space interest is created prior to a severed mineral estate, except the use and acquisition of pore space owned, used or contracted for underground storage. For purposes of this subsection, a severed mineral estate includes the granting of an oil and gas lease or any other right to explore for, develop or produce oil and gas or any other mineral"; in line 28, by striking "All instruments which transfer the rights to pore space under this"; in line 29, by striking "section shall describe the scope of any right to use the surface estate."; in line 31, after "instrument" by inserting "conveying the pore space"; by striking all in lines 32 through 36;

On page 2, by striking all in lines 1 through 7; following line 10, by inserting:



"(g) The state corporation commission shall promulgate rules and regulations to administer the provisions of this section, including, but not limited to, defining "usage of pore space."";

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

On motion of Senator Emler the Senate recessed until 2:30 p.m.

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The Senate met pursuant to recess with President Morris in the chair.

### **POINT OF PERSONAL PRIVILEGE**

Senator Taddiken rose on a Point of Personal Privilege to introduce his son, Shawn Taddiken, daughter-in-law, Nicolette and his first grandchild, Marcella Elizabeth.

Senator King rose on a Point of Personal Privilege to introduce his wife, Kim, daughter, Amelie and son, Alec.

### **INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTION**

Senators V. Schmidt, Hensley and Kelly introduced the following Senate resolution, which was read:

#### **SENATE RESOLUTION No. 1838—**

**A RESOLUTION** congratulating Molly Rockefeller for receiving the prestigious 2012 Prudential Spirit of Community Award.

WHEREAS, Molly Rockefeller, an esteemed resident of Topeka, Kansas, and a student at Washburn Rural High School, has achieved national recognition for exemplary volunteer service by receiving the 2012 Prudential Spirit of Community Award; and

WHEREAS, The 2012 Prudential Spirit of Community Award is a prestigious award presented by Prudential Financial in partnership with the National Association of Secondary School Principals. The award honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Molly Rockefeller earned this award by giving generously of her time and energy to raise \$6,500 to help purchase 1,000 LifeStraws for Haitian children who do not have access to clean drinking water. Molly Rockefeller enlisted the help of many Interact Clubs and other school groups to help raise the money to fund the purchase of the LifeStraws, a straw-like device with a built-in filter that eliminates bacteria and waterborne disease; and

WHEREAS, The success of the state of Kansas, the strength of Kansas communities and the overall vitality of American society depend, in great measure, upon the dedication of young people like Molly Rockefeller, who use their considerable talents and resources to serve others: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate Molly Rockefeller for receiving the prestigious 2012 Prudential Spirit of Community Award; and

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

On emergency motion of Senator V. Schmidt **SR 1838** was adopted unanimously. Senator V. Schmidt congratulated Molly Rockefeller for receiving the 2012 Prudential Spirit of Community Award. Senator V. Schmidt introduced Molly's family: John D. Rockefeller, father, Mare Czyzeski-Rockefeller, mother, Nick Rockefeller, brother and Cassie Shaw, a family friend. The Senate acknowledged them with a standing ovation.

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

SENATE RESOLUTION No. **1839**—

A RESOLUTION congratulating and commending the Independence Public Library for winning the Library Journal's Best Small Library in America Award.

WHEREAS, The Independence Public Library has won the prestigious Library Journal's 2012 Best Small Library in America Award. The award is sponsored by the Bill and Melinda Gates Foundation and was created in 2005 to encourage and showcase the exemplary work of libraries that serve populations under 25,000. The Independence Public Library will receive a cash prize of \$15,000 and will be honored at the 2012 Public Library Association conference in Philadelphia; and

WHEREAS, The Independence Public Library has been recognized for having undergone a dramatic yet positive transformation, despite threats of closure due to severe budget shortfalls. The library's small staff of eight pulled off a miraculous resurrection of the library by creating connections with the Independence business community, which has resulted in increased library advocacy and the ability to attract other grants and donations to help fund library programs. Due to community support and the staff's hard work, the library has thrived and will soon be open six days a week to serve a district of 13,420 people.

