

# Journal of the Senate

THIRTY-SECOND DAY

---

SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, February 26, 2003—9:30 a.m.

The Senate was called to order by President Dave Kerr.  
The roll was called with forty senators present.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

There are certain people I find it hard to deal with:

Those who pay no attention to what I say.

Those who lie, cheat, and deceive.

Those who seem to ignore the evidence.

Those who patronize me.

Those who seem to be more interested in winning arguments than discovering the truth.

Those whom I believe are totally wrong, but they are convinced they are totally right.

I believe, O God, the first thing I have to do is to make sure I'm not guilty of the same problems I have diagnosed in them. Regardless of the result of my self-examination, I should be in a better frame of mind to deal with these people as the apostle Paul instructed the Romans:

"Bless those who persecute you; bless and do not curse. . . Live in harmony with one another. Do not be proud, but be willing to associate with people of low position. Do not be conceited. Do not repay anyone evil for evil. . . If it is possible, as far as it depends on you, live at peace with everyone. Do not take revenge. . . but leave room for God's wrath, for it is written: 'It is mine to avenge; I will repay,' says the Lord. . . Do not be overcome with evil, but overcome evil with good." (Romans 12:14,16-17a,18-19,21)

Lord, help me to take Your advice, I pray in Jesus' name, AMEN

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

**SB 247**, An act concerning the valuation of buildings and improvements; amending K.S.A. 2002 Supp. 79-412 and repealing the existing section, by Committee on Federal and State Affairs.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **HB 2245**.

Commerce: **HB 2191**.

Education: **SB 246**.

Elections and Local Government: **HB 2112, HB 2201**.

Federal and State Affairs: **SB 245**.

Transportation: **HB 2158, HB 2159, HB 2166, HB 2220**.

Utilities: **HB 2131, HB 2186, HB 2280**.

Ways and Means: **SB 244**.

**CHANGE OF REFERENCE**

The President withdrew **SB 7** from the Committee on Ways and Means, and rereferred the bill to the Committee on Education.

The President withdrew **SB 148**, **SB 233** from the Committee on Ways and Means, and rereferred the bills to the Committee on Assessment and Taxation.

The President withdrew **SB 127** from the Committee on Ways and Means, and rereferred the bill to the Committee on Financial Institutions and Insurance.

The President withdrew **SB 29** from the Committee on Ways and Means, and referred the bill to the Committee on Assessment and Taxation.

The President withdrew **SB 181** from the Committee on Commerce, and referred the bill to the Committee on Ways and Means.

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2023**, **HB 2135**, **HB 2150**, **HB 2189**, **HB 2192**, **HB 2193**; **Substitute HB 2197**; **HB 2202**.

Also, passage of **SB 52**.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2023**, **HB 2135**, **HB 2150**, **HB 2189**, **HB 2192**, **HB 2193**; **Substitute HB 2197**; **HB 2202** were thereupon introduced and read by title.

**REPORTS OF STANDING COMMITTEES**

Committee on **Commerce** recommends **SB 235** be amended on page 2, in line 27, by striking "or" and inserting a comma; also in line 27, before the period, by inserting "or a major commercial entertainment and tourism area as determined by the secretary, but "eligible area" shall not include a gambling casino";

On page 4, in line 39, before the period, by inserting "or for nonmetropolitan statistical areas, as defined by the United States department of commerce or its successor agency, the secretary finds the project meets the requirements of subsection (g) and would be of regional or statewide importance, but a "special bond project" shall not include a project for a gambling casino";

On page 5, in line 34, after "commission" by inserting "of the city";

On page 7, in line 22, before the period, by inserting "except that for a project which has been designated as a special bond project as defined in subsection (z) of K.S.A. 12-1770a and amendments thereto, if a portion or all of the sales taxes collected under K.S.A. 79-3601 *et seq.*, and amendments thereto, is pledged for such project then a portion or all of the sales taxes collected under K.S.A. 12-187 and amendments thereto shall be pledged for such project"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 123** be amended on page 1, in line 22, by striking "prior"; in line 26, by striking "prior"; in line 28, following "10", by inserting "or nongrid offenses"; in line 36, by striking "be" and inserting "include"; in line 37, by striking "or" and inserting "and an";

On page 2, in line 30, by striking "supervision and monitoring" and inserting "treatment";

On page 3, in line 27, by striking "of any" and inserting "for all drug abuse assessments and"; in line 28, by striking "such person" and inserting "the Kansas sentencing commission from funds appropriated for such purpose. The Kansas sentencing commission shall contract for payment for such services with the supervising agency. The sentencing court shall determine the extent, if any, that such person is able to pay for such assessment and treatment. Such payments shall be used by the supervising agency to offset costs to the state"; also in line 28, following "If", by inserting "such"; in line 31, following "(e)" by inserting "The community corrections staff and court services officers shall work with the substance abuse treatment staff to ensure effective supervision and monitoring of the offender.

(f)";

Also on page 3, in line 39, following the period, by inserting "For the purpose of such mandatory drug abuse treatment programs, upon such modification of the offender's sentence, the offender's sentence shall be a drug severity level 4 felony and required to fulfill the nonprison sanction pursuant to subsection (a) of section 1, and amendments thereto.";

On page 4, in line 15, by striking “finding” and inserting “recommendation”; in line 16, following the period, by inserting “The department of corrections shall conduct a public safety evaluation. The results of such evaluation shall be included in the report required by this subsection.”;

On page 10, in line 23, by striking “postrelease supervision or”; in line 25, following the period, by inserting “For those offenders who are convicted on or after the effective date of this act.”

On page 20, in line 1, following “validated”, by inserting “for drug abuse treatment program placement as provided for by subsection (d) of section 1, and amendments thereto.”; after line 4, by inserting the following:

“(G) any offender released from prison under the provisions of section 3, and amendments thereto.”;

and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 204** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 204,” as follows:

“Substitute for SENATE BILL No. 204

By Committee on Public Health and Welfare

“AN ACT concerning the residential childhood lead poisoning prevention act; amending K.S.A. 65-1,214 and repealing the existing section.”;

and the substitute bill be passed.

Also **SB 151** be amended on page 1, in line 25, by striking the period and inserting a semicolon; in line 30, by striking the period and inserting a semicolon; in line 31, by striking “As used in this section, a”; in line 34, by striking the period and inserting a semicolon; preceding line 35, by inserting the following:

“(f) “joint enterprises” means a business undertaking by a hospital and one or more public or private entities for the provision of health care services in which the hospital exercises majority control of the joint enterprise.

