

Journal of the Senate

FORTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, March 25, 2013, 10:00 a.m.

The Senate was called to order by Vice President Jeff King.

The roll was called with forty senators present.

Vice President King introduced as guest chaplain, The Reverend Kaye Metzler, Lincoln County United Methodist Churches, who delivered the invocation.

Today is the first work-day in a week known within the Christian calendar as Holy Week, a week which leads to Easter... Will you pray with me.... God of journey small and journey great, of Holy days and Holy week, of Lenten struggle and Easter promise.....as we gather in this chamber may the gentle breeze of your Spirit encircle and hold close each soul in this legislative body. God of agriculture and of industry, of small towns and cities great, counties struggling and counties thriving, of rolling hills and prairie plains, may the diversity and uniqueness of who Kansans are be spoken of, and acted on this day. May this Senate, through convening conversation and the processes of law, be strengthened by your presence, humbly committed to the elected task of their office, empowered and enabled that they may envision and guide forth the people of the great state of Kansas. In your holy name we pray. Amen

The Pledge of Allegiance was led by Vice President Jeff King.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

SB 243, AN ACT concerning alcoholic beverages; amending K.S.A. 2012 Supp. 41-306, 41-306a and 41-701 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 244, AN ACT concerning racetrack gaming; amending K.S.A. 2012 Supp. 74-8747 and repealing the existing section, by Committee on Federal and State Affairs.

SENATE CONCURRENT RESOLUTION No. **SCR 1612**—

By Senator Pilcher-Cook

A PROPOSITION to amend article 15 of the constitution of the state of Kansas by adding a new section thereto, concerning certain reserved powers.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members

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elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 15 of the constitution of the state of Kansas is hereby amended by adding a new section thereto to read as follows:

"§ 17. **Powers reserved.** The people of Kansas hereby expressly reserve to the state of Kansas, and to the citizens of Kansas, all powers not delegated to the United States by the constitution of the United States, or not otherwise prohibited to the states by the constitution of the United States. These reserved powers include, but are not limited to, the power to regulate the following subjects: Education; marriage and law relating to the family; firearms, ammunition and their use; land use; the management of wildlife, game and fisheries; health care; and all forms of insurance."

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

"Explanatory statement. The purpose of this amendment is to expressly reserve to the state of Kansas, and to the citizens of Kansas, all powers not delegated to the United States by the constitution of the United States, or not otherwise prohibited to the states by the constitution of the United States.

"A vote for this proposition would expressly reserve to the state of Kansas, and to the citizens of Kansas, all powers not delegated to the United States by the constitution of the United States, or not otherwise prohibited to the states by the constitution of the United States. These reserved powers include, but are not limited to, the power to regulate the following subjects: Education; marriage and law relating to the family; firearms, ammunition and their use; land use; the management of wildlife, game and fisheries; health care; and all forms of insurance.

"A vote against this proposition would not expressly reserve any of such powers in the constitution of the state of Kansas."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the election in August in the year 2014 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

SENATE CONCURRENT RESOLUTION No. **SCR 1613**—

By Senator Pilcher-Cook

A CONCURRENT RESOLUTION making application to the congress of the United

States to call a convention for the purpose of proposing an amendment to the constitution of the United States with respect to states' rights.

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That pursuant to article V of the constitution of the United States, the legislature of the state of Kansas hereby makes application to the congress of the United States for the calling of a constitutional convention for the sole purpose of proposing the following article as an amendment to the constitution of the United States:

"ARTICLE _____

"Section 1. The states and the citizens thereof have the sole and exclusive authority to regulate directly, and to regulate indirectly through taxes, the following subjects: Education; the time, place and manner of elections; marriage and law relating to the family; firearms, ammunition and their use; land use; the management of wildlife, game and fisheries; health care; and all forms of insurance.

"Sec. 2. Section 1 is not an exclusive list of subjects that the states may regulate. With respect to all other subjects, other than those enumerated in sections 9 and 10 of article I, the states may regulate those subjects. Congress may not exercise its enumerated powers to impliedly preempt or otherwise impliedly displace state laws. The preemption or displacement of such state laws may only occur if an act of congress expressly and unmistakably states its intention to preempt or displace state law."; and

Be it further resolved: That this application constitutes a continuing application in accordance with article V of the constitution of the United States until at least two-thirds of the several states shall have made similar applications to the congress of the United States; and

Be it further resolved: That the secretary of state is hereby directed to transmit copies of this resolution to the President of the United States, the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, each member of the Kansas delegation in the United States Congress and to the legislatures of all other states of the United States.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Financial Institutions and Insurance: **SB 242**.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 51, SB 59**.

Announcing passage of **SB 20**, as amended; **SB 56**, as amended; **SB 57**, as amended by **House Substitute for SB 57SB 81**, as amended; **SB 102**, as amended; **SB 120**, as amended..

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2381 was thereupon introduced and read by title.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to **HB 2305**.

The House accedes to the request of the Senate for a conference on **H Sub for SB 83** and has appointed Representatives Carlson, Schwab and Sawyer as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **H Sub for SB 84** and has appointed Representatives Carlson, Schwab and Sawyer as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2009**, requests a conference and has appointed Representatives Proehl, Ryckman Sr. and Perry as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **S Sub for HB 2143**, requests a conference and has appointed Representatives Rhoades, Suellentrop and Henry as conferees on the part of the House.

Announcing passage of **HB 2381**.

The House concurs in Senate amendments to **HB 2028**.

The House concurs in Senate amendments to **HB 2203**.

The House concurs in Senate amendments to **HB 2318**.

The House concurs in Senate amendments to **HB 2357**.

The House nonconcurrs in Senate amendments to **HB 2015**, requests a conference and has appointed Representatives Kinzer, Bruchman and Pauls as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **Sub HB 2017**, requests a conference and has appointed Representatives Kinzer, Bruchman and Pauls as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2049**, requests a conference and has appointed Representatives Schwartz, Hoffman and Victors as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2204**, requests a conference and has appointed Representatives Kinzer, Bruchman and Pauls as conferees on the part of the House.

REPORT ON ENGROSSED BILLS

SB 62, SB 69 reported correctly engrossed March 20, 2013.

SB 81 reported correctly engrossed March 21, 2013.

SB 28, SB 216 reported correctly engrossed March 22, 2013.

SB 82, SB 210, SB 235 reported March 25, 2013.

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **HB 2140** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2140," as follows:

"Senate Substitute for HOUSE BILL NO. 2140

By Committee on Education

"AN ACT concerning schools; relating to pupils and reading proficiency; enacting the Kansas reads to succeed act.";

And the substitute bill be passed.

Committee on **Public Health and Welfare** recommends **HB 2253**, as amended by House Committee, be passed.

On motion of Senator Bruce the Senate recessed until 2:00 p.m.



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

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators King, Abrams, Knox and Masterson introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. **1739**—

A RESOLUTION congratulating the 1953 El Dorado Junior College basketball team on the 60th anniversary of winning the NJCAA title.

WHEREAS, March 28, 2013, marks the 60th anniversary of the El Dorado Junior College (now Butler County Community College) basketball team's winning of the NJCAA National Tournament; and

WHEREAS, This victory is only one of two times in history that two teams from the same state met in the NJCAA National Tournament championship game and the only time that two teams from Kansas have met in a collegiate national title game. The El Dorado Grizzlies defeated the Arkansas City Junior College (now Cowley County Community College) basketball team for the national title; and

WHEREAS, The 1953 El Dorado Junior College squad came into the season under head coach Dave Weatherby. The Ark City Tigers were coached by Dan Kahler; and

WHEREAS, Members of the 1953 El Dorado Junior College basketball team were Johnny Gragg, Dick Rippe, Mike Girrens, Richard Smith, Len Wilson, Jack Wichers, Pat Kinney, Gary Silor, Bill McAdoo, Ray Reep, Danny O'Brien, Bill Elliot, Fred Fuller, Jerry Evenson, Jerry Wilson, Eldon Eisenhour, Larry Maus and David Ellis; and

WHEREAS, Members of the 1953 Ark City Junior College basketball team were Ray Potter, Linwood Burns, Jim Reed, Lafayette Norwood, Seymour Seitchick, Jerry David, Jack King, J.C. Louderback, Reece Bohannon and Cecil Hawkins; and

WHEREAS, The two teams had played each other three other times during that season with Ark City winning two of those games and El Dorado winning one. The El Dorado Grizzlies defeated the Ark City Tigers 82-64 for the national title: Now, therefore,

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Be it resolved by the Senate of the State of Kansas: That we congratulate the 1953 El Dorado Junior College basketball team on their national title and the 1953 Ark City team on their national runner-up finish. It is great to see two teams from Kansas with such great success during a basketball season. Both Kansas teams are commended for making it to the national title game, making history for the NJCAA tournament; and

Be it further resolved: That the Secretary of the Senate be directed to provide 38 enrolled copies of this resolution to Senator King.

