

Journal of the House

EIGHTEENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, February 1, 2001, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Aurand in the chair.

The roll was called with 121 members present.

Rep. Barnes was excused on verified illness.

Rep. Kuether and Toelkes were excused on legislative business.

Rep. Edmonds was excused on excused absence by the Speaker.

Prayer by Chaplain Svoboda-Barber:

Almighty and Everlasting God,

You were with us upon our waking this morning.

You were with us as we entered this building and began our work.

You are with us now.

And You continue to be with us every moment of our lives.

Let us not forget that we are constantly surrounded by you,
and only have to ask for your guidance to receive it.

Help us to be humble enough to ask for Your help
and strong enough to act according to Your will.

In Your name-Amen.

The Pledge of Allegiance was led by Rep. Ballou.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2247, An act concerning the Kansas business health partnership act; relating to the removal of the sunset provision; amending K.S.A. 40-4707 and repealing the existing section, by Committee on Insurance.

HB 2248, An act concerning the distribution and use of moneys in the local alcoholic liquor fund; amending K.S.A. 79-41a04 and repealing the existing section, by Committee on Local Government.

HB 2249, An act concerning municipalities; relating to rent control, by Committee on Local Government.

HB 2250, An act enacting the Kansas motor fuel marketing act; declaring public policy regarding motor fuel marketing and pricing; prohibiting certain acts and providing penalties and other remedies for violations; declaring certain contracts void, by Committee on Transportation.

HB 2251, An act regarding workers compensation; concerning optional deductibles; amending K.S.A. 44-559a and repealing the existing section, by Committee on Business, Commerce and Labor.

HB 2252, An act relating to credit unions; concerning the regulation thereof; amending K.S.A. 17-2217 and K.S.A. 2000 Supp. 17-2223a and repealing the existing sections, by Committee on Financial Institutions.

HB 2253, An act concerning school district finance; revising and effecting definitions; increasing base state aid per pupil; affecting determination of program weighting and at-risk pupil weighting; relating to school district ad valorem taxes; amending K.S.A. 72-6413

and K.S.A. 2000 Supp. 72-6407, 72-6410, 72-6414, 72-6431 and 79-201x and repealing the existing sections; also repealing K.S.A. 2000 Supp. 72-978, 72-979 and 72-983, by Committee on Education.

HB 2254, An act concerning credit scores; enacting the fair credit score disclosure act, by Committee on Financial Institutions.

HB 2255, An act relating to income taxation; providing credits therefrom for dependent education expenses and tuition, by Representative D. Williams.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to committees as indicated:

Appropriations: **HB 2233**.

Business, Commerce and Labor: **HB 2232, HB 2235, HB 2236, HB 2237**.

Education: **HB 2241**.

Environment: **HB 2234**.

Ethics and Elections: **HB 2239**.

Financial Institutions: **HB 2243**.

Health and Human Services: **HB 2227, 2228, 2229, 2242**.

Judiciary: **HB 2230, 2231, 2240**.

Local Government: **HB 2246**.

Taxation: **HB 2245** (separately); **HCR 5011**.

Transportation: **HB 2225, HB 2226, HB 2238**.

Utilities: **HB 2244, HB 2245** (separately).

MESSAGE FROM THE GOVERNOR

January 30, 2001

Message to the House of Representatives of the State of Kansas:

Enclosed herewith is Executive Order No. 01-01 for your information.

EXECUTIVE ORDER NO. 01-01

Offer of Reward

BILL GRAVES

Governor

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

COMMUNICATIONS FROM STATE OFFICERS

From John Wine, Chair, Utilities Division, Kansas Corporation Commission, pursuant to K.S.A. 66-117b, Report to the 2001 Legislature.

The complete report is kept on file and open for inspection in the office of the Chief Clerk.

MESSAGE FROM THE SENATE

Announcing passage of **SB 32, SB 41, SB 42, SB 43, SB 45, SB 52**.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

SB 32, SB 41, SB 42, SB 43, SB 45, SB 52.