Sec. 2. K.S.A. 19-4608 is hereby amended to read as follows: 19-4608. (a) All hospital moneys, except moneys acquired through the issuance of revenue bonds, shall be paid to the treasurer of the board, shall be allocated to and accounted for in separate funds or accounts of the hospital, and shall be paid out only upon claims and warrants or warrant checks as provided in K.S.A. 10-801 to 10-806, inclusive, and K.S.A. 12-105a and 12-105b, and amendments to these statutes. The board may designate a person or persons to sign such claims and warrants or warrant checks.

(b) The board may accept any grants, donations, bequests or gifts to be used for hospital purposes and may accept federal and state aid. Such moneys shall be used in accordance with the terms of the grant, donation, bequest, gift or aid and if no terms are imposed in connection therewith such moneys may be used to provide additional funds for any improvement for which bonds have been issued or taxes levied.

(c) Hospital moneys shall be deemed public moneys and hospital moneys not immediately required for the purposes for which acquired may be invested in accordance with the provisions of K.S.A. 12-1675 and amendments thereto. Hospital moneys acquired through the receipt of grants, donations, bequests or gifts and deposited pursuant to the provisions of K.S.A. 12-1675 and amendments thereto need not be secured as required under K.S.A. 9-1402 and amendments thereto. *In addition, hospital moneys may be invested in joint enterprises for the provision of health care services as and to the extent permitted by subsection (c) of K.S.A. 19-4601 and amendments thereto.*

(d) Hospital moneys which are deposited to the credit of funds and accounts which are not restricted to expenditure for specified purposes may be transferred to the general fund of the hospital and used for operation of the hospital or to a special fund for additional equipment and capital improvements for the hospital.

(e) The board shall keep and maintain complete financial records in a form consistent with generally accepted accounting principles, and such records shall be available for public inspection at any reasonable time.

(f) Notwithstanding subsections (a) to (e), inclusive, the board may transfer any moneys or property a hospital receives by donation, contribution, gift, devise or bequest to a Kansas not-for-profit corporation which meets each of the following requirements:

(1) The corporation is exempt from federal income taxation under the provisions of section 501(a) by reason of section 501(c)(3) of the internal revenue code of 1954, as amended;

(2) the corporation has been determined not to be a private foundation within the meaning of section 509(a)(1) of the internal revenue code of 1954, as amended; and

(3) the corporation has been organized for the purpose of the charitable support of health care, hospital and related services, including the support of ambulance, emergency medical care, first responder systems, medical and hospital staff recruitment, health education and training of the public and other related purposes.

(g) The board may transfer gifts under subsection (f) in such amounts and subject to such terms, conditions, restrictions and limitations as the board determines but only if the terms of the gift do not otherwise restrict the transfer. Before making any such transfer, the board shall determine that the amount of money or the property to be transferred is not required by the hospital to maintain its operations and meet its obligations. In addition, the board shall determine that the transfer is in the best interests of the hospital and the residents within the county the hospital has been organized to serve.

Sec. 3. K.S.A. 80-2501 is hereby amended to read as follows: 80-2501. As used in this act:

(a) "Board" means a hospital board which is selected in accordance with the provisions of this act and which is vested with the management and control of an existing hospital or a hospital established under the provisions of this act;

(b) "hospital" means a medical care facility as defined in K.S.A. 65-425 and amendments thereto and includes within its meaning any clinic, long-term care facility, limited care residential retirement facility, child-care facility ~~and~~, emergency medical or ambulance service operated in connection with the operation of the medical care facility *and joint enterprises for the provision of health care services operated in connection with the operation of the medical care facility*;

(c) "hospital moneys" means, but is not limited to, moneys acquired through the issuance of bonds, the levy of taxes, the receipt of grants, donations, gifts, bequests, interest earned on investments authorized by this act and state or federal aid and from fees and charges for use of and services provided by the hospital;

(d) "existing hospital" means a hospital established under the provisions of article 21 of chapter 80 of Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto prior to the effective date of this act and being maintained and operated on the effective date of this act;

(e) "political subdivision" means a township, a city or a hospital district established under the provisions of article 21 of chapter 80 of Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto prior to the effective date of this act or established under this act;

(f) "qualified elector" means any person who has been a bona fide resident within the territory included in the taxing district of a hospital for 30 days prior to the date of any annual meeting or election provided for in this act and who possesses the qualifications of an elector provided for in the laws governing general elections;

(g) As used in this section, a "limited care residential retirement facility" means a facility, other than an adult care home, in which there are separate apartment-style living areas, bedrooms, bathrooms and individual utilities; which facility is available only to individuals 55 years of age or older; and which facility has at least the following characteristics: (1) A common recreational and dining area; (2) planned recreation and social gatherings; (3) laundry facilities or services and housecleaning services; (4) special dietary programs providing at least one meal per day; (5) organized wellness programs; (6) a 24-hour emergency call system in each unit staffed by the hospital district; (7) a nursing staff from the hospital district on 24-hour call for residents; and (8) availability of additional health related services, laundry services, housekeeping, means for individuals with special or additional needs;

(h) "joint enterprise" means a business undertaking by a hospital and one or more public or private entities for the provision of health care services in which the hospital exercises majority control of the joint enterprise.

Sec. 4. K.S.A. 80-2518 is hereby amended to read as follows: 80-2518. (a) All hospital moneys, except moneys acquired through the issuance of revenue bonds, shall be paid to the treasurer of the board, shall be allocated to and accounted for in separate funds or accounts of the hospital, and shall be paid out only upon claims and warrants or warrant checks as provided in K.S.A. 10-801 to 10-806, inclusive, and K.S.A. 12-105a and 12-105b, and amendments to these statutes. The board may designate a person or persons to sign such claims and warrants or warrant checks.

(b) The board may accept any grants, donations, bequests or gifts to be used for hospital purposes and may accept federal and state aid. Such moneys shall be used in accordance with the terms of the grant, donation, bequest, gift or aid and if no terms are imposed in connection therewith such moneys may be used to provide additional funds for any improvement for which bonds have been issued or taxes levied.

(c) Hospital moneys shall be deemed public moneys and hospital moneys not immediately required for the purposes for which acquired may be invested in accordance with the provisions of K.S.A. 12-1675 and amendments thereto. Hospital moneys acquired through the receipt of grants, donations, bequests or gifts and deposited pursuant to the provisions of K.S.A. 12-1675 and amendments thereto need not be secured as required under K.S.A. 9-1402 and amendments thereto. *In addition, hospital moneys may be invested in joint enterprises for the provision of health care services as and to the extent permitted by subsection (b) of K.S.A. 80-2501 and amendments thereto.*

(d) Hospital moneys which are deposited to the credit of funds and accounts which are not restricted to expenditure for specified purposes may be transferred to the general fund of the hospital and used for operation of the hospital or to a special fund for additional equipment and capital improvements for the hospital.