On emergency motion of Senator King **SR 1739** was adopted unanimously.

The Senators honored the team with a standing ovation.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

On motion of Senator King the Senate nonconcurrred in the House amendments to **SB 20** and requested a conference committee be appointed.

The Vice President appointed Senators King, Smith and Haley as a conference committee on the part of the Senate.

On motion of Senator Love the Senate nonconcurrred in the House amendments to **SB 56** and requested a conference committee be appointed.

The Vice President appointed Senators Love, Kerschen and Francisco as a conference committee on the part of the Senate.

On motion of Senator Love the Senate nonconcurrred in the House amendments to **Sub SB 57** and requested a conference committee be appointed.

The Vice President appointed Senators Love, Kerschen and Francisco as a conference committee on the part of the Senate.

On motion of Senator King the Senate nonconcurrred in the House amendments to **SB 81** and requested a conference committee be appointed.

The Vice President appointed Senators King, Smith and Haley as a conference committee on the part of the Senate.

On motion of Senator Ostmeyer the Senate nonconcurrred in the House amendments to **SB 102** and requested a conference committee be appointed.

The Vice President appointed Senators Ostmeyer, Emler and Faust-Goudeau as a conference committee on the part of the Senate.

On motion of Senator Love the Senate nonconcurrred in the House amendments to **SB 120** and requested a conference committee be appointed.

The Vice President appointed Senators Love, Kerschen and Francisco as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **HB 2009**.

The Vice President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **HB 2015**.

The Vice President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **Sub HB 2017**.

The Vice President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Love, the Senate acceded to the request of the House for a conference on **HB 2049**.

The President appointed Senators Love, Kerschen and Francisco as conferees on the part of the Senate.

On motion of Senator Masterson, the Senate acceded to the request of the House for a conference on **S Sub for HB 2143**.

The Vice President appointed Senators Masterson, Denning and Kelly as conferees on the part of the Senate.

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **HB 2204**.

The President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **S Sub for HB 2093**.

The Vice President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **HB 2120**.

The Vice President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

MESSAGE FROM THE HOUSE

The House nonconcurrs in Senate amendments to **HB 2025**, requests a conference and has appointed Representatives Crum, Weber and Ward as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2078**, requests a conference and has appointed Representatives Goico, Seiwert and Meier as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2109**, requests a conference and has appointed Representatives Cassidy, Grosserode and Winn as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **Sub HB 2183**, requests a conference and has appointed Representatives Crum, Weber and Ward as conferees on the part of the House.

COMMITTEE OF THE WHOLE

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

On motion of Senator Apple the following report was adopted:

Recommended: **HB 2012, HB 2135, HB 2156, HB 2160, HB 2221, HB 2368** be passed.

SB 210, SB 235; HB 2107, HB 2149, HB 2164, HB 2170, HB 2249, HB 2261, HB

2339 be amended by the adoption of the committee amendments, and the bills be passed as amended.

SB 72 be amended by the adoption of the committee amendments and the bill be passed as amended. A motion by Senator Holland to amend **SB 72** failed and the following amendment was rejected: on page 1, by striking all in lines 6 through 36;

By striking all on pages 2 through 5;

On page 11, by striking all in lines 12 and 13; following line 13 by inserting:

"Section 1. (a) For all taxable years commencing after December 31, 2013, real property owned and operated by a health club in the state of Kansas, if determined by the board of commissioners of the county in which the real property is located to have a public purpose and promote the general welfare, may be exempted from ad valorem taxation by such county board as permitted by this section. In determining whether the real property has a public purpose and promotes the general welfare, the county board shall consider, among other things, any benefit in maintaining abundant and diverse health club services in the community, any benefit in facilitation of additional health club services in the community, and any economic development benefits to the community of extending property tax relief to health clubs as permitted by this section. In making its findings, the county board shall consider the effect of any existing tax exemptions for entities offering health club-type services in the county on the applicant health club.

(b) For purposes of this section, "health club" means a corporation, partnership, unincorporated association or other business enterprise the primary purpose of which is to offer facilities that contain cardio, weight training or strength and conditioning equipment, or both, for the preservation, maintenance, encouragement or development of physical fitness in return for the payment of a fee which entitles the buyer to the use of such facilities. A health club may have on such club's premises health spas, studios, tennis, racquet or basketball facilities or swimming pools that offer programs that enhance the primary purpose of the health club as specified in this subsection, but may not be facilities that are primarily weight control facilities, health spas, dance studios, martial arts or self-defense studios, tennis, racquet or basketball facilities, swimming pools, golf clubs or similar activities which do not have the primary purpose as specified in this subsection.

(c) For purposes of this section, real property shall be considered "owned and operated by a health club" if the owner of the real property to be exempted from taxation and the business enterprise that operates the health club and collects the payment of the fee entitling the buyer to use the facility are the same business entity, a parent or subsidiary of the same business entity or have any direct or indirect common ownership.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, by striking all after "health clubs"; in line 3, by striking all before the period

A motion by Senator Hensley to amend **SB 72** failed and the following amendment was rejected: on page 1, by striking all in lines 6 through 36;

By striking all on pages 2 through 5;

On page 11, following line 11, by inserting:

"Section 1. K.S.A. 2012 Supp. 79-2959 is hereby amended to read as follows: 79-2959. (a) There is hereby created the local ad valorem tax reduction fund. All moneys

transferred or credited to such fund under the provisions of this act or any other law shall be apportioned and distributed in the manner provided herein.

(b) On January 15 and on July 15 of each year, the director of accounts and reports shall make transfers in equal amounts which in the aggregate equal 3.63% of the total retail sales and compensating taxes credited to the state general fund pursuant to articles 36 and 37 of chapter 79 of ~~the~~ Kansas Statutes Annotated, ~~and acts amendatory thereof and supplemental amendments~~ thereto, during the preceding calendar year from the state general fund to the local ad valorem tax reduction fund, except that: ~~(1) No moneys shall be transferred from the state general fund to the local ad valorem tax reduction fund during state fiscal years 2009, 2010, 2011, 2012, and 2013, and (2) the amount of the transfer on each such date shall be \$13,500,000 during fiscal year 2014, \$20,250,000 during fiscal year 2015, and \$27,000,000 during fiscal year 2016 and all fiscal years thereafter. All such transfers are subject to reduction under K.S.A. 75-6704, and amendments thereto. All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund, except that all such transfers during fiscal year 2014 shall be considered to be revenue transfers from the state general fund.~~

(c) The state treasurer shall apportion and pay the amounts transferred under subsection (b) to the several county treasurers on January 15 and on July 15 in each year as follows: (1) Sixty-five percent of the amount to be distributed shall be apportioned on the basis of the population figures of the counties certified to the secretary of state pursuant to K.S.A. 11-201, and amendments thereto, on July 1 of the preceding year; and (2) thirty-five percent of such amount shall be apportioned on the basis of the equalized assessed tangible valuations on the tax rolls of the counties on November 1 of the preceding year as certified by the director of property valuation.";

Also on page 11, in line 12, by striking "79-201" and inserting "79-2959";

On page 1, in the title, in line 2, by striking "exemptions; health clubs" and inserting "; local ad valorem tax reduction fund"; also in line 2, by striking "79-201" and inserting "79-2959"

Upon the showing of five hands a roll call vote was requested:

On roll call, the vote was: Yeas 15; Nays 23; Present and Passing 1; Absent or Not Voting 1.

Yeas: Emler, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, King, Longbine, McGinn, O'Donnell, Petersen, Pettey, V. Schmidt.

Nays: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, Knox, LaTurner, Love, Lynn, Masterson, Melcher, Ostmeyer, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Present and Passing: Wolf.

Absent or Not Voting: Olson.

The motion failed and the amendment was rejected.

The committee report on **HB 2011** recommending a **S Sub for HB 2011** be adopted, and the substitute bill be passed.

The committee report on **HB 2043** recommending a **S Sub for HB 2043** be adopted, and the substitute bill be passed.