WHEREAS, Library staff has implemented the use of various creative marketing tools such as an email newsletter, an iPhone application and social networking to bring awareness to the Independence community of the library's resources, services and programs; and

WHEREAS, The Independence Public Library has previously received other prestigious awards including: The EBSCO Excellence in Small and/or Rural Public Library Service Award, the American Dream States @ Your Library grant, the We the People Bookshelf, a Public Library Association advocacy grant and SEKLS (Southeast Kansas Library System) grants for Collection Development and Materials Delivery; and

WHEREAS, The technology services provided at the Independence Public Library include free access to the internet through 50 public access computers, purchased as part of a grant from the Bill and Melinda Gates Foundation approximately five years ago. This internet access is crucial to the increased use and support of the library. The computer lab is available to businesses for training, and every day there are students taking online classes at the Independence Public Library: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate the Independence Public Library for winning the Library Journal's eighth annual Best Small Library in America Award; and

*Be it further resolved:* That we commend the Independence Public Library's efforts in resurrecting the library as a valuable public resource for the Independence community.

The Independence Public Library has engaged the local community, built established relationships with local businesses and community leaders and kept current with recent technological advances, all of which are accomplishments to be recognized and applauded; and

*Be it further resolved:* That the Secretary of the Senate shall send five enrolled copy of this resolution to Senator King.

On emergency motion of Senator King **SR 1839** was adopted unanimously.

Senator King congratulated and commended the Independence Public Library for winning the Library Journal's Best Small Library in America Award. Senator King introduced head librarian, Julie Hildebrand and her staff: Kriztina Smith, Nancy Kishpaugh, Blinn Sheffield, Allison Merritt and Becky Passauer. The Senate acknowledged them with a standing ovation.

On motion of Senator Emler the Senate recessed until 3:30 p.m.

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The Senate met pursuant to recess with President Morris in the chair.

## REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 423** be amended on page 1, in line 9, before the first "The" by inserting "(a)"; in line 11, after "appropriate." by inserting "except as provided by subsection (b)."; following line 13, by inserting:

"(b) If a judicial district has been assigned a total number of district judges plus district magistrate judges that is equal to or greater than the number of counties in such judicial district, then at least one district judge or district magistrate judge shall be a resident of each county in such judicial district."; in line 15, by striking "first" and inserting "1<sup>st</sup>"; in line 20, by striking "second" and inserting "2<sup>nd</sup>"; in line 23, by striking "third" and inserting "3<sup>rd</sup>"; in line 27, by striking "fourth" and inserting "4<sup>th</sup>"; in line 29, by striking "fifth" and inserting "5<sup>th</sup>"; in line 32, by striking "sixth" and inserting "6<sup>th</sup>"; in line 36, by striking "seventh" and inserting "7<sup>th</sup>";

On page 2, in line 4, by striking "eighth" and inserting "8<sup>th</sup>"; in line 11, by striking "ninth" and inserting "9<sup>th</sup>";

Also on page 2, following line 23, by inserting:

"The district judges of the 11<sup>th</sup> judicial district shall hold court in the cities of Pittsburg and Girard in Crawford county, the city of Columbus in Cherokee county and the cities of Parsons and Oswego in Labette county."; in line 26, by striking "twelfth" and inserting "12<sup>th</sup>";

Also on page 2, following line 41, by inserting:

"The district judges of the 14<sup>th</sup> judicial district shall hold court in the cities of Coffeyville and Independence in Montgomery county and the city of Sedan in Chautauqua county.";

On page 3, in line 41, by striking "twenty-fourth" and inserting "24<sup>th</sup>";

On page 5, following line 4, by inserting:

"The district court of the 31<sup>st</sup> judicial district shall hold court in the city of Iola in Allen county, the cities of Chanute and Erie in Neosho county, the city of Fredonia in Wilson county and the city of Yates Center in Woodson county."; and the bill be passed as amended.

Also, **HB 2629**, as amended by House Committee, be amended on page 1, in line 36, by striking "an alleged breach of";

On page 2, by striking all in lines 1 and 2; in line 3, by striking "84-2-314, and amendments thereto,"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 433** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 433," as follows:

"Substitute for SENATE BILL NO. 433  
By Committee on Ways and Means

"AN ACT making and concerning appropriations for fiscal years ending June 30, 2012, June 30, 2013, June 30, 2014, and June 30, 2015, for state agencies; authorizing certain transfers, capital improvement projects and fees imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2011 Supp. 12-5256, 55-193, 72-8814, 74-50,107, 74-99b34, 75-2319, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-34,171 and 82a-953a and repealing the existing sections.";

And the substitute bill be passed.

#### COMMITTEE OF THE WHOLE

The Senate returned to the Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Owens in the chair.

On motion of Senator Owens the report for the morning and the following afternoon session were adopted.

Recommended: **HB 2486, HB 2489, HB 2614, HB 2621, HB 2697** be passed.