(e) The board shall keep and maintain complete financial records in a form consistent with generally accepted accounting principles, and such records shall be available for public inspection at any reasonable time.

(f) Notwithstanding subsections (a) to (e), inclusive, the board may transfer any moneys or property a hospital receives by donation, contribution, gift, devise or bequest to a Kansas not-for-profit corporation which meets each of the following requirements:

(1) The corporation is exempt from federal income taxation under the provisions of section 501(a) by reason of section 501(c)(3) of the internal revenue code of 1954, as amended;

(2) the corporation has been determined not to be a private foundation within the meaning of section 509(a)(1) of the internal revenue code of 1954, as amended; and

(3) the corporation has been organized for the purpose of the charitable support of health care, hospital and related services, including the support of ambulance, emergency medical care, first responder systems, medical and hospital staff recruitment, health education and training of the public and other related purposes.

(g) The board may transfer gifts under subsection (f) in such amounts and subject to such terms, conditions, restrictions and limitations as the board determines but only if the terms of the gift do not otherwise restrict such transfer. Before making any such transfer, the board shall determine that the amount of money or the property to be transferred is not required by the hospital to maintain its operations and meet its obligations. In addition, the board shall determine that the transfer is in the best interests of the hospital and the residents within the district the hospital has been organized to serve.”;

And by renumbering sections accordingly;

Also on page 1, in line 35, by striking “is” and inserting “, 19-4608, 80-2501 and 80-2518 are”;

In the title, in line 9, after “county” by inserting “and district”; also in line 9, by striking “and re-”; in line 10, by striking all before the period and inserting “, 19-4608, 80-2501 and 80-2518 and repealing the existing sections”; and the bill be passed as amended.

**SB 225** be amended on page 2, in line 8, after the comma, by inserting “anatomical”; in line 10, after “diagnosis” by inserting “solely”; in line 29, by striking “and” where it appears for the first time; also in line 29, before the period, by inserting “and the making of a medical diagnosis”;

On page 6, in line 16, by striking “one year” and inserting “three months”;

On page 7, in line 19, by striking “(e)” and inserting “(d)”; by striking all in lines 40 and 41 and inserting the following:

“Application based upon certificate of prior examination, not more than ..... \$80  
 Application based on examination, not more than ..... 100”;

Also on page 7, in line 42, by striking “Renewal” and inserting “Annual renewal”; also in line 42, by striking “60” and inserting “70”; in line 43, by striking “70” and inserting “75”;

On page 8, by striking all in line 3; in line 4, by striking “license or”;

On page 10, in line 33, by striking “licensed”; in line 34, by striking “physician” and inserting “licensee”;

On page 11, in line 14, before the semicolon, by inserting “and occupational therapy assistants practicing their profession when registered and practicing in accordance with the occupational therapy practice act”; in line 22, by striking the period and inserting a semicolon; after line 22, by inserting the following:

“(18) persons who massage for the purpose of relaxation, muscle conditioning or figure improvement, so long as no drugs are used and such persons do not hold themselves out to be physicians or healers;

(19) barbers practicing their profession when licensed and practicing in accordance with the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(20) cosmetologists practicing their profession when licensed and practicing in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(21) attendants practicing their profession when certified and practicing in accordance with the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated and amendments thereto.”;

On page 12, in line 14, after “action” by inserting “in the name of the state”; and the bill be passed as amended.

**REPORT ON ENGROSSED BILLS**

**SB 16** reported correctly re-engrossed February 26, 2003.

**REPORT ON ENROLLED BILLS**

**SR 1821** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 26, 2003.

**COMMITTEE OF THE WHOLE**

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

On motion of Senator Morris the following report was adopted:

Recommended **SB 135** be passed.

**SB 65, SB 79, SB 102, SB 133** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SB 68** be amended by motion of Senator Taddiken, on page 1, in line 32, by striking “\$50” and inserting “\$30”;

On page 2, in line 15, by striking the colon; in line 16, by striking “(1) Pay” and inserting “pay”; in line 17, by striking “; and”; by striking all in lines 18 through 20; in line 21, by striking all preceding the period, and **SB 68** be passed as amended.

A motion by Senator Emler to amend **SB 68** failed and the following amendment was rejected: on page 1, by striking all in lines 14 through 43;

By striking all on pages 2 and 3 and inserting the following:

“Section 1. (a) The provisions of K.S.A. 8-1,142, 8-1,148, 8-1,149, 8-1,150 and 8-1,151 shall expire on January 1, 2004.

(b) Notwithstanding the provisions of subsection (a), any person issued a license plate under the provisions of K.S.A. 8-1,142, 8-1,148, 8-1,149, 8-1,150 or 8-1,151, and amend-

ments thereto, and which has a valid registration, may continue to display such license plate until the next annual renewal of registration. Renewal of registration shall be made in the manner provided for in K.S.A. 8-126 *et seq.*, and amendments thereto.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, in line 9, by striking all following the semicolon; by striking all in lines 10 and 11 and inserting “concerning distinctive license plates; providing for the expiration of certain plates.”

**SB 22** be amended by adoption of the committee amendments, be further amended by motion of Senator Barnett, as amended by Senate Committee, on page 6, following line 16, by inserting:

“(b) The authority to levy a tax or issue bonds pursuant to K.S.A. 72-8801 *et seq.*, and amendments thereto, for the purposes specified in paragraphs (5), (7) and (8) of subsection (a) shall expire on June 30, 2006.”;

Also on page 6, in line 17, by striking “(b)” and inserting “(c)”, and **SB 22** be passed as further amended.

**SB 166** be amended by adoption of the committee amendments, be further amended by motion of Senator Allen, as amended by Senate Committee, on page 1, in line 24, following the period, by inserting “The prior United States senator’s political party shall be determined as of the date when such United States senator is elected or appointed.”, and **SB 166** be passed as further amended.

The following amendment offered by Senator Haley to **SB 166** was rejected:

On page 1, line 15-24, by striking all lines and renumbering accordingly.

**SB 101, SB 147, SB 223** be passed over and retain a place on the calendar.

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

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

---

## AFTERNOON SESSION

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

### REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 161** be amended on page 8, by striking all in lines 6 and 7 and inserting the following:

“For taxable years commencing after December 31, 2003, the provisions of this paragraph shall not apply to detached living units which are not located on the same contiguous property, excepting roadways as defined by K.S.A. 8-1459 and amendments thereto, as the main campus or facility used as provided by this paragraph by the corporation.”; and the bill be passed as amended.