The committee report on **HB 2150** recommending a **S Sub for HB 2150** be adopted, and the substitute bill be passed

HB 2139 be amended by motion of Senator O'Donnell: on page 2, in line 4, by

striking "preformed" and inserting "performed"; in line 37, before "17-2206a" by inserting "10-815,";

On page 3, in line 8, by striking "10-815, 10-816,";

On page 1, in the title, in line 2, by striking ", 10-815 and 10-816" and **HB 2139** be passed as amended.

HB 2128 be amended by the adoption of the committee amendments, be further amended by motion of Senator Francisco: on page 8, in line 9, after "disposal" by inserting "or treatment" and **HB 2128** be passed as further amended.

HB 2162 be amended by adoption of the committee amendments, be further amended by motion of Senator Francisco: on page 1, in line 9, after "(1)" by inserting "If a request is submitted pursuant to subsection (a) and"; in line 12, by striking "from"; in line 16, after "(2)" by inserting "If a request is submitted pursuant to subsection (a) and"

Senator Francisco moved to further amend **HB 2162**, as amended by Senate Committee, on page 1, in line 12, by striking "from" and **HB 2162** be passed as further amended.

A motion by Senator Francisco to amend **HB 2162** failed and the following amendment was rejected: on page 1, in line 12, by striking "shall" and inserting "may"; also in line 12, by striking "from"; in line 19, by striking "shall" and inserting "may"

HB 2014, HB 2069; S Sub for HB 2155 be passed over and retain a place on the calendar.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **Substitute for HB 2105** be amended on page 15, in line 18, by striking "\$16,000" and inserting "\$12,000"; in line 19, by striking "any calendar year following" also in line 19, by striking "2014" and inserting "calendar year 2015, and in excess of \$14,000 with respect to all calendar years thereafter"; in line 21, by striking "in excess of"; in line 22, by striking all before "paid"; in line 23, by striking all before the comma and inserting "in excess of \$8,000 for the calendar years 1984-2014, inclusive, and in excess of \$12,000 with respect to employment during calendar year 2015, and in excess of \$14,000 with respect to all calendar years thereafter";

On page 24, following line 30, by inserting:

"(j) For weeks commencing on and after January 1, 2014, if at the beginning of the benefit year, the three month seasonally adjusted average unemployment rate for the state of Kansas is: (1) Less than 4.5%, a claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at least 4.5% but less than 6%, a claimant shall be eligible for a maximum of 20 weeks of benefits; or (3) at least 6%, a claimant shall be eligible for a maximum of 26 weeks of benefits.";

On page 47, in line 43, before "because" by inserting "less than full-time";

On page 66, following line 26, by inserting:

"(v) For rate year 2015 and rate years thereafter, (an eligible employer other than a negative account balance employer, who has filed all reports due and paid all contributions due and owing on or before January 31 of the applicable year is entitled to a rate discount of 20% except as provided in this subsection. This discount shall not be in effect if other reduced rates pursuant to subsections (a)(3)(C)(i) through (iv) are in

effect. This discount shall not be available for a rate year if the average high cost multiple of the employment security trust fund balance falls below 1.0 as of the computation date of that year's rates, and this discount shall thereafter cease to be in effect for all subsequent rate years. For the purposes of this provision, the average high cost multiple is as defined by subsection (a)(3)(C)(iv)."; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HB 2052** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2052," as follows:

"Senate Substitute for HOUSE BILL NO. 2052

By Committee on Federal and State Affairs

"AN ACT concerning firearms; dealing with the personal and family protection act; amending K.S.A. 2012 Supp. 21-6302, 21-6309, 45-221, 75-7c05, 75-7c06, 75-7c10 and 75-7c17 and repealing the existing sections; also repealing K.S.A. 2012 Supp. 45-221j and 45-221k."

And the substitute bill be passed.

Committee on **Judiciary** recommends **HB 2303**, as amended by House Committee, on page 5, in line 35, by striking "35%" and inserting "16.2%"; in line 37, by striking "20%" and inserting "6.5%"; in line 38, by striking "20%" and inserting "6.5%"; in line 39, by striking "cited in" and inserting "created by"; in line 40, by striking "and"; also in line 40, by striking "25%" and inserting "20.2%"; in line 41, following "thereto" by inserting ", and 50.8% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 20-1a15, and amendments thereto";

On page 7, following line 15, by inserting:

"Sec. 2. K.S.A. 2012 Supp. 20-1a15 is hereby amended to read as follows: 20-1a15.

(a) There is hereby established in the state treasury the judicial branch nonjudicial salary adjustment fund.

(b) All moneys credited to the judicial branch nonjudicial salary adjustment fund shall be used for compensation of nonjudicial officers and employees of the district courts, court of appeals and the supreme court and shall not be expended for compensation of judges or justices of the judicial branch. Moneys in the fund shall be used only to pay for that portion of the cost of salaries and wages of nonjudicial personnel of the judicial branch, including associated employer contributions, which shall not exceed the difference between the amount of expenditures that would be required under the judicial branch pay plan for nonjudicial personnel in effect prior to the effective date of this act and the amount of expenditures required under the judicial branch pay plan for nonjudicial personnel after the cost-of-living adjustments and the adjustments for upgrades in pay rates for nonjudicial personnel approved by the chief justice of the Kansas supreme court for fiscal year 2009. For fiscal years commencing on and after June 30, 2010, moneys in such fund shall be used only for the amount attributable to maintenance of the judicial branch pay plan for nonjudicial personnel for such adjustments and upgrades approved by the chief justice of the supreme court for fiscal year 2009.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the judicial branch nonjudicial salary adjustment fund interest earnings based on:

(1) The average daily balance of moneys in the judicial branch nonjudicial salary

adjustment fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

~~(e)-(d)~~ All expenditures from the judicial branch nonjudicial salary adjustment fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to payrolls approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

Sec. 3. K.S.A. 2012 Supp. 28-176 is hereby amended to read as follows: 28-176.

(a) The court shall order any person convicted or diverted, or adjudicated or diverted under a preadjudication program pursuant to K.S.A. 22-2906 et seq., K.S.A. 2012 Supp. 38-2346 et seq., or 12-4414, and amendments thereto, of a misdemeanor or felony contained in chapters 21, 41 or 65 of the Kansas Statutes Annotated, and amendments thereto, or a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or a violation of a municipal ordinance or county resolution prohibiting the acts prohibited by such statutes, unless the municipality or county has an agreement with the laboratory providing services that sets a restitution amount to be paid by the person that is directly related to the cost of laboratory services, to pay a separate court cost of \$400 for every individual offense if forensic science or laboratory services or forensic computer examination services are provided, in connection with the investigation, by:

- (1) The Kansas bureau of investigation;
- (2) the Sedgwick county regional forensic science center;
- (3) the Johnson county sheriff's laboratory;
- (4) the heart of America regional computer forensics laboratory; or
- (5) the Wichita-Sedgwick county computer forensics crimes unit.

(b) Such fees shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

(c) The court shall not lessen or waive such fees unless the court has determined such person is indigent and the basis for the court's determination is reflected in the court's order.

(d) Such fees shall be deposited into the designated fund of the laboratory or forensic science or computer center that provided such services. Fees for services provided by:

(1) The Kansas bureau of investigation shall be deposited in the Kansas bureau of investigation forensic laboratory and materials fee fund which is hereby created;

(2) the Sedgwick county regional forensic science center shall be deposited in the Sedgwick county general fund;

(3) the Johnson county sheriff's laboratory shall be deposited in the Johnson county sheriff's laboratory analysis fee fund;

(4) the heart of America regional computer forensics laboratory shall be deposited in the general treasury account maintained by such laboratory; and

(5) the Wichita-Sedgwick county computer forensic crimes unit shall be retained by the Sedgwick county sheriff. All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office.

(e) Disbursements from the funds and accounts described in subsection (d) shall be made for the following:

- (1) Forensic science or laboratory services;
- (2) forensic computer examination services;

- (3) purchase and maintenance of laboratory equipment and supplies;
- (4) education, training and scientific development of personnel; and
- (5) from the Kansas bureau of investigation forensic laboratory and materials fee fund, the destruction of seized property and chemicals as described in K.S.A. 22-2512 and 60-4117, and amendments thereto.

(f) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas bureau of investigation forensic laboratory and materials fee fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas bureau of investigation forensic laboratory and materials fee fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(g) All expenditures from the Kansas bureau of investigation forensic laboratory and materials fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.