CONSENT CALENDAR

No objection was made to **HB 2149** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2004, HB 2048** appearing on the Consent Calendar for the third day. The bills were advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2004, An act concerning information technology projects of state agencies; amending K.S.A. 2000 Supp. 75-7210 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Barnes, Edmonds, Kuether, Spangler, Toelkes.

The bill passed.

HB 2048, An act concerning riparian buffers; amending K.S.A. 2000 Supp. 2-1915 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Barnes, Edmonds, Kuether, Spangler, Toelkes.

The bill passed.

HB 2017, An act establishing the Kansas postsecondary education savings program expense fund; amending K.S.A. 2000 Supp. 75-648 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 119; Nays 1; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Os-

borne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Feuerborn.

Present but not voting: None.

Absent or not voting: Barnes, Edmonds, Kuether, Spangler, Toelkes.

The bill passed.

HB 2146, An act relating to banks and banking; concerning general powers thereof; amending K.S.A. 2000 Supp. 9-1101 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 1; Present but not voting: 1; Absent or not voting: 5.

Yeas: Aday, Alldritt, Aurand, Ballard, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Ballou.

Present but not voting: Hermes.

Absent or not voting: Barnes, Edmonds, Kuether, Spangler, Toelkes.

The bill passed.

EXPLANATION OF VOTE

MR. SPEAKER: I abstain from voting on **HB 2146** due to a conflict of interest. I serve on the Board of Directors for Iola State Bank and Trust.—CINDY HERMES

HB 2147, An act relating to banks and banking; concerning unlawful transactions; amending K.S.A. 2000 Supp. 9-1112 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 119; Nays 0; Present but not voting: 1; Absent or not voting: 5.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: Hermes.

Absent or not voting: Barnes, Edmonds, Kuether, Spangler, Toelkes.

The bill passed.

EXPLANATION OF VOTE

MR. SPEAKER: I abstain from voting on **HB 2147** due to a conflict of interest. I serve on the Board of Directors for Iola State Bank and Trust.—CINDY HERMES

HB 2148. An act relating to trusts; providing for certification of trusts, was considered on final action.

On roll call, the vote was: Yeas 110; Nays 9; Present but not voting: 1; Absent or not voting: 5.

Yeas: Aday, Aurand, Ballard, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Kline, Krehbiel, Landwehr, Lane, Larkin, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Winn.

Nays: Alldritt, Ballou, Crow, Garner, Klein, Levinson, Pauls, E. Peterson, Wilson.

Present but not voting: Hermes.

Absent or not voting: Barnes, Edmonds, Kuether, Spangler, Toelkes.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: I abstain from voting on **HB 2148** due to a conflict of interest. I serve on the Board of Directors for Iola State Bank and Trust.—CINDY HERMES

SCR 1603. A concurrent resolution adopting joint rules for the Senate and House of Representatives for the 2001-2002 biennium, was considered on final action.

On roll call, the vote was: Yeas 116; Nays 4; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aday, Aurand, Ballard, Ballou, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, DeCastro, Dillmore, DiVita, Dreher, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Alldritt, Dahl, Faber, Gatewood.

Present but not voting: None.

Absent or not voting: Barnes, Edmonds, Kuether, Spangler, Toelkes.

The resolution was adopted.

On motion of Rep. Weber, the House went into Committee of the Whole, with Rep. Mays in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2029** be passed.

Committee report to **HB 2099** be adopted; and the bill be passed as amended.