Also **SB 192** be amended on page 1, in line 17, before “K.S.A.” by inserting “On and after July 1, 2004.”;

On page 2, in line 42, before “K.S.A.” by inserting “On and after July 1, 2004.”;

On page 3, in line 41, before “K.S.A.” by inserting “On and after July 1, 2004.”;

On page 4, in line 21, before “K.S.A.” by inserting “On and after July 1, 2004.”; in line 22, by striking all after the period; by striking all in lines 23 through 43;

By striking all on pages 5 through 10;

On page 11, by striking all in lines 1 through 27 and by inserting the following:

“Except as otherwise provided, as used in the Kansas retailers’ sales tax act:

(a) “Agent” means a person appointed by a seller to represent the seller before the member states.

(b) “Agreement” means the multistate agreement entitled the streamlined sales and use tax agreement approved by the streamlined sales tax implementing states at Chicago, Illinois on November 12, 2002.

(c) "Alcoholic beverages" means beverages that are suitable for human consumption and contain .05% or more of alcohol by volume.

(d) "Certified automated system (CAS)" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.

(e) "Certified service provider (CSP)" means an agent certified under the agreement to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(f) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(g) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(h) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

(i) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing.

(j) "Direct mail" means printed material delivered or distributed by United States mail or other delivery services to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. Direct mail includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. Direct mail does not include multiple items of printed material delivered to a single address.

(k) "Director" means the state director of taxation.

(l) "Educational institution" means any nonprofit school, college and university that offers education at a level above the twelfth grade, and conducts regular classes and courses of study required for accreditation by, or membership in, the North Central Association of Colleges and Schools, the state board of education, or that otherwise qualify as an "educational institution," as defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall include: (1) A group of educational institutions that operates exclusively for an educational purpose; (2) nonprofit endowment associations and foundations organized and operated exclusively to receive, hold, invest and administer moneys and property as a permanent fund for the support and sole benefit of an educational institution; (3) nonprofit trusts, foundations and other entities organized and operated principally to hold and own receipts from intercollegiate sporting events and to disburse such receipts, as well as grants and gifts, in the interest of collegiate and intercollegiate athletic programs for the support and sole benefit of an educational institution; and (4) nonprofit trusts, foundations and other entities organized and operated for the primary purpose of encouraging, fostering and conducting scholarly investigations and industrial and other types of research for the support and sole benefit of an educational institution.

(m) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(n) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages or tobacco.

(o) "Gross receipts" means the total selling price or the amount received as defined in this act, in money, credits, property or other consideration valued in money from sales at retail within this state; and embraced within the provisions of this act. The taxpayer, may take credit in the report of gross receipts for: (1) An amount equal to the selling price of property returned by the purchaser when the full sale price thereof, including the tax collected, is refunded in cash or by credit; and (2) an amount equal to the allowance given for the trade-in of property.

(p) "Ingredient or component part" means tangible personal property which is necessary or essential to, and which is actually used in and becomes an integral and material part of

tangible personal property or services produced, manufactured or compounded for sale by the producer, manufacturer or compounder in its regular course of business. The following items of tangible personal property are hereby declared to be ingredients or component parts, but the listing of such property shall not be deemed to be exclusive nor shall such listing be construed to be a restriction upon, or an indication of, the type or types of property to be included within the definition of "ingredient or component part" as herein set forth:

(1) Containers, labels and shipping cases used in the distribution of property produced, manufactured or compounded for sale which are not to be returned to the producer, manufacturer or compounder for reuse.

(2) Containers, labels, shipping cases, paper bags, drinking straws, paper plates, paper cups, twine and wrapping paper used in the distribution and sale of property taxable under the provisions of this act by wholesalers and retailers and which is not to be returned to such wholesaler or retailer for reuse.

(3) Seeds and seedlings for the production of plants and plant products produced for resale.

(4) Paper and ink used in the publication of newspapers.

(5) Fertilizer used in the production of plants and plant products produced for resale.

(6) Feed for animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber, fur, or the production of offspring for use for any such purpose or purposes.

(q) "Isolated or occasional sale" means the nonrecurring sale of tangible personal property, or services taxable hereunder by a person not engaged at the time of such sale in the business of selling such property or services. Any religious organization which makes a nonrecurring sale of tangible personal property acquired for the purpose of resale shall be deemed to be not engaged at the time of such sale in the business of selling such property. Such term shall include: (1) Any sale by a bank, savings and loan institution, credit union or any finance company licensed under the provisions of the Kansas uniform consumer credit code of tangible personal property which has been repossessed by any such entity; and (2) any sale of tangible personal property made by an auctioneer or agent on behalf of not more than two principals or households if such sale is nonrecurring and any such principal or household is not engaged at the time of such sale in the business of selling tangible personal property.

(r) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(1) Lease or rental does not include: (A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(B) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments; or

(C) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect or set-up the tangible personal property.

(2) Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. 7701(h)(1).

(3) This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the internal revenue code, the uniform commercial code, K.S.A. 84-101 *et seq.* and amendments thereto, or other provisions of federal, state or local law.

(4) This definition will be applied only prospectively from the effective date of this act and will have no retroactive impact on existing leases or rentals.

(s) "Load and leave" means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

(t) "Member state" means a state that has entered in the agreement, pursuant to provisions of article VIII of the agreement.

(u) "Model 1 seller" means a seller that has selected a CSP as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(v) "Model 2 seller" means a seller that has selected a CAS to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

(w) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least \$500,000,000, has a proprietary system that calculates the amount of tax due each jurisdiction and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subsection a seller includes an affiliated group of sellers using the same proprietary system.

(x) "Municipal corporation" means any city incorporated under the laws of Kansas.

(y) "Nonprofit blood bank" means any nonprofit place, organization, institution or establishment that is operated wholly or in part for the purpose of obtaining, storing, processing, preparing for transfusing, furnishing, donating or distributing human blood or parts or fractions of single blood units or products derived from single blood units, whether or not any remuneration is paid therefor, or whether such procedures are done for direct therapeutic use or for storage for future use of such products.

(z) "Persons" means any individual, firm, copartnership, joint adventure, association, corporation, estate or trust, receiver or trustee, or any group or combination acting as a unit, and the plural as well as the singular number; and shall specifically mean any city or other political subdivision of the state of Kansas engaging in a business or providing a service specifically taxable under the provisions of this act.

(aa) "Political subdivision" means any municipality, agency or subdivision of the state which is, or shall hereafter be, authorized to levy taxes upon tangible property within the state or which certifies a levy to a municipality, agency or subdivision of the state which is, or shall hereafter be, authorized to levy taxes upon tangible property within the state. Such term also shall include any public building commission, housing, airport, port, metropolitan transit or similar authority established pursuant to law.

(bb) "Prescription" means an order, formula or recipe issued in any form of oral, written, electronic or other means of transmission by a duly licensed practitioner authorized by the laws of this state.