Sec. 4. K.S.A. 41-1126 is hereby amended to read as follows: 41-1126. (a) In addition to other purposes for which expenditures may be made from the other state fees fund of the department of social and rehabilitation services, moneys in the other state fees fund of the department of social and rehabilitation services shall be used by the secretary of social and rehabilitation services to provide financial assistance to community-based alcoholism and intoxication treatment programs for the following purposes: (1) Matching money under title XX of the federal social security act to purchase treatment services from approved treatment facilities; (2) providing start-up or expansion grants for halfway houses or rehabilitation centers for alcoholics; (3) purchasing services from approved treatment facilities for persons who are needy but who are not eligible for assistance under either title XIX or title XX of the federal social security act, and administrative costs of the alcohol and drug abuse section which shall not exceed 10% of the total moneys in the community alcoholism and intoxication programs fund; and (4) assisting to develop programs for prevention, education, early identification and facility assistance and review team.

(b) No state alcohol treatment program at Topeka state hospital, Osawatomie state hospital, Rainbow mental health facility or Larned state hospital shall receive any moneys under the provisions of subsection (a) of this section.

(c) There is hereby established in the state treasury the community alcoholism and intoxication programs fund.

(d) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the community alcoholism and intoxication programs fund interest earnings based on:

(1) The average daily balance of moneys in the community alcoholism and intoxication programs fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(e) All expenditures from the community alcoholism and intoxication programs fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of social and rehabilitation services or the secretary's designee.";

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Also on page 7, in line 30, by striking the comma; following line 37, by inserting:

"(e) On the effective date of this act:

- (1) The director of accounts and reports shall transfer all moneys in the driving under the influence equipment fund to the driving under the influence fund;
- (2) all liabilities of the driving under the influence equipment fund existing prior to that date are hereby imposed on the driving under the influence fund; and
- (3) the driving under the influence equipment fund is hereby abolished.

Sec. 6. K.S.A. 2012 Supp. 79-4803 is hereby amended to read as follows: 79-4803. (a) After the transfer of moneys pursuant to K.S.A. 2012 Supp. 79-4806, and amendments thereto:

(1) An amount equal to 10% of the balance of all moneys credited to the state gaming revenues fund shall be transferred and credited to the correctional institutions building fund created pursuant to K.S.A. 76-6b09, and amendments thereto, to be appropriated by the legislature for the use and benefit of state correctional institutions as provided in K.S.A. 76-6b09, and amendments thereto; and

(2) an amount equal to 5% of the balance of all moneys credited to the state gaming revenues fund shall be transferred and credited to the juvenile detention facilities fund.

(b) There is hereby created in the state treasury the juvenile detention facilities fund which shall be administered by the commissioner of juvenile justice. The Kansas advisory group on juvenile justice and delinquency prevention shall review and make recommendations concerning the administration of the fund. All expenditures from the juvenile detention facilities fund shall be for the retirement of debt of facilities for the detention of juveniles; or for the construction, renovation, remodeling or operational costs of facilities for the detention of juveniles in accordance with a grant program which shall be established with grant criteria designed to facilitate the expeditious award and payment of grants for the purposes for which the moneys are intended. "Operational costs" shall not be limited to any per capita reimbursement by the commissioner of juvenile justice for juveniles under the supervision and custody of the commissioner but shall include payments to counties as and for their costs of operating the facility. The commissioner of juvenile justice shall make grants of the moneys credited to the juvenile detention facilities fund for such purposes to counties in accordance with such grant program. All expenditures from the juvenile detention facilities 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 commissioner of juvenile justice or the commissioner's designee.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the juvenile detention facilities fund interest earnings based on:

(1) The average daily balance of moneys in the juvenile detention facilities fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.";

And by redesignating sections accordingly;

Also on page 7, in line 38, following "K.S.A." by inserting "41-1126 and K.S.A."; also in line 38, by striking "and" and inserting ", 20-1a15, 28-176,"; also in line 38, after "75-5660" by inserting "and 79-4803";

striking "examination" and inserting "reinstatement"; also in line 2, after "fund;" by inserting "judicial branch nonjudicial salary adjustment fund; forensic laboratory and materials fee fund; community alcoholism and intoxication programs fund; juvenile detention facilities fund;"; in line 3, after "K.S.A." by inserting "41-1126 and K.S.A."; also in line 3, by striking the first "and" and inserting ", 20-1a15, 28-176, "; also in line 3, after "75-5660" by inserting "and 79-4803"; in line 4, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **Substitute for HB 2051** be amended by substituting a new bill to be designated as "Senate Substitute for Substitute for HOUSE BILL NO. 2051," as follows:

"Senate Substitute for Substitute for HOUSE BILL NO. 2051

By Committee on Natural Resources

"AN ACT concerning water; relating to water rights; amending K.S.A. 2012 Supp. 82a-1901 and repealing the existing section.";

And the substitute bill be passed.

Also, **HB 2363**, as amended by House Committee, be amended on page 3, following line 24, by inserting:

"Sec. 3. K.S.A. 2012 Supp. 82a-301 is hereby amended to read as follows: 82a-301.

(a) (1) Except as provided in ~~subsection~~ subsections (c) and (d), without the prior written consent or permit of the chief engineer of the division of water resources of the Kansas department of agriculture, it shall be unlawful for any person, partnership, association, corporation or agency or political subdivision of the state government to: ~~(1)~~

(A) ~~Construct, modify or add to any dam or other water obstruction;~~

(2) (B) ~~make, construct, modify or permit to be made or constructed any change in any dam or other add to any water obstruction in a designated stream;~~

~~(3) make or permit to be made any change in or addition to any existing water obstruction; or~~

(4) (C) ~~change or diminish the course, current, or cross section of any designated stream within this state.~~

(2) Any application for any permit or consent shall be made in writing in such form as specified by the chief engineer.

(3) ~~Jetties or~~ Revetments for the purpose of stabilizing a caving bank which are properly placed shall not be construed as obstructions for the purposes of this section.

(b) As used in K.S.A. 82a-301 et seq., and amendments thereto:

(1) "Dam" means any artificial barrier including appurtenant works with the ability to impound water, waste water or other liquids that has a height of 25 feet or more; or has a height of six feet or greater and ~~also has the capacity to impound a storage volume at the top of the emergency spillway elevation of 50 or more acre feet.~~ The height of a dam or barrier shall be determined as follows: ~~(1) A barrier or dam that extends across the natural bed of a stream or watercourse shall be measured from the down stream toe of the barrier or dam to the top of the barrier or dam; or (2) a barrier or dam that does not extend across a stream or watercourse shall be measured from the lowest elevation of the outside limit of the barrier or dam to the top of the barrier or dam measured from the lowest elevation of the streambed, downstream toe or outside limit of the dam to the elevation of the top of the dam.~~

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(2) "Designated stream" means a natural or man-made channel that conveys drainage or runoff from a watershed having an area of:

(A) One or more square miles in zone one, which includes all geographic points located in or east of Washington, Clay, Dickinson, Marion, Harvey, Sedgwick or Sumner counties;

(B) two or more square miles in zone two, which includes all geographic points located west of zone one and in or east of Smith, Osborne, Russell, Barton, Stafford, Pratt or Barber counties; or

(C) three or more square miles in zone three, which includes all geographic points located west of zone two.

(c) (1) The prior written consent or permit of the chief engineer shall not apply to water obstructions that meet the following requirements:

(A) The change in the cross section of a designated stream is obstructed less than 5% and the water obstruction or change is contained within a land area measuring 25 feet or less along the stream length; or

(B) (i) the water obstruction is not a dam as defined in subsection (b);

~~(B) (ii) the water obstruction is not located within an incorporated area;~~

~~(C) (iii) every part of the water obstruction, and any water impounded by such obstruction, is located more than 300 feet from any property boundary; and~~

~~(D) (iv) the watershed area above the water obstruction is 640 acres five square miles or less.~~

(2) If the water obstruction does not meet the requirements of subsection ~~(e)(1)(C)~~ ~~(c)(1)(B)(iii)~~, but meets all other requirements of subsection (c)(1)~~(B)~~, such water obstruction may be exempted from the permitting requirements of subsection (a) if the chief engineer determines such water obstruction has minimal impact upon safety and property based upon a review of the information, to be provided by the owner, including:

~~(A)~~ (A) An aerial photo or topographic map depicting the location of the proposed project, the location of the stream, the layout of the water obstruction, the property lines and names and addresses of adjoining property owners; and

~~(B)~~ (B) the principal dimensions of the project including, but not limited to, the height above streambed.