Committee report to **HB 2065** be adopted; also, roll call was demanded on motion of Rep. Howell to amend on page 19, after line 19, by inserting the following:

“Sec. 2. K.S.A. 2000 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of ~~4.9%~~ 5.9% and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) (1) the gross receipts from intrastate telephone or telegraph services and (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by federal law ([26] U.S.C. Section 1504). For the purposes of this subsection the term gross receipts does not include purchases of telephone, telegraph or telecommunications using a prepaid telephone calling card or prepaid authorization number. As used in this subsection, a prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such

machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation solely in exchange for stock securities in such corporation; or (2) the transfer of motor vehicles or trailers by one corporation to another when all of the assets of such corporation are transferred to such other corporation; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, recon-

struction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building or facility damaged or destroyed by fire, flood, tornado, lightning, explosion or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or of any municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility; and

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property, except computer software described in subsection (s), which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) the gross receipts received from the sale of computer software, and the sale of the services of modifying, altering, updating or maintaining computer software. As used in this subsection, "computer software" means information and directions loaded into a computer which dictate different functions to be performed by the computer. Computer software includes any canned or prewritten program which is held or existing for general or repeated sale, even if the program was originally developed for a single end user as custom computer software. The sale of computer software or services does not include: (1) The initial sale of any custom computer program which is originally developed for the exclusive use of a single end user; or (2) those services rendered in the modification of computer software when the modification is developed exclusively for a single end user only to the extent of the modification and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements and other billing documents provided to the end user. The services of modification, alteration, updating and maintenance of computer software shall only include the modification, alteration, updating and maintenance of computer software taxable under this subsection whether or not the services are actually provided; and

(t) the gross receipts received for telephone answering services, including mobile phone services, beeper services and other similar services; and

(u) the gross receipts received from the sale of prepaid telephone calling cards or prepaid authorization numbers and the recharge of such cards or numbers. A prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed. If the sale or recharge of such card or number does not take place at the vendor's place of business, it shall be conclusively determined to take place at the customer's shipping address; if there is no item shipped then it shall be the customer's billing address.

Sec. 3. K.S.A. 2000 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be deposited daily with the state treasurer. The state treasurer shall credit all revenue received from this act, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

(c) (1) The state treasurer shall credit ~~7%~~ ^{5/118} of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of ~~4.9%~~ 5.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) *The state treasurer shall credit ^{20/118} of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.9%, and deposited as provided in subsection (a) exclusive of amounts credited pursuant to subsection (d) to the state school district finance fund.*

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce and housing to be of statewide as well as local importance or will create a major tourism area for the state as specified in subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

Sec. 4. K.S.A. 2000 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of ~~4.9%~~ 5.9%. Within a redevelopment district established pursuant to K.S.A. 2000 Supp. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 5. K.S.A. 2000 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be deposited daily with the state treasurer and the state treasurer shall credit the same, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the general revenue fund of the state.

(b) A revolving fund, designated as "compensating tax refund fund" not to exceed \$10,000 shall be set apart and maintained by the director from compensating tax collections and estimated tax collections and held by the state treasurer for prompt payment of all compensating tax refunds. Such fund shall be in such amount, within the limit set by this

section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) (1) The state treasurer shall credit ~~5/8~~ ^{5/118} of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of ~~4.9%~~ 5.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) *The state treasurer shall credit ^{20/118} of the revenue collected or received from the tax imposed by k.S.A. 79-3703, and amendments thereto, at the rate of 5.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), to the state school district finance fund.*

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce and housing to be of statewide as well as local importance or will create a major tourism area for the state as specified in subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto, to the city bond finance fund created by subsection (d) of K.S.A. 79-3620, and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3620, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.”;

Also, on page 19, in line 20, by striking “79-3606 is” and inserting “79-3603, 79-3606, 79-3620, 79-3703 and 79-3710 are”;

By renumbering existing sections accordingly;

In the title, in line 10, after the semicolon by inserting “increasing the rate thereof for school finance purposes;” ; in line 11, by striking “79-3606” and inserting “79-3603, 79-3606, 79-3620, 79-3703 and 79-3710”; in line 12, by striking “section” and inserting “sections”;

On roll call, the vote was: Yeas 3; Nays 113; Present but not voting: 1; Absent or not voting: 8.

Yeas: Campbell, Loyd, Tomlinson.

Nays: Aday, Alldritt, Aurand, Ballard, Ballou, Beggs, Benlon, Bethell, Boston, Burroughs, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Brien, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Present but not voting: Toplikar.