(cc) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software, except that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

(dd) "Property which is consumed" means tangible personal property which is essential or necessary to and which is used in the actual process of and consumed, depleted or dissipated within one year in (1) the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, (2) the providing of services, (3) the irrigation of crops, for sale in the regular course of business, or (4) the storage or processing of grain by a public grain warehouse or other grain storage facility, and which is not reusable

for such purpose. The following is a listing of tangible personal property, included by way of illustration but not of limitation, which qualifies as property which is consumed:

(A) Insecticides, herbicides, germicides, pesticides, fungicides, fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals for use in commercial or agricultural production, processing or storage of fruit, vegetables, feeds, seeds, grains, animals or animal products whether fed, injected, applied, combined with or otherwise used;

(B) electricity, gas and water; and

(C) petroleum products, lubricants, chemicals, solvents, reagents and catalysts.

(ee) "Purchase price" applies to the measure subject to use tax and has the same meaning as sales price.

(ff) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(gg) "Quasi-municipal corporation" means any county, township, school district, drainage district or any other governmental subdivision in the state of Kansas having authority to receive or hold moneys or funds.

(hh) "Registered under this agreement" means registration by a seller with the member states under the central registration system provided in article IV of the agreement.

(ii) "Retailer" means a seller regularly engaged in the business of selling, leasing or renting tangible personal property at retail or furnishing electrical energy, gas, water, services or entertainment, and selling only to the user or consumer and not for resale.

(jj) "Retail sale" or "sale at retail" means any sale, lease or rental for any purpose other than for resale, sublease or subrent.

(kk) "Sale" or "sales" means the exchange of tangible personal property, as well as the sale thereof for money, and every transaction, conditional or otherwise, for a consideration, constituting a sale, including the sale or furnishing of electrical energy, gas, water, services or entertainment taxable under the terms of this act and including, except as provided in the following provision, the sale of the use of tangible personal property by way of a lease, license to use or the rental thereof regardless of the method by which the title, possession or right to use the tangible personal property is transferred. The term "sale" or "sales" shall not mean the sale of the use of any tangible personal property used as a dwelling by way of a lease or rental thereof for a term of more than 28 consecutive days.

(11) (1) "Sales or selling price" applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller and any other expense of the seller;

(C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(D) delivery charges;

(E) installation charges; and

(F) the value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

(2) "Sales or selling price" shall not include:

(A) Discounts, including cash, term or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(B) interest, financing and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser;

(C) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser; and

(D) the amount equal to the allowance given for the trade-in of property, if separately stated on the invoice, billing or similar document given to the purchaser.

(mm) "Seller" means a person making sales, leases or rentals of personal property or services.

(nn) "Service" means those services described in and taxed under the provisions of K.S.A. 79-3603 and amendments thereto.

(oo) "Sourcing rules" means the rules set forth in sections 16 through 19, K.S.A. 12-191 and 12-191a, and amendments thereto, which shall apply to identify and determine the state and local taxing jurisdiction sales or use taxes to pay, or collect and remit on a particular retail sale.

(pp) "Tangible personal property" means personal property that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam and prewritten computer software.

(qq) "Taxpayer" means any person obligated to account to the director for taxes collected under the terms of this act.

(rr) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or any other item that contains tobacco.";

Also on page 11, in line 28, before "K.S.A." by inserting "On and after July 1, 2004,";

On page 16, in line 32, after the stricken material by inserting a comma; also in line 32, after "whether" by inserting "the computer software is";

On page 17, in line 9, after "service" by inserting "as defined in section 19 and amendments thereto"; in line 18, before "K.S.A." by inserting "On and after July 1, 2004,";

On page 23, in line 32, after the stricken material, by inserting "To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3)"; in line 33, by striking "(2)" and inserting "(4)"; in line 36, after "thereto" by inserting ". For all sales of natural gas, electricity and heat delivered through mains, lines or pipes pursuant to the provisions of subsections (w)(1) and (w)(2), the provisions of this subsection shall expire on December 31, 2005"; in line 39, after the stricken material, by inserting "all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises occurring prior to January 1, 2006,";

And by redesignating subsections accordingly;

On page 36, in line 19, before "K.S.A." by inserting "On and after July 1, 2004,";

On page 38, in lines 13 and 41, before "K.S.A." by inserting "On and after July 1, 2004,";

On page 39, in line 18, by striking "or" and inserting "for"; in line 30, before "K.S.A." by inserting "On and after July 1, 2004,";

On page 41, in line 14, before "K.S.A." by inserting "On and after July 1, 2004,";

On page 53, in line 5, after "28." by inserting "(a)"; after line 6, by inserting the following: "(b) The provisions of sections 12 through 28 shall be effective on and after July 1, 2004.";

Also on page 53, in line 10, after "uses" by inserting ", economic development purposes";

On page 54, in line 9, by striking "and any similar or related project"; in line 10, before "infrastructure" by inserting "any other transportation related project or"; in line 33, after "(c)" by inserting the following:

"Upon filing of the petition for a district financed only by assessments, the governing body may proceed without notice or a hearing to make findings by resolution or ordinance as to the nature, advisability and estimated cost of the project, the boundaries of the district and method of assessment, if any. Upon making such findings the governing body may authorize the project in accordance with such findings as to the advisability of the project. The resolution or ordinance shall be effective upon publication once in a newspaper.

(d)";

Also on page 54, by striking all in lines 37 through 43;

On page 55, by striking all in lines 1 through 22;

And by renumbering section 33 as section 32;

Also on page 55, in line 34, by striking all after the period; by striking all in lines 35 through 37 and inserting the following:

"New Sec. 33. (a) Upon filing a petition for a district financed in whole or in part by a proposed local sales transportation district tax authorized by this section, the municipality shall adopt a resolution stating its intention to levy such sales tax, and give notice of the public hearing on the advisability of creating the district and financing of the project. Such notice shall be published at least once each week for two consecutive weeks in the newspaper

and shall be sent by certified mail to all property owners within the proposed district. The notice shall be published at least seven days prior to the date of hearing and the certified mailed notice shall be sent at least 10 days prior to the date of hearing. Such notice shall contain the following information:

- (1) Time and place of hearing;
- (2) general nature of the proposed project;
- (3) the estimated cost of the project;
- (4) the proposed method of financing of the project;
- (5) the proposed amount of the local sales transportation district tax; and
- (6) a map or boundary description of the proposed district.