(3) Notwithstanding any other provision of this section, the chief engineer may require a permit for any water obstruction described in this subsection if the chief engineer determines such permit is necessary for the protection of life or property.

(d) The prior written consent or permit of the chief engineer shall not be required for construction or modification of a hazard class A dam that:

(1) Has a height of less than 30 feet and a storage volume at the top of the emergency spillway elevation of less than 125 acre feet, and the dam location and dimensions have been registered with the division of water resources in a written form prescribed by the chief engineer; or

(2) is a wastewater storage structure for a confined feeding facility that has been approved by the secretary of health and environment pursuant to K.S.A. 65-171d, and amendments thereto.

Sec. 4. K.S.A. 2012 Supp. 82a-302 is hereby amended to read as follows: 82a-302. (a) Except as otherwise provided for general permits, each application for the consent or permit required by K.S.A. 82a-301, and amendments thereto, shall be accompanied by

~~complete maps, plans, profiles and specifications of such dam or other water obstruction, or of the changes, construction, modification or additions addition proposed to be made in such dam or other water obstruction, the required application fee as provided in subsection (b) unless otherwise exempted, and such other data and information as the chief engineer may require. The chief engineer shall maintain a list of licensed professional engineers who may conduct the review of any application for the consent or permit required by K.S.A. 82a-301, and amendments thereto. Such list may include licensed professional engineers employed by a local unit of government. Notwithstanding any law to the contrary, an applicant for the consent or permit required by K.S.A. 82a-301, and amendments thereto, may have the application reviewed by a licensed professional engineer approved by the chief engineer pursuant to this subsection provided such engineer is not an employee of the applicant. If such licensed professional engineer finds that such dam or other water obstruction meets established standards for the construction, modification, operation and maintenance of dams and other water obstructions, such findings shall be submitted in complete form to the chief engineer. Upon such submittance, the chief engineer shall grant such consent or permit within 45 days unless the chief engineer finds to the contrary that such dam or other water obstruction does not meet established standards for the construction, modification, operation and maintenance of dams and other water obstructions. If the chief engineer declines to grant such consent or permit based upon a contrary finding, the chief engineer shall provide to the applicant within 15 days a written explanation setting forth the basis for the chief engineer's contrary finding. The chief engineer's action in declining to grant such consent or permit and any hearing related thereto shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Any person aggrieved by any order or decision of the chief engineer shall be entitled to appellate review in accordance with the provisions of the Kansas judicial review act. Such applicant shall pay all costs associated with the review by the licensed professional engineer. The chief engineer shall adopt rules and regulations for the issuance of a general permit which may be issued for projects which require limited supervision and review.~~

~~(b) (1) The application fee for a permit to construct, modify or add to a dam shall be \$200, shall be based upon the stage of construction at the time that a complete application has been submitted. The construction in progress fee shall be applicable for construction begun prior to approval by the chief engineer. Such fee shall be in addition to any other penalty for an unpermitted structure. Such fees shall be as follows:~~

~~— Fees for new dam or dam modification applications~~

Pre-Construction	Construction In Progress
\$200	\$500

~~(2) Permit fees for stream obstructions/channel changes application fee is based upon two criteria and are as follows:~~

- ~~(A) The drainage area category; and~~
- ~~(B) the stage of construction when the application is submitted.~~

	Pre-Construction	Construction In Progress
Drainage Area Category		
Major (Drainage area greater than 50 square miles)	\$500	\$1000
Moderate (Drainage area 5 to 50		

Minor (Drainage area less than 5 square miles)	\$200	\$400
General Permit	\$100	\$200

(2) The application fee for a permit to construct, modify, or add to a water obstruction or to change or diminish the course, current or cross section of a stream shall be based on the watershed area.

Watershed Area Above the Project	Permit Application Fee
<u>Less than 5 square miles</u>	<u>\$100</u>
<u>Between 5 and 50 square miles</u>	<u>\$200</u>
<u>More than 50 square miles</u>	<u>\$500</u>

(3) The application fee for a general permit shall be \$100.

(c) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 2012 Supp. 82a-328, and amendments thereto.

Sec. 5. K.S.A. 2012 Supp. 82a-303b is hereby amended to read as follows: 82a-303b. (a) (1) In order to secure conformity with adopted rules and regulations and to assure compliance with the terms, conditions or restrictions of any consent or permit granted pursuant to the provisions of K.S.A. 82a-301 through 82a-303, and amendments thereto, the chief engineer or an authorized representative of the chief engineer shall have the power and the duty to inspect any dam or other water obstruction. Upon a finding pursuant to subsection (a) of K.S.A. 82a-303c, and amendments thereto, by the chief engineer that a dam is unsafe, the chief engineer shall order an annual inspection of the dam until it is either in compliance with all applicable provisions of this act, any rules and regulations promulgated pursuant to this act, permit conditions and orders of the chief engineer; or the dam is removed. The safety inspection shall be conducted by the chief engineer or authorized representative and the cost shall be paid by the dam owner. The class and size of a dam ~~provided for by the provisions of this act~~ shall be defined by rules and regulations adopted by the chief engineer pursuant to K.S.A. 82a-303a, and amendments thereto. Inspection fees are as follows:

Size of Dam	Inspection fee
Class 1	\$1,500
Class 2	\$1,500
Class 3	\$2,500
Class 4	\$4,000

(2) Each hazard class C dam shall be required to have a safety inspection conducted by a licensed professional engineer qualified in design, construction, maintenance and operation of dams once every three years, unless otherwise ordered by the chief engineer.

(3) Each hazard class B dam shall be required to have a safety inspection conducted by a licensed professional engineer qualified in design, construction, maintenance and operation of dams once every five years unless otherwise ordered by the chief engineer.

(4) Within 60 days of the date of inspection, a report of the inspection shall be provided to the chief engineer by the licensed professional engineer who conducted the

inspection. The report shall document the physical condition of the dam, describing any deficiencies observed, an analysis of the capacity of the dam and its spillway works, compliance of the dam with approved plans and permit conditions, changes observed in the condition of the dam since the previous inspection, an assessment of the hazard classification of the dam including a statement that the engineer either agrees or disagrees with the current classification, and any other information relevant to the safety of the dam or specifically requested by the chief engineer.

(5) Upon failure of a dam owner to comply with the applicable inspection interval, the chief engineer or such chief engineer's authorized representative shall conduct a mandatory inspection of the dam and the costs as established by this act for the inspection shall be paid by the owner, in addition to any other remedies provided for violations of this act.

(6) The failure to file a complete and timely report as required by the provisions of this act, or the failure to submit the fees assessed for inspections conducted by the chief engineer or ~~such the~~ chief engineer's authorized representative shall be deemed a violation of this act and subject to the penalties provided by K.S.A. 82a-305a, and amendments thereto.

(b) For the purpose of inspecting any dam or other water obstruction, the chief engineer or an authorized representative of the chief engineer shall have the right of access to private property. Costs for any work which may be required by the chief engineer or the authorized representative prior to or as a result of the inspection of a dam or other water obstruction shall be paid by the owner, governmental agency or operator of such dam or other water obstruction.

(c) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 2012 Supp. 82a-328, and amendments thereto.

Sec. 6. K.S.A. 82a-307 is hereby amended to read as follows: 82a-307. (a) Upon petition of fifty (50) 50 taxpayers of any county of this state, owning land in the flood plain of any river in such county, or upon enactment of a resolution by the county commission of such county, the board of county commissioners of each county in this state are hereby authorized within their respective jurisdictions to clean and maintain the banks and channels of the streams and watercourses within definitely established bank lines, as provided in K.S.A. 82a-307a, and to keep said such streams free of drift, trees and other obstructions, for the purpose of reducing floods and overflows; and for the purposes aforesaid. Upon such petition or resolution, the board of county commissioners may remove debris pursuant to this section, but shall not scalp or extract streambeds.

(b) The said board of county commissioners, having obtained written permission from the landowner, may enter upon private property, if necessary, to clean and maintain such streams, doing as little damage as possible thereto; and when, if material damage shall be is done to any property, said the commissioners shall allow reasonable compensation therefor; when claimed by the owner thereof, if said the landowner presents a claim is presented in writing to said the board within ten (10) 60 days from the date of the removal of said obstruction; and that such alleged material damage.

(c) Nothing in this act shall be construed to permit the board of county commissioners of any county to remove or destroy any permanent improvement, including dams and bridges, in and over such streams, providing such improvements,

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dams or bridges have been lawfully placed thereon.