**HB 2464, HB 2485, HB 2494, HB 2505, HB 2613, HB 2655, HB 2674, HB 2685, HB 2706** be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee report on **HB 2526** recommending a **Senate Sub for HB 2526** be adopted, and the substitute bill be passed.

Having voted on the prevailing side, Senator McGinn moved the Senate reconsider its action on **Sub SB 412**, (passed in morning session). The motion carried. Senator McGinn moved to amend the bill on page 2, by striking all in lines 1 through 5;

And by renumbering subsections accordingly and **Sub SB 412** be passed as amended.

The Committee returned to **HB 2502**. The bill was amended by the adoption of the committee amendments. Senator Bruce moved to further amend **HB 2502** on page 1, in line 8, by striking ", as defined in K.S.A. 17-5903,"; in line 9, by striking "and amendments thereto,"; in line 25, by striking ", as defined in"; in line 26, by striking "K.S.A. 17-5903, and amendments thereto,";

On page 2, in line 5, by striking "business entity authorized and"; in line 6, by striking "regulated under Kansas law to form a dairy production facility" and inserting "business entity not already authorized by Kansas law to form a dairy production facility"; by striking all in line 22; in line 23, by striking "dairy production facility" and inserting "business entity not already authorized by Kansas law to form a dairy

production facility";

Also on page 2, following line 42, by inserting:

"(g) For the purposes of this section, "dairy production facility" means the land, structures and related equipment owned or leased by a corporation, trust, limited liability company, limited partnership or corporate partnership and used for housing, breeding, raising, feeding or milking dairy cows.";

On page 4, in line 5, by striking ", as defined in K.S.A. 17-5903,"; in line 6, by striking "and amendments thereto,"; in line 21, by striking ", as defined"; in line 22, by striking "in K.S.A. 17-5903, and amendments thereto,"; in line 35, by striking "business entity"; by striking all in line 36; in line 37, by striking "facility" and inserting "business entity not already authorized by Kansas law to form a swine production facility";

On page 5, in line 9, by striking "business entity authorized and regulated under"; in line 10, by striking "Kansas law to form a swine production facility" and inserting "business entity not already authorized by Kansas law to form a swine production facility";

Also on page 5, following line 30, by inserting:

"(g) For the purposes of this section, "swine production facility" means the land, structures and related equipment owned or leased by a corporation, trust, limited liability company, limited partnership or corporate partnership and used for housing, breeding, farrowing or feeding of swine.";

On page 1, in the title, in line 1, after "to" by inserting "dairy production facilities and establishment procedures;" and **HB 2502** be passed as further amended.

A motion by Senator Francisco to amend **HB 2502** failed and the following amendment was rejected: on page 1, in line 7, after "(a)" by inserting "The board of county commissioners, by resolution, may submit to the qualified voters of the county a proposition to allow dairy production facilities, as defined in K.S.A. 17-5903, and amendments thereto, to be established within the county. Upon adoption of such resolution, the county election officer shall submit the question of whether dairy production facilities shall be allowed to be established in such county at the next state, county or special election.

(b)";

And by redesignating subsections accordingly;

Also on page 1, in line 20, by striking "(c)" and inserting "(d)"; in line 24, by striking "(b)" and inserting "(c)";

On page 2, in line 12, by striking "(c)" and inserting "(d)";

On page 4, in line 4, after "(a)" by inserting "The board of county commissioners, by resolution, may submit to the qualified voters of the county a proposition to allow swine production facilities, as defined in K.S.A. 17-5903, and amendments thereto, to be established within the county. Upon adoption of such resolution, the county election officer shall submit the question of whether swine production facilities shall be allowed to be established in such county at the next state, county or special election.

(b)";

And by redesignating subsections accordingly;

Also on page 4, in line 16, by striking "(c)" and inserting "(d)"; in line 20, by striking "(b)" and inserting "(c)"; in line 42, by striking "(c)" and inserting "(d)"

The committee returned to **HB 2649**. The bill was amended by adoption of the

committee amendments. Senator McGinn, moved to further amended **HB 2649**, on page 1, following line 4 by inserting:

"Section 1. (a) Upon execution of an agreement between the state of Kansas and the United States department of agriculture farm service agency for implementation of a conservation reserve enhancement program (CREP), the Kansas department of agriculture is hereby authorized to establish such program. The program shall be a joint state-federal program, to be administered for the state by the Kansas department of agriculture.