(b) The hearing on the advisability of the creating of the district and the financing of the project may be adjourned from time to time. Following the hearing or any continuation thereof, the governing body may create the district, authorize the project and approve the estimated cost of the project, the boundaries of the district and the method of financing by adoption of the appropriate ordinance or resolution. Such ordinance or resolution shall become effective upon publication once in the newspaper, unless, within 30 days after the commencement of the hearing, a petition signed by at least 5% of the owners of record within the district is submitted to the clerk of the municipality requesting an election upon such question. An election of the owners of record whether resident or not, shall then be called and held thereon, in accordance with subsection (b) of section 34 and amendments thereto.”;

On page 56, in line 14, after the period, by inserting “Such notice and protest may run simultaneously with the public hearing notice in section 33 and amendments thereto.”;

On page 57, in line 10, by striking “adoption” and inserting “publication”; in line 11, after “district” by inserting “or the publication of the ordinance or resolution imposing the local sales transportation district tax”; in line 35, after “bonds” by inserting “, except for any revenues received under the provisions of subsection (d) of section 36 and amendments thereto, which revenues are subject to annual appropriation”;

On page 58, in line 13, after the period, by inserting “Such bonds shall mature in no more than 22 years.”;

On page 59, after line 41, by inserting the following:

“New Sec. 41. The secretary of revenue in connection with a redevelopment project area for which sales, use and transient guest tax revenues are pledged or otherwise intended to be used in whole or in part for the payment of bonds issued to finance redevelopment project costs in such redevelopment project area or a transportation development district for which a local sales transportation tax has been imposed, shall provide reports identifying each retailer having a place of business in such redevelopment district or transportation development district setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month and identifying each business location maintained by the retailer within such city or county. Such report shall be made available to the bond trustee, escrow agent or paying agent for such bonds within a reasonable time after it has been requested from the director of taxation. The bond trustee, escrow agent or paying agent shall keep such retailers’ sales, use and transient guest tax returns and the information contained therein confidential, but may use such information for purposes of allocating and depositing such sales, use and transient guest tax revenues in connection with the bonds used to finance redevelopment project costs in such redevelopment project area or used to finance the costs of a project in a transportation development district. Except as otherwise provided, the sales, use and transient guest tax returns received by the bond trustee, escrow agent or paying agent shall be subject to the provisions of K.S.A. 79-3614 and amendments thereto.

New Sec. 42. The provisions of sections 29 through 38 and 41, and amendments thereto, and K.S.A. 12-194 and 25-432, as amended pursuant to this act, shall apply to all transportation development districts, whether created before or after July 1, 2003.

Sec. 43. On and after July 1, 2004, K.S.A. 12-189a is hereby amended to read as follows: 12-189a. The following sales shall be subject to the taxes levied and collected by all cities and counties under the provisions of K.S.A. 12-187 *et seq.* and amendments thereto:

(a) All sales of natural gas, electricity, heat and water delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises and all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes for agricultural use, *except that effective January 1, 2006, the provisions of this subsection shall expire for sales of water pursuant to this subsection;*

(b) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises; *and*

(c) all sales of intrastate telephone and telegraph services for noncommercial use.

New Sec. 44. K.S.A. 2002 Supp. 12-194, 12-17,130, 12-17,131, 12-17,132, 12-17,133, 12-17,134, 12-17,135, 12-17,136, 12-17,137, 12-17,138, 12-17,139 and 25-432 are hereby repealed.”;

And by renumbering sections accordingly;

Also on page 59, in line 42, before “K.S.A.” by inserting “On and after July 1, 2004.”; also in line 42, after “K.S.A.” by inserting “12-189a.”; in line 43, by striking “12-194, 25-432.”;

On page 60, in line 2, by striking “July”; in line 3, by striking “1, 2004, and”;

On page 1, in the title, in line 11, after “K.S.A.” by inserting “12-189a.”; in line 14, after “12-191a” by inserting “, 12-17,130, 12-17,131, 12-17,132, 12-17,133, 12-17,134, 12-17,135, 12-17,136, 12-17,137, 12-17,138 and 12-17,139”; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 153** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 153,” as follows:

“Substitute for SENATE BILL No. 153

By Committee on Commerce

“AN ACT concerning telecommunications; relating to enhanced wireless 911 service; public safety grant fund; amending K.S.A. 12-5302 and repealing the existing section.”;

and the substitute bill be passed.

Committee on **Elections and Local Government** recommends **SB 103** be amended on page 1, following line 13, by inserting the following:

“Section 1. K.S.A. 25-4302 is hereby amended to read as follows: 25-4302. (a) Grounds for recall are conviction of a felony, misconduct in office, incompetence or failure to perform duties prescribed by law. No recall submitted to the voters shall be held void because of the insufficiency of the grounds, application, or petition by which the submission was procured.

(b) *As used in this section, the term “misconduct in office” means a violation of law by the officer that impacts the officer’s ability to perform the official duties of the office.”;*

Also on page 1, in line 14, by striking “Section 1.” and inserting “Sec. 2.”;

By renumbering the remaining sections accordingly;

On page 6, following line 12, by inserting:

“Sec. 10. K.S.A. 60-1205 is hereby amended to read as follows: 60-1205. Every person holding any office of trust or profit, under and by virtue of any of the laws of the state of Kansas, either state, district, county, township or city office, except those subject to removal from office only by impeachment, who shall (1) willfully misconduct ~~himself or herself~~ *such person* in office, (2) willfully neglect to perform any duty enjoined upon ~~him or her~~ *such person* by law, ~~or (3)~~, (3) *demonstrate mental impairment such that the person lacks the capacity to manage the office held, or* (4) who shall commit any act constituting a violation of any penal statute involving moral turpitude, shall forfeit ~~his or her~~ *such person* office and shall be ousted from such office in the manner hereinafter provided.”;

Also on page 6, in line 13, following “K.S.A.” by inserting “25-4302.”; in line 14, by striking “and 25-4329” and inserting “, 25-4329 and 60-1205”;

In the title, in line 9, following “K.S.A.” by inserting “25-4302.”; in line 10, by striking “and 25-4329” and inserting “, 25-4329 and 60-1205”; and the bill be passed as amended.

Committee on Federal and State Affairs begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

State Fire Marshal: K.S.A. 75-1510

Joseph P. Odle, serves at the pleasure of the Governor

Also **SB 205** be amended on page 1, in line 13, following “design”, by inserting “concept”; in line 15, preceding “design”, by inserting “design concepts and recommends the final”; in line 31, preceding the period, by inserting “. One of the members selected pursuant to this paragraph shall be skilled in coin design or metal work”; in line 37, following “design”, by inserting “concepts”;

On page 2, in line 2, by striking all following “versity”; by striking all in line 3, and inserting “. Each design sketch shall be accompanied by a narrative that explains why the concept is emblematic of the state and what the concept represents to the citizens of the state. Each design sketch shall be submitted to the commission on or before June 30, 2003;”; in line 4, by striking all following “sketches”; in line 5, by striking “four designs” and inserting “and narratives submitted by Kansas artists and choose five submissions”; in line 6, preceding “collaborate”, by inserting “forward only the selected narratives to the United States mint and collaborate with the United States mint in the preparation of artwork of the concepts;

(5) upon approval by the secretary of the treasury, the design candidate finalists shall”;

Also on page 2, in line 7, by striking “four” and inserting “five”; in line 8, by striking “accredited” and inserting “public and accredited nonpublic”; in line 11, by striking “January 2005” and inserting “April 2004. Such election may be conducted by internet ballot”; in line 13, by striking all following “mint”; by striking all in lines 14 and 15; in line 16, by striking all preceding the period, and inserting “for presentment to the secretary of treasury for final approval”; in line 23, by striking “statute book” and inserting “Kansas register”;

In the title, in line 9, preceding “act”, by inserting “concept”; and the bill be passed as amended.