Sec. 7. K.S.A. 2012 Supp. 82a-326 is hereby amended to read as follows: 82a-326. When used in this act:

(a) "Water development project" means any project or plan which ~~may be allowed or permitted~~ requires a permit pursuant to K.S.A. 24-126, 24-1213, 82a-301 et seq., and amendments thereto, or the multipurpose small lakes program act, ~~and amendments thereto;~~

(b) "environmental review agencies" means the:

- (1) Kansas department of wildlife, parks and tourism;
- (2) Kansas forest service;
- (3) state biological survey;
- (4) Kansas department of health and environment;
- (5) state historical society;
- (6) Kansas department of agriculture division of conservation; and
- (7) state corporation commission.";

And by renumbering sections accordingly;

Also on page 3, in line 25, after "K.S.A." by inserting "82a-307 and K.S.A."; also in line 25, by striking "82a-734 is" and by inserting "82a-301, 82a-302, 82a-303b, 82a-326 and 82a-734 are";

On page 1, in the title, in line 2, by striking all before "K.S.A." and inserting "streams, dams and obstructions; amending K.S.A. 82a-307 and"; also in line 2, after "Supp." by inserting "82a-301, 82a-302, 82a-303b, 82a-326 and"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2201**, as amended by House Committee, be amended on page 1, in line 11, by striking "and ensure that" and inserting ", the Kansas universal service fund, the federal universal service fund, the creation of a state broadband fund to support the deployment of advanced telecommunications capability to all areas of the state, the statement of"; in line 12, by striking ", is maintained, with"; by striking all in line 13; in line 14, by striking "infrastructure" and inserting "and other telecommunications issues determined by the legislative coordinating council"; in line 15, after "(b)" by inserting "(1)"; also in line 15, by striking "13" and inserting "20"; also in line 15, by striking ", as"; by striking all in lines 16 and 17 and inserting a period; in line 18, by striking all after "(2)"; by striking all in lines 19 through 24; in line 25, by striking "representatives" and inserting "Nine members shall be from the senate committee on utilities as follows:

(A) The chairperson, vice-chairperson and ranking minority member;

(B) five members appointed by the president of the senate; and

(C) one member appointed by the minority leader of the senate.

(3) Eleven members shall be from the house committee on utilities and telecommunications as follows:

(A) The chairperson, vice-chairperson and ranking minority member;

(B) seven members appointed by the speaker of the house of representatives; and

(C) one member appointed by the minority leader of the house of representatives";

Also on page 1, in line 27, by striking "2016" and inserting "2015";

On page 2, in line 11, after "(g)" by inserting "(1) The department of revenue shall administer an audit of the Kansas universal service fund. The audit shall examine the overall efficiency and effectiveness of the KUSE. The department shall submit a final

audit report to the telecommunications study committee on or before November 1, 2014.

(2) The telecommunications study committee shall determine the scope of the audit. The audit may include an analysis of the following:

- (A) The total amount of KUSF support received expressed on a per-line basis;
- (B) the total amount of rural utilities service debt or other debt, by recipient or related entity, and the maturity date, amortization and security for such debt;
- (C) the capital expenditures on technology by type;
- (D) affiliate transactions and transfers; and
- (E) the compensation received by the recipient's executives, partners, members and board.

(3) The department may review or request any document filed with the commission, including confidential data, so long as a non-disclosure agreement is signed by the auditors.

(4) The cost of the audit shall be paid from the KUSF.

(h) ";

And by redesignating subsections accordingly;

Also on page 2, in line 16, by striking "final"; in line 19, by striking "31, 2016" and inserting "16, 2015"; in line 27, by striking "2016" and inserting "2015";

On page 6, in line 36, by striking the last "and"; in line 43, by striking the period and inserting "; and" following line 43, by inserting:

"(n) report to the senate committee on utilities and the house committee on utilities and telecommunications by January 15, 2014 concerning the status of the federal communications commission's further notice of proposed rulemaking regarding Internet Protocol to Internet Protocol interconnection in WC docket nos. 10-90 et al., including, but not limited to, any final, non-appealable order issued in that proceeding regarding obligations to interconnect for the exchange of voice traffic regardless of the technology used to transmit that traffic that requires implementation by the commission.";

On page 22, in line 16, by striking "and"; in line 22, by striking the period and inserting "; and"; following line 22, by inserting:

"(G) administer consumer complaints against telecommunications carriers and electing carriers to investigate fraud, undue discrimination and other practices harmful to consumers, but the commission shall not use this authority to regulate telecommunications carriers or electing carriers beyond the jurisdiction provided the commission in this subsection.";

On page 25, in line 19, after "at" by inserting "the lesser of:

(A) ";

Also on page 25, in line 20, by striking ", not including" and inserting "; or

(B) \$11,400,000.

The amounts prescribed in subparagraph (A) or (B) shall not include";

On page 26, in line 20, after "(d)" by inserting "(1) Subject to paragraph (2), the commission may periodically review the KUSF to determine if the costs of qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications service providers to provide local service justify modification of the KUSF. If the commission determines that any changes are needed, the commission shall modify the KUSF accordingly and annually report such changes to the senate standing committee on utilities and the house standing committee on utilities and

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telecommunications.

(2) ";

Also on page 26, by striking all in lines 35 through 43;

On page 27, by striking all in lines 1 through 17; in line 18, by striking "(f)" and inserting "(e) (1)"; in line 29, after "subsection" by inserting ", except that the total KUSF distributions made to all local exchange carriers operating under traditional rate of return regulation pursuant to subsection (b) of K.S.A. 66-2005, and amendments thereto, shall not exceed an annual \$29,000,000 cap. A waiver of the cap shall be granted based on a demonstration by a carrier that such carrier would experience significant hardship due to force majeure or natural disaster as determined by the commission";

Also on page 27, following line 35, by inserting:

"(2) Notwithstanding any other provision of law, no KUSF support received by a local exchange carrier electing pursuant to subsection (b) of K.S.A. 66-2005, and amendments thereto, to operate under traditional rate of return regulation shall be used to offset any loss of federal universal service fund support for such carrier.";

And redesignating remaining subsection accordingly;

On page 30, following line 40, by inserting:

"Sec. 13. K.S.A. 2012 Supp. 75-7224 is hereby amended to read as follows: 75-7224. (a) The board shall:

(1) Provide a program to facilitate the use of broadband technology-based video communication for distance learning and telemedicine by schools, libraries and hospitals;

(2) transition schools, libraries and hospitals that have a direct KAN-ED connection as of January 1, 2012, to a commercially provided broadband internet connection no later than June 30, 2013. At the time a school, library or hospital has been transitioned off a KAN-ED connection, the board shall pay up to \$350 per month to such school, library or hospital for the cost of broadband service until June 30, 2013;

(3) provide the secretary of commerce any information necessary to conduct the needs assessment described in subsection (b);

(4) assist schools, libraries and hospitals to apply for federal grants to be used for purposes consistent with this act; and

(5) collect data regarding:

(A) Distance learning and telemedicine usage; and

(B) the volume of data accessed.

The board shall develop a methodology for updating and validating any data collected for periodic revisions of the program, standards and priorities.

(b) (1) The secretary of commerce shall facilitate the execution of the needs assessment and the creation of the report. The secretary shall contract with a third party that has expertise in telecommunications services for educational institutions to conduct such needs assessment and create such report.

(2) The needs assessment shall include, for each school, library and hospital connected to the network as of January 1, 2012: Current and future broadband service and quality needs and a determination of all KAN-ED expenses for shared services or infrastructure, including any costs deferred by federal moneys, that are providing services and network connections. Based on the results of the needs assessment, the secretary of commerce, in coordination with the third party contractor, shall create a

report that: (A) Compares the utilization, efficiency and effectiveness of KAN-ED to other similar programs in other states for schools, libraries and hospitals; (B) determines if the KAN-ED program, as of the effective date of this act, is worth its cost in terms of price, service, quality, needed network upgrades and increased utilization of broadband by schools, libraries and hospitals; (C) determines if there are alternative models or opportunities for broadband procurement by schools, libraries and hospitals; (D) determines if the services and applications offered by KAN-ED lead to full utilization of broadband technology by schools, libraries, hospitals and their surrounding communities; and (E) recommends any cost-effective broadband services that are available.

(3) The board shall reimburse the cost of conducting such needs assessment and report described in paragraph (2), not to exceed \$250,000.

(4) The results of such needs assessment and the report shall be submitted to the board on or before January 1, 2013.