(b) The CREP shall have the purpose of reducing withdrawal demands on the high plains aquifer, improving water quality, protecting public water supplies and enhancing wildlife habitat. The program shall provide for voluntary retirement of water rights in the CREP, in accordance with: (1) A program prepared and submitted by the Kansas department of agriculture and presented to the senate committee on natural resources and the house committee on agriculture and natural resources; and (2) rules and regulations adopted by the Kansas department of agriculture.

(c) The Kansas department of agriculture shall adopt rules and regulations for the implementation and administration of the CREP. Such rules and regulations shall include, but not be limited to, eligibility requirements for and conditions of participation in the program and incentives to participate in the program.

(d) The CREP program shall be subject to the following criteria:

(1) The total number of acres for enrollment in Kansas in the CREP shall not exceed 40,000;

(2) the number of acres eligible for enrollment in CREP in Kansas shall be limited to one-half of the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the CREP area, except that if federal law permits the land enrolled in the CREP program to be used for agricultural purposes such as planting of agricultural commodities, including, but not limited to, grains, cellulosic or biomass materials, alfalfa, grasses, legumes or other cover crops, then the number of acres eligible for enrollment shall be limited to the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the CREP area;

(3) lands enrolled in the federal conservation reserve program as of January 1, 2008, shall not be eligible for enrollment in CREP;

(4) no more than 25% of the acreage in CREP may be in any one county;

(5) no water right that is owned by a governmental entity, except a groundwater management district, shall be purchased or retired by the state or federal government pursuant to CREP; and

(6) only water rights in good standing are eligible for inclusion under CREP. To be a water right in good standing the following criteria must be met:

(A) At least 50% of the maximum annual quantity authorized to be diverted under the water right has been used in any three years from 2001 through 2005;

(B) in the years 2001 through 2005, the water rights used for the acreage in CREP shall not have exceeded the maximum annual quantity authorized to be diverted and shall not have been the subject of enforcement sanctions by the division of water resources in the last four years; and

(C) the water right holder has submitted the required annual water use report required by K.S.A. 82a-732, and amendments thereto, for each of the most recent 10

years.

Sec. 2. The Kansas department of agriculture shall submit a CREP report annually to the senate committee on natural resources and the house committee on agriculture and natural resources. Such report shall contain a description of program activities and shall include:

- (a) The total water rights, measured in acre feet, retired each year in the CREP;
  - (b) the acreage in the CREP;
  - (c) the dollar amount received and expended for the CREP;
  - (d) the economic impact of the CREP;
  - (e) the change in groundwater levels in the CREP area;
  - (f) the annual amount of water usage in the CREP area;
  - (g) an assessment of meeting each of the program objectives identified in the agreement with the United States department of agriculture farm service agency; and
  - (h) such other information as the Kansas department of agriculture shall specify.";
- And by renumbering remaining sections accordingly;

Also on page 1, in the title, in line 1, after "ACT" by inserting "concerning water; providing for establishment of a conservation reserve enhancement program;"; in line 2, by striking "; concerning water" and **HB 2649** be passed as further amended.

The Committee returned to **HB 2471**. The bill was amended by adoption of the committee amendments. Senator Pilcher-Cook moved to further amend **HB 2471**, on page 2, in line 4, after "(b)(3)" by inserting ". No such member shall be required to be a member of the LeadingAge Kansas, or the successor of such entity, to be considered"; in line 11, after "(b)(3)" by inserting ". No such member shall be required to be a member of the Kansas health care association, or the successor of such entity, to be considered"; in line 19, after "(b)(3)" by inserting ". No such member shall be required to be a member of the Kansas adult care executives association, or the successor of such entity, to be considered" and **HB 2471** be passed as further amended.

**Senate Substitute for HB 2390** be passed over and retain a place on the calendar.

#### **CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR**

On motion of Senator McGinn the Senate nonconcurrred in the House amendments to **House Substitute for SB 294** and requested a conference committee be appointed.

The President appointed Senators McGinn, Vratil and Kelly as a conference committee on the part of the Senate.

On motion of Senator V. Schmidt the Senate nonconcurrred in the House amendments to **SB 303** 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.

On motion of Senator Umbarger the Senate nonconcurrred in the House amendments to **SB 334** and requested a conference committee be appointed.

The President appointed Senators Umbarger, Marshall and Kultala as a conference committee on the part of the Senate.

#### **REPORT ON ENGROSSED BILLS**

**SB 298, SB 310, SB 311, SB 314; Sub SB 327; SB 334, 379, SB 390; Sub SB 397; SB 436** reported correctly engrossed March 16, 2012.