Absent or not voting: Barnes, Edmonds, Kuether, Nichols, O'Neal, Powers, Spangler, Toelkes.

The motion of Rep. Howell did not prevail, and **HB 2065** be passed as amended.

Committee report to **HB 2010** be adopted; also, on motion of Rep. Minor be amended on page 5, in line 8, before “and” by inserting “, waste incineration”; in line 12, after “electricity” by inserting “, or to produce and generate during the taxable year heat energy at least equivalent to that produced and generated by 1,000 mcf of gas.”;

Also, on motion of Rep. Feuerborn **HB 2010** be amended on page 5, after line 19, by inserting a new section to read as follows:

“New Sec. 2. The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) All property actually and regularly used exclusively in the production of agricultural ethyl alcohol by a Kansas qualified agricultural ethyl alcohol producer.

(b) As used in this section, terms have the meanings provided by K.S.A. 79-34,160, and amendments thereto.

(c) The provisions of this section shall apply to property the construction of which is completed after December 31, 2000, and for the 10 taxable years immediately following the taxable year in which such property is first used in the production of agricultural ethyl alcohol.

(d) The provisions of this section shall apply to all taxable years commencing after December 31, 2000.”;

By renumbering existing sections accordingly; and **HB 2010** be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Appropriations** recommends **HB 2056** be amended on page 1, in line 28, by striking “\$250,000” and inserting “\$150,000”; and the bill be passed as amended.

The Committee on **Financial Institutions** recommends **HB 2169**, **HB 2193**, be passed.

The Committee on **Judiciary** recommends **HB 2074** be passed.

REPORT OF STANDING COMMITTEE

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

Request No. 29, by Representative McCreary, congratulating the Caldwell girls basketball team for winning the 2001 South Central Border League Tournament;

Request No. 30, by Representatives Crow, Ruff and Wilk, congratulating Marguerite Strange on her selection as 2001 Citizen of the Year by the Leavenworth-Lansing Chamber of Commerce;

Request No. 31, by Representative Huff, congratulating Tyler Lahr as district champion for his writings on his “favorite freedom”;

Request No. 32, by Representative Patterson, commending Sean Casey Mulcahy on being named to the Washburn President’s Honors Program;

Request No. 33, by Representative Osborne, commending Justin Stuewe on being named to the Washburn President’s Honors Program;

Request No. 34, by the Republican Members of the House of Representatives, commending Katherine Harris for her dedication to her position;

Request No. 35, by Representative Hermes, congratulating Nicholas J. and Denise Novelly on the birth of their daughter;

Request No. 36, by Representative Dreher, congratulating Dustin Allen Carson on becoming an Eagle Scout;

Request No. 37, by Representative Dreher, congratulating Kent and Eloise Smith on their 50th wedding anniversary;

Request No. 38, by Representative Dreher, congratulating Eugene and Leona Pool on their 50th wedding anniversary;

Request No. 39, by Representative Schwartz, congratulating Helen Rhoads on her 100th birthday;

Request No. 40, by Representative Johnson, congratulating Joyce Ellis for being named the Central District Middle School Teacher of the Year, Kansas Middle School Physical Education Teacher of the Year and being selected to serve on the National Board of Professional Teaching Standards content validation committee;

Request No. 41, by Representative Johnson, congratulating Nancy J. Harman for receiving a Milken Family Foundation National Educator Award for 2000;

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

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

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were thereupon introduced and read by title:

HB 2256, An act concerning retirement; relating to the Kansas public employees retirement system and systems thereunder; purchase of prior service, by Representative Benlon.

HB 2257, An act establishing the Kansas academy of mathematics and science, by Representative Benlon.

HB 2258, An act concerning civil procedure; relating to class actions; amending K.S.A. 2000 Supp. 60-223 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2259, An act concerning elections; relating to advance voting; amending K.S.A. 25-1128 and repealing the existing section, by Committee on Ethics and Elections.