(c) The board may request and receive assistance from any school, any library, any hospital, the state corporation commission, any other agency of the state or any telecommunications, cable or other communications services provider to gather necessary data to implement such program.

(d) The board shall establish: (1) Technical standards for operation and maintenance of the program; (2) the method of monitoring operations of the program; and (3) the method or methods of adjusting the program to reflect the needs of schools, libraries and hospitals as determined by the needs assessment or ongoing data collection for each such entity. Such standards and methods shall be included in the board's report to the legislature pursuant to K.S.A. 2012 Supp. 75-7226, and amendments thereto.

(e) Based on the findings of the needs assessments or collected data, the board shall develop a plan to: (1) Facilitate the use of broadband technology-based video communication for distance learning and telemedicine by schools, libraries and hospitals; and (2) transition schools, libraries and hospitals that have a direct KAN-ED connection as of January 1, 2012, to a commercially provided broadband internet connection no later than June 30, 2013. The plan may require users of the program to bear part of its cost. Such plan shall be included in the board's report to the legislature pursuant to K.S.A. 2012 Supp. 75-7226, and amendments thereto.

(f) The board may appoint such advisory committees as the board determines necessary to carry out the purposes of this act. The membership of advisory committees may include both members of the board and persons who are not board members. Such advisory committees, to the extent appropriate, shall include both communications services providers and participants knowledgeable about topics such as network facilities and services, distance learning and telemedicine, user training and such other topics as may be necessary or useful. Members of advisory committees appointed by the board shall receive amounts provided for in subsection (e) of K.S.A. 75-3223, and amendments thereto.

(g) The board shall have all other powers necessary to achieve the purposes of this act, including, but not limited to, the power to: (1) Fix, charge and collect user fees for services provided by the KAN-ED program in accordance with the plan developed pursuant to subsection (e); and (2) receive any appropriations, fees, donations, grants, bequests and devises, conditional and otherwise, of money, property, services or other things of value for the purposes of this act.

(h) The state department of education, the office of information technology services of the department of administration, the state corporation commission and all other state agencies shall cooperate with the board in providing information and other assistance requested by the board for the performance of its duties pursuant to this act at no cost to such agencies.";

And by renumbering sections accordingly;

Also on page 30, in line 43, by striking "and" and inserting a comma; also in line 43, after "66-2009" by inserting "and 75-7224";

On page 1, in the title, in line 4, after the semicolon by inserting "concerning KAN-ED;"; in line 6, by striking the first "and" and inserting a comma; also in line 6, after "66-2009" by inserting "and 75-7224"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **HB 2234**, as amended by House Committee of the Whole, be amended on page 2, in line 1, by striking "and tourism"; in line 13, by striking "(c)"; following line 19, by inserting:

"(c) (1) On the effect date of this act, the secretary of transportation shall serve as the chief executive officer and chairperson of the authority. The chief executive officer shall be responsible for the daily administration of the toll roads, bridges, structures and facilities constructed, maintained or operated pursuant to this act. The chief executive officer or the chief executive officer's designee shall have such powers as are necessary to carry out these responsibilities.

(2) On July 1, 2015, the authority shall elect one member as chairperson.";

Also on page 2, in line 20, before "The" by inserting "(d)"; in line 21, by striking "chairperson of the authority and another as"; in line 24, before "vice-chairperson" by striking "chairperson,"; in line 30, by striking "(d)" and inserting "(e)"; in line 36, after "(a) " by inserting "On the effective date of this act,"; in line 39, before ", either" by inserting "and other resources";

On page 3, by striking all in line 5; in line 7, after "(b)" by inserting:

"On and after July 1, 2015, the secretary of transportation and the Kansas turnpike authority are hereby authorized and empowered to contract with each other, by the terms of which contract or contracts the secretary may undertake: (1) To provide personnel and equipment, either of the department of transportation or consulting or contracting firms, required in making any traffic and cost studies or surveys or origin-destination studies necessary preliminary to financing by the Kansas turnpike authority of any particular toll project undertaken as authorized by law, and to do such work; and

(2) to provide personnel and equipment required, and to do any engineering, geological work, soils testing or materials testing which may be required by the Kansas turnpike authority either preliminary to the financing of any particular toll project authorized by law or which may be required after such financing and during the construction of such project. Such charges for services contemplated by such project shall be made by the secretary of transportation on the basis of the total and actual cost to the department of all wages, salaries, expenses, equipment rental, damage to equipment, depreciation or other charges and expenses chargeable to the services to be rendered to the Kansas turnpike authority. The total amount of any amounts charged to the authority shall not at any one time exceed the sum of \$250,000.

(c) ";

Also on page 3, in line 9, before the period, by inserting ", under the management of the Kansas department of transportation"; in line 14, by striking "temporary"; in line 15,

by striking ", and the secretary to the authority,"; in line 18, following the period, by inserting "The provisions of this subsection shall expire on July 1, 2015.";

On page 4, in line 2, by striking "and" and inserting a comma; also in line 2, after "68-20,119" by inserting "and 75-5028";

On page 1, in the title, in line 4, after "transportation;" by inserting "concerning purchase of certain real estate;"; in line 19, by striking "and" and inserting a comma; also in line 19, after "68-20,119" by inserting "and 75-5028"; and the bill be passed as amended.

Also, **HB 2352** be amended on page 1, following line 6, by inserting:

"Section 1. K.S.A. 20-2610a is hereby amended to read as follows: 20-2610a. (a) A judge may elect to have such judge's retirement annuity paid under one of the options provided in this section in lieu of having it paid in the form stated in K.S.A. 20-2610, and amendments thereto. Such election shall be made before the date of actual retirement. A specific person shall be designated as joint annuitant at the time of election of the joint and $\frac{1}{2}$ to joint annuitant survivor option, joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option. ~~Under no circumstances may~~ Except as specifically provided in this subsection, an option elected by a member as provided in this section shall not be changed or canceled nor shall the named joint annuitant be changed after the date of actual retirement of the judge. If a retirant is divorced after the retirant's date of actual retirement, and the retirant has named the retirant's ex-spouse as a joint annuitant under subsection (c), the joint annuitant option may be canceled and the retirant's benefit returned to the maximum amount of such retirant's retirement benefit commencing the first month following the date such cancellation is ordered by the district court of the county where the divorce action was filed. The retirant shall not receive a refund or interest of any amounts already paid to fund the original joint annuitant benefit. The retirant may not name a subsequent joint annuitant once the original joint annuitant option has been canceled.

(b) The amount of retirement annuity payable under an option shall be based on the age of the judge and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, as prescribed in subsection (c). Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified in a way that precludes employer discretion. In no case shall the total amount of retirement annuity payable under any option provided in this section be more than 100% of the retirement annuity which would have been otherwise payable if no option had been elected under this section.

(c) The following retirement options, which are subject to the provisions of K.S.A. 74-49,123, and amendments thereto, are available:

(1) *Joint and $\frac{1}{2}$ to joint annuitant survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and (B) the percentage equal to 91% minus 0.4% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus 0.4% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with $\frac{1}{2}$ of that monthly amount continued to the judge's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the judge. In the event that

the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(2) *Joint and survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and (B) the percentage equal to 83% minus 0.6% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus 0.6% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(3) *Joint and $\frac{3}{4}$ to joint annuitant survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and (B) the percentage equal to 87% minus 0.5% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus 0.5% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with $\frac{3}{4}$ of that monthly amount continued to the judge's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(4) *Life with 5 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and if the judge dies within the five-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the five-year certain period.

(5) *Life with 10 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 95% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and if the judge dies within the ten-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the ten-year certain period.

(6) *Life with 15 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 88% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610, and amendments thereto, and if the judge dies within the fifteen-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be

continued to such judge's beneficiary during the balance of the fifteen-year certain period.

(7) *Lump sum payment at retirement.* (A) Pursuant to this option, the judge must specify a lump sum amount to be paid to the judge upon the judge's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 20-2610, and amendments thereto. The lump sum amount designated by the judge must be in 10% increments and shall not exceed $\frac{1}{2}$ of the actuarial present value of the benefit provided in K.S.A. 20-2610, and amendments thereto. If the judge's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (d), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed $\frac{1}{2}$ of the actuarial present value of the option selected in this section.

(B) Pursuant to this option, the judge must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 20-2610, and amendments thereto, or subsections (c)(1) through (c)(6) of this section.