**REPORTS OF STANDING COMMITTEES**

Committee on **Judiciary** recommends **SB 359** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 359," as follows:

"Substitute for SENATE BILL NO. 359  
By Committee on Judiciary

"AN ACT concerning interest on judgments; amending K.S.A. 16-201 and repealing the existing section.";

And the substitute bill be passed.

Also, **Substitute for HB 2318** be amended by substituting a new bill to be designated as "SENATE Substitute for Substitute for HOUSE BILL NO. 2318," as follows:

"SENATE Substitute for Substitute for HOUSE BILL NO. 2318

By Committee on Judiciary

"AN ACT concerning crimes, punishment and criminal procedure; relating to controlled substances; sentencing guidelines grid for drug crimes; drug treatment programs; disposition and supervision of offenders; amending K.S.A. 2011 Supp. 21-5701, 21-5703, 21-5705, 21-5706, 21-5708, 21-5709, 21-5710, 21-5713, 21-5714, 21-5716, 21-6604, 21-6608, 21-6611, 21-6614, 21-6805, 21-6808, 21-6810, 21-6821, 21-6824, 22-2802, 22-2908, 22-3412, 22-3604, 22-3717, 38-2346, 38-2347, 38-2369, 38-2374, 38-2376, 75-5291 and 75-52,144 and repealing the existing sections; also repealing K.S.A. 2011 Supp. 21-6614a, 21-6614b, 21-6614c and 75-5291b.";

And the substitute bill be passed.

Also, **HB 2568**, as amended by House Committee, be amended on page 2, by striking all in lines 9 through 11;

And by redesignating subsections accordingly;

Also on page 2, in line 18, before "any" by inserting "or";

On page 3, following line 14, by inserting:

"(13) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5505, and amendments thereto,";

And by redesignating subsections accordingly;

On page 7, in line 21, after "(a)" by inserting "(1)"; in line 24, by striking "(1)" and inserting "(A)"; in line 25, after "thereto," by inserting "and";

On page 8, by striking all in lines 6 and 7; in line 8, by striking "(3)" and inserting "(B)"; also in line 8, by striking ", the court shall"; in line 9, by striking "(A)" and inserting "(i)"; in line 14, by striking "(B)" and inserting "(ii)"; in line 17, by striking "(C)" and inserting "(iii)"; in line 24, by striking "(D)" and inserting "(iv)"; following line 27, by inserting:

"(2) At the time of sentencing or disposition for an offense requiring registration as provided in K.S.A. 22-4902, and amendments thereto, the court shall ensure the age of the victim is documented in the journal entry of conviction or adjudication.";

On page 23, in line 8, by striking "and (e)" and inserting ", (e) and (f)";

On page 24, in line 7, after "agency" by inserting "or by signing up for community



notification through the official website of the Kansas bureau of investigation"; following line 14, by inserting:

"(e) Notwithstanding subsection (a), when a court orders expungement of a conviction that requires an offender to register pursuant to the Kansas offender registration act, the registration requirement for such conviction does not terminate. Such offender shall be required to continue registering pursuant to the Kansas offender registration act, but shall not be subject to public registration. If a court orders expungement of a conviction that requires an offender to register pursuant to the Kansas offender registration act, and the offender has any other conviction that requires registration, such offender shall be required to register pursuant to the Kansas offender registration act, and the registration for such other conviction shall be open to inspection by the public and shall be subject to the provisions of subsection (a), unless such registration has been ordered restricted pursuant to subsection (f) or (g) of K.S.A. 22-4906, and amendments thereto."; in line 15, by striking "(e)" and inserting "(f)"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **HB 2241**, be amended as recommended by Senate Committee on Public Health and Welfare as reported in the Journal of the Senate on March 18, 2011, be further amended as recommended by the Senate Committee on Public Health and Welfare on May 4, 2011, the bill as printed as further amended by Senate Committee, be further amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL NO. 2241," as follows:

"SENATE Substitute for HOUSE BILL NO. 2241  
By Committee on Ways and Means

"AN ACT concerning taxation; relating to the local ad valorem tax reduction fund; distribution to political subdivisions; amending K.S.A. 79-2961 and K.S.A. 2011 Supp. 79-2959 and repealing the existing sections.";

And the substitute bill be passed.

On motion of Senator Emler, the Senate adjourned until 9:00 a.m., Tuesday, March 20, 2012.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