#### REPORT ON ENGROSSED BILLS

**SB 25, SB 27, SB 45, SB 61, SB 91, SB 130, SB 132, SB 175** reported correctly engrossed February 26, 2003.

#### COMMITTEE OF THE WHOLE

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

On motion of Senator Morris the morning report and the following afternoon report were adopted:

Recommended **SB 63, SB 70, SB 146, SB 223** be passed.

The committee report on **SB 104** recommending a **Sub for SB 104** be adopted, and the substitute bill be passed.

**SB 51, SB 67, SB 106, SB 115, SB 167, SB 221** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SB 147** be amended by adoption of the committee amendments.

Senator O'Connor moved to amend the bill as amended by Senate Committee, on page 9, after line 20, by inserting the following:

“New Sec. 3. The provision of this section and K.S.A. 12-2536 and amendments thereto shall be known and may be cited as the bi-state revenue equity act.

Sec. 4. K.S.A. 12-2536 is hereby amended to read as follows: 12-2536. The Kansas and Missouri metropolitan culture district compact is hereby enacted into law and entered into by the state of Kansas with the state of Missouri legally joining therein, in the form substantially as follows:

#### Kansas and Missouri Metropolitan Culture District Compact Article I.—Agreement and Pledge

The states of Kansas and Missouri agree to and pledge, each to the other, faithful cooperation in the future planning and development of the metropolitan culture district, holding in high trust for the benefit of its people and of the nation, the special blessings and natural advantages thereof.

#### Article II.—Policy and Purpose

The party states, desiring by common action to fully utilize and improve their cultural facilities, coordinate the services of their cultural organizations, enhance the cultural activ-

ities of their citizens, and achieve solid financial support for such cultural facilities, organizations and activities, declare that it is the policy of each state to realize such desires on a basis of cooperation with one another, thereby serving the best interests of their citizenry and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the creation of a metropolitan culture district as the means to implementation of the policy herein declared with the most beneficial and economical use of human and material resources.

#### Article III.—Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) “Metropolitan culture district” means a political subdivision of the states of Kansas and Missouri which is created under and pursuant to the provisions of this compact and which is composed of the counties in the states of Kansas and Missouri which act to create or to become a part of the district in accordance with the provisions of Article IV.

(b) “Commission” means the governing body of the metropolitan culture district.

(c) “Cultural activities” means sports or activities which contribute to or enhance the aesthetic, artistic, historical, intellectual or social development or appreciation of members of the general public.

(d) “Cultural organizations” means nonprofit and tax exempt social, civic or community organizations and associations which are dedicated to the development, provision, operation, supervision, promotion or support of cultural activities in which members of the general public may engage or participate.

(e) “Cultural facilities” means facilities operated or used for sports or participation or engagement in cultural activities by members of the general public.

#### Article IV.—The District

(a) The counties in Kansas and Missouri eligible to create and initially compose the metropolitan culture district shall be those counties which meet one or more of the following criteria: (1) The county has a population in excess of 300,000, and is adjacent to the state line; (2) the county contains a part of a city with a population according to the most recent federal census of at least 400,000; or (3) the county is contiguous to any county described in provisions (1) or (2) of this subpart (a). The counties of Johnson in Kansas and Jackson in Missouri shall be *sine qua non* to the creation and initial composition of the district. Additional counties in Kansas and Missouri shall be eligible to become a part of the metropolitan culture district if such counties are contiguous to any one or more of the counties which compose the district and within 60 miles of the counties required by this article to establish the district.

(b) (1) Whenever the governing body of any county which is eligible to create or become a part of the metropolitan culture district shall determine that creation of or participation in the district is in the best interests of the citizens of the county and that the levy of a tax to provide on a cooperative basis with another county or other counties for financial support of the district would be economically practical and cost beneficial to the citizens of the county, the governing body may adopt by majority vote a resolution authorizing the same.

(2) Whenever a petition, signed by not less than the number of qualified electors of an eligible county equal to 5% of the number of ballots cast and counted at the last preceding gubernatorial election held in the county and requesting adoption of a resolution authorizing creation of or participation in the metropolitan culture district and the levy of a tax for the purpose of contributing to the financial support of the district, is filed with the governing body of the county, the governing body shall adopt such a resolution.

(3) Implementation of a resolution adopted under this subpart (b) shall be conditioned upon approval of the resolution by a majority of the qualified electors of the county voting at an election conducted for such purpose.

(c) (1) Upon adoption of a resolution pursuant to subpart (b)(1) or subpart (b)(2), the governing body of the county shall request, within 36 months after adoption of the resolution, the county election officer to submit to the qualified electors of the county the question of whether the governing body shall be authorized to implement the resolution. The resolution shall be printed on the ballot and in the notice of election. The question shall be submitted to the electors of the county at the primary or general election next following the



of the arts commission of Kansas or the Kansas commission for the humanities, who shall be appointed by the governor of Kansas; and (5) a member of the arts commission of Missouri or the Missouri humanities council, who shall be appointed by the governor of Missouri. To the extent possible, the gubernatorial appointees to the commission shall be residents of the district. The term of each commissioner initially appointed by a county governing body shall expire concurrently with such commissioner's tenure as a county officer or three years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner succeeding a commissioner initially appointed by a county governing body shall expire concurrently with such successor commissioner's tenure as a county officer or four years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner initially appointed by a city governing body shall expire concurrently with such commissioner's tenure as a city officer or two years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner succeeding a commissioner initially appointed by a city governing body shall expire concurrently with such successor commissioner's tenure as a city officer or four years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner appointed by the governor of Kansas or the governor of Missouri shall expire concurrently with the term of the appointing governor, the commissioner's tenure as a state officer, or four years after the date of appointment as a commissioner of the district, whichever occurs sooner. Any vacancy occurring in a commissioner position for reasons other than expiration of terms of office shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Any commissioner may be removed for cause by the appointing authority of the commissioner.