(C) In the event that the designated joint annuitant pursuant to subsection (c)(1), (c)(2) or (c)(3), under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) The provisions of this subsection shall be effective on and after July 1, 2001.

(d) If a judge, who is eligible to retire, dies without having actually retired, the judge's spouse, if the spouse is the sole beneficiary for the judge's accumulated contributions, may elect to receive benefits as a joint annuitant under one of the options provided in this section in lieu of receiving the judge's accumulated contributions.

(e) On and after May 1, 2004, if a judge with 10 or more years of credited service dies before attaining retirement age, the judge's spouse, if the spouse is the sole beneficiary for the judge's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the judge's accumulated contributions. Payments under one of the options provided in this section to the judge's spouse if so elected, shall commence on the date that the judge would have been eligible for normal retirement pursuant to subsection (a) of K.S.A. 20-2608, and amendments thereto, or would have been eligible for early retirement pursuant to subsection (b) or (c) of K.S.A. 20-2608, and amendments thereto, if such early retirement date occurs earlier.

(f) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and $\frac{1}{2}$ to joint annuitant survivor option, the joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(g) The provisions of the law in effect on the retirement date of a judge under the retirement system for judges shall govern the retirement annuity payable to the retired judge and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for judges who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (c)(1), (2) or (3), as applicable, predeceased the judge, the amount of the retirement benefit otherwise payable to the

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judge under the option provided in subsection (c)(1), (2) or (3), as applicable, shall be adjusted automatically to the retirement benefit which the judge would have received if no option had been elected under this section.

(h) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retired judge over the sum of all retirement benefit payments made to such retired judge and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retired judge. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (1) The joint annuitant's surviving spouse;
- (2) the joint annuitant's dependent child or children;
- (3) the joint annuitant's dependent parent or parents;
- (4) the joint annuitant's nondependent child or children;
- (5) the joint annuitant's nondependent parent or parents; or
- (6) the estate of the deceased joint annuitant.

(i) In any event, benefits shall be adjusted as necessary to satisfy the incidental death benefits regulations under the federal internal revenue code.";

On page 4, following line 38, by inserting:

"Sec. 4. K.S.A. 2012 Supp. 74-4964 is hereby amended to read as follows: 74-4964. (1) A member may elect to have such member's retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in subsections (1) and (2) of K.S.A. 74-4958, and amendments thereto. Such election must be made before the date of actual retirement. Only a specific individual person may be designated as a joint annuitant at the time of election of the joint and $\frac{1}{2}$ to joint annuitant survivor option, the joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option. Under no circumstances may ~~Except as specifically provided in this subsection, an option elected by a member as provided in this section shall not be changed or canceled nor shall the named joint annuitant be changed after the date of actual retirement of the member. If a retirant is divorced after the retirant's date of actual retirement, and the retirant has named the retirant's ex-spouse as a joint annuitant under subsection (5), the joint annuitant option may be canceled and the retirant's benefit returned to the maximum amount of such retirant's retirement benefit commencing the first month following the date such cancellation is ordered by the district court of the county where the divorce action was filed. The retirant shall not receive a refund or interest of any amounts already paid to fund the original joint annuitant benefit. The retirant may not name a subsequent joint annuitant once the original joint annuitant option has been canceled.~~

(2) The amount of a retirement benefit payable under an option shall be based on the age of the member and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under subsections (1) or (2) of K.S.A. 74-4958, and amendments thereto, as prescribed under subsection (5). In no case shall the total amount of retirement benefit paid under any option provided in this section be more than 100% of the retirement benefit which would have been otherwise payable if no option had been elected under

this section.

(3) If a member who was, up to the entry date of such member's employer, covered by a pension system under the provisions of K.S.A. 13-14a01 to 13-14a14, inclusive or 14-10a01 through 14-10a15, inclusive, and amendments thereto, so elects one of the options under this section, payment of such option shall be in lieu of any payments provided in subsection (3) of K.S.A. 74-4958, and amendments thereto.

(4) Such election of an option shall become null and void upon the death of a member prior to such member's retirement, except that if a member, who is eligible to retire in accordance with the provisions of subsections (1) and (2) of K.S.A. 74-4958, and amendments thereto, dies without having actually retired the member's spouse, if the spouse is beneficiary for the member's accumulated contributions, and no benefits are payable under subsections (1) and (2) of K.S.A. 74-4959, and amendments thereto, may elect to receive benefits under one of the options provided in this section, in lieu of receiving the member's accumulated contributions.

(5) The following retirement options which are subject to the provisions of K.S.A. 74-49,123, and amendments thereto, are available:

(A) *Joint and 1/2 to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958, and amendments thereto and (B) the percentage equal to 94.5% minus 0.2% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus 0.2% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with 1/2 of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(B) *Joint and survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958, and amendments thereto and (B) the percentage equal to 88% minus 0.4% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus 0.4% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(C) *Joint and 3/4 to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958, and amendments thereto and (B) the percentage equal to 91% minus 0.3% for each year by which the age of the retirant's joint annuitant is less than the retirant's age,

computed to the nearest whole year, or plus 0.3% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with $\frac{3}{4}$ of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) *Life with 5 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 99% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958, and amendments thereto, and if the retirant dies within the five-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the five-year certain period.

(E) *Life with 10 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958, and amendments thereto, and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the ten-year certain period.

(F) *Life with 15 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 92% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958, and amendments thereto, and if the retirant dies within the fifteen-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the fifteen-year certain period.

(G) *Lump sum payment at retirement.* (i) Pursuant to this option, the member must specify a lump sum amount to be paid to the member upon the member's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 74-4958, and amendments thereto. The lump sum amount designated by the member must be in 10% increments and shall not exceed $\frac{1}{2}$ of the actuarial present value of the benefit provided in K.S.A. 74-4958, and amendments thereto. If the member's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (6), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed $\frac{1}{2}$ of the actuarial present value of the option selected in this section.

(ii) Pursuant to this option, the member must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 74-4958, and amendments thereto, or subsections (5)(A) through (5)(F) of this section.

(iii) In the event that the designated joint annuitant pursuant to subsection (5)(A), (5)(B) or (5)(C) under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(iv) The provisions of this subsection shall be effective on and after July 1, 2001.

(6) On and after July 1, 1996, if a member with 20 or more years of credited

service dies before attaining retirement age, the member's spouse, if the spouse is the sole beneficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions or in lieu of receiving benefits as provided in K.S.A. 74-4959, and amendments thereto. Payments under one of the options provided in this section to the member's spouse if so elected, shall commence on the date that the member would have attained retirement age.

(7) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and $\frac{1}{2}$ to joint annuitant survivor option, the joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(8) The provisions of the law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for retirants who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (5)(A), (B) or (C), as applicable, predeceased the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option provided in subsection (5)(A), (B) or (C), as applicable, shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(9) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retirant over the sum of all retirement benefit payments made to such retirant and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retirant. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (A) The joint annuitant's surviving spouse;
- (B) the joint annuitant's dependent child or children;
- (C) the joint annuitant's dependent parent or parents;
- (D) the joint annuitant's nondependent child or children;
- (E) the joint annuitant's nondependent parent or parents; or
- (F) the estate of the deceased joint annuitant.

(10) The provisions of this section shall apply only to members who were appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a, and amendments thereto.;

And by renumbering sections accordingly;

On page 6, in line 27, after "K.S.A." by inserting "20-2610a,"; also in line 27, after "74-4965" by inserting "and K.S.A. 2012 Supp. 74-4964";

On page 1, in the title, in line 3, after "contributions;" by inserting "joint annuity options; judges retirement system;"; also in line 3, after "K.S.A." by inserting "20-2610a,"; in line 4, after "and" by inserting "K.S.A. 2012 Supp. 74-4964 and"; and the bill be passed as amended.

March 25, 2013

MESSAGE FROM THE HOUSE

The House nonconcur in Senate amendments to **HB 2120**, requests a conference and has appointed Representatives Rubin, Gonzalez and Finney as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub for HB 2093**, requests a conference and has appointed Representatives Rubin, Gonzalez and Finney as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **HB 2120**.

The Vice President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Smith, the Senate acceded to the request of the House for a conference on **HB 2093**.

The Vice President appointed Senators King, Smith and Haley as conferees on the part of the Senate.

On motion of Senator Bruce, the Senate adjourned until 9:00 a.m., Tuesday, March 26, 2013.

HELEN MORELAND, ROSE MARIE GLATT, CHARLENE BAILEY, *Journal Clerks*.
DIANE MINEAR, *Secretary of the Senate*.