HB 2260, An act concerning elections; relating to recounts of ballots; amending K.S.A. 25-3107 and repealing the existing section, by Committee on Ethics and Elections.

HB 2261, An act concerning elections; enacting the Kansas clean money campaign reform act; amending K.S.A. 25-4148 and repealing the existing section, by Committee on Ethics and Elections.

HB 2262, An act concerning smoking in public places; requiring smokers to take it outside; amending K.S.A. 21-4010 and 21-4012 and repealing the existing sections; also repealing K.S.A. 21-4011 and 21-4013, by Representative Powers.

HB 2263, An act concerning group funded workers compensation pools; relating to refunds therefrom; amending K.S.A. 44-585 and repealing the existing section, by Committee on Insurance.

HB 2264, An act concerning employment; ensuring that employees of government contractors are paid a living wage; amending K.S.A. 75-37,103 and K.S.A. 2000 Supp. 75-3739 and repealing the existing section, by Representatives Swenson, Barnes, Dillmore, Flaharty, Gilbert, Kirk, Levinson, Loganbill, Nichols, O'Brien, Peterson, E., Powers, Ruff, Toelkes, Welshimer, and Wilson.

HB 2265, An act relating to sales taxation; exempting certain sales of hearing aids therefrom; amending K.S.A. 2000 Supp. 79-3606 and repealing the existing section, by Representatives Flaharty, Barnes, Crow, Kuether, Loganbill, Toelkes and Wilson.

HB 2266, An act concerning electricity; relating to certain generators of electricity; relating to taxation, economic development incentives and exemption from regulation; providing for issuance of bonds for certain purposes; providing for certain property tax exemptions; amending K.S.A. 2000 Supp. 66-104 and 79-5a01 and repealing the existing sections, by Committee on Utilities.

HB 2267, An act concerning certain electric generation facilities; relating to contracts for parallel generation services; amending K.S.A. 66-1,184 and repealing the existing section, by Committee on Utilities.

HB 2268, An act concerning electric public utilities; relating to inclusion of certain property in ratebase; providing for issuance of bonds for certain purposes; providing for certain property tax exemptions; amending K.S.A. 2000 Supp. 66-128 and repealing the existing section, by Committee on Utilities.

HB 2269, An act concerning natural gas; authorizing certain refunds and reimbursements of refunds of certain ad valorem tax reimbursements; authorizing the issuance of bonds and imposing a tax on certain transportation of natural gas, by Committee on Utilities.

HB 2270, An act authorizing the state board of regents to exchange and convey certain tracts of real estate located in Ellis county, Kansas, for and on behalf of Fort Hays state university with the Fort Hays university endowment association, by Committee on Higher Education.

HB 2271, An act concerning unified school district No. 521, Johnson county, Kansas; relating to elections on closure of school buildings; amending K.S.A. 72-8136e and repealing the existing section, by Committee on Education.

HB 2272, An act repealing K.S.A. 75-5662, concerning publication of documents used by the department of health and environment, by Committee on Environment.

HB 2273, An act concerning children in need of care; relating to the definition of abuse; concerning the termination of parental rights; amending K.S.A. 38-1502 and 38-1583 and

repealing the existing sections; also repealing K.S.A. 38-1502d and 38-1583a, by Representative Welshimer.

HB 2274, An act concerning lawyers; relating to rendering legal services, by Representative Welshimer.

HB 2275, An act concerning the state board of cosmetology; persons and practices regulated by the board; permanent color technology, tattooing and body piercing; amending K.S.A. 2000 Supp. 65-1940, 65-1941, 65-1942, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950 and 65-1954 and repealing the existing sections; also repealing K.S.A. 2000 Supp. 65-1952, by Committee on Health and Human Services.

REPORT ON ENGROSSED BILLS

HB 2148 reported correctly engrossed January 31, 2001.

REPORT ON ENROLLED RESOLUTIONS

HR 6006 reported correctly enrolled and properly signed on February 1, 2001.

On motion of Rep. Weber, the House adjourned pro forma until 9:00 a.m., Friday, February 2, 2001.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