(b) The commission shall select annually, from its membership, a chairperson, a vice-chairperson, and a treasurer. The treasurer shall be bonded in such amounts as the commission may require.

(c) The commission may appoint such officers, agents and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents and employees.

(d) The commission shall fix the time and place at which its meetings shall be held. Meetings shall be held within the district and shall be open to the public. Public notice shall be given of all meetings.

(e) A majority of the commissioners from each state shall constitute, in the aggregate, a quorum for the transaction of business. No action of the commission shall be binding unless taken at a meeting at which at least a quorum is present, and unless a majority of the commissioners from each state, present at such meeting, shall vote in favor thereof. No action of the commission taken at a meeting thereof shall be binding unless the subject of such action is included in a written agenda for such meeting, the agenda and notice of meeting having been mailed to each commissioner by postage paid first-class mail at least 14 calendar days prior to the meeting.

(f) The commissioners from each state shall be subject to the provisions of the laws of the states of Kansas and Missouri, respectively, which relate to conflicts of interest of public officers and employees. If any commissioner has a direct or indirect financial interest in any cultural facility, organization or activity supported by the district or commission or in any other business transaction of the district or commission, the commissioner shall disclose such interest in writing to the other commissioners and shall abstain from voting on any matter relating to such facility, organization or activity or to such business transaction.

(g) If any action at law or equity, or other legal proceeding, shall be brought against any commissioner for any act or omission arising out of the performance of duties as a commissioner, the commissioner shall be indemnified in whole and held harmless by the commission for any judgment or decree entered against the commissioner and, further, shall be defended at the cost and expense of the commission in any such proceeding.

#### Article VI.—Powers and Duties of the Commission

(a) The commission shall adopt a seal and suitable bylaws governing its management and procedure.

(b) The commission has the power to contract and to be contracted with, and to sue and to be sued.

(c) The commission may receive for any of its purposes and functions any contributions or moneys appropriated by counties or cities and may solicit and receive any and all donations, and grants of money, equipment, supplies, materials and services from any state or the United States or any agency thereof, or from any institution, foundation, organization, person, firm or corporation, and may utilize and dispose of the same.

(d) Upon receipt of recommendations from the advisory committee provided in subsection (g), the commission may provide donations, contributions and grants or other support, financial or otherwise, for or in aid of cultural organizations, facilities or activities in counties which are part of the district. In determining whether to provide any such support the commission shall consider the following factors:

- (1) Economic impact upon the district;
- (2) cultural benefit to citizens of the district and to the general public;
- (3) contribution to the quality of life and popular image of the district;
- (4) contribution to the geographical balance of cultural facilities and activities within and outside the district;
- (5) the breadth of popular appeal within and outside the district;
- (6) the needs of the community as identified in an objective cultural needs assessment study of the metropolitan area; and
- (7) any other factor deemed appropriate by the commission.

(e) The commission may own and acquire by gift, purchase, lease or devise cultural facilities within the territory of the district. The commission may plan, construct, operate and maintain and contract for the operation and maintenance of cultural facilities within the territory of the district. The commission may sell, lease or otherwise dispose of cultural facilities within the territory of the district.

(f) At any time following five years from and after the creation of the metropolitan cultural district as provided in paragraph (1) of subsection (d) of article IV, the commission, may borrow moneys for the planning, construction, equipping, operation, maintenance, repair, extension, expansion, or improvement of any cultural facility and, in that regard, the commission at such time may:

(1) Issue notes, bonds or other instruments in writing of the commission in evidence of the sum or sums to be borrowed. No notes, bonds or other instruments in writing shall be issued pursuant to this subsection until the issuance of such notes, bonds or instruments has been submitted to and approved by a majority of the qualified electors of the district voting at an election called and held thereon. Such election shall be called and held in the manner provided by the general bond law;

(2) issue refunding notes, bonds or other instruments in writing for the purpose of refunding, extending or unifying the whole or any part of its outstanding indebtedness from time to time, whether evidenced by notes, bonds or other instruments in writing. Such refunding notes, bonds or other instruments in writing shall not exceed in amount the principal of the outstanding indebtedness to be refunded and the accrued interest thereon to the date of such refunding;

(3) provide that all notes, bonds and other instruments in writing issued hereunder shall or may be payable, both as to principal and interest, from sales tax revenues authorized under this compact and disbursed to the district by counties comprising the district, admissions and other revenues collected from the use of any cultural facility or facilities constructed hereunder, or from any other resources of the commission, and further may be secured by a mortgage or deed of trust upon any property interest of the commission; and

(4) prescribe the details of all notes, bonds or other instruments in writing, and of the issuance and sale thereof. The commission shall have the power to enter into covenants with the holders of such notes, bonds or other instruments in writing, not inconsistent with the powers granted herein, without further legislative authority.

(g) The commission shall appoint an advisory committee composed of members of the general public consisting of an equal number of persons from both the states of Kansas and Missouri who have demonstrated interest, expertise, knowledge or experience in cultural organizations or activities. *Subject to the provisions of subsection (l)*, the advisory committee shall make recommendations annually to the commission regarding donations, contributions

and grants or other support, financial or otherwise, for or in aid of cultural organizations, facilities and activities in counties which are part of the district.

(h) The commission may provide for actual and necessary expenses of commissioners and advisory committee members incurred in the performance of their official duties.

(i) The commission shall cause to be prepared annually a report on the operations and transactions conducted by the commission during the preceding year. The report shall be submitted to the legislatures and governors of the compacting states, to the governing bodies of the counties comprising the district, and to the governing body of each city that appoints a commissioner. The commission shall publish the annual report in the official county newspaper of each of the counties comprising the district.

(j) The commission has the power to apply to the congress of the United States for its consent and approval of the compact. In the absence of the consent of congress and until consent is secured, the compact is binding upon the states of Kansas and Missouri in all respects permitted by law for the two states, without the consent of congress, for the purposes enumerated and in the manner provided in the compact.

(k) The commission has the power to perform all other necessary and incidental functions and duties and to exercise all other necessary and appropriate powers not inconsistent with the constitution or laws of the United States or of either of the states of Kansas or Missouri to effectuate the same.

(l) (1) *Except as provided by this subsection, at least 45% of all moneys expended by, or authorized to be expended by the commission, in the form of donations, contributions and grants or other financial support for, or in aid of, cultural organizations, facilities and activities within the district shall be expended within each party state.*

(2) *The provisions of this subsection shall not apply to the expenditure of nonpublic moneys derived from gifts, donations, bequests or other contributions which require a specific use as a condition of the receipt thereof.*

#### Article VII.—Finance

(a) The moneys necessary to finance the operation of the metropolitan culture district and the execution of the powers, duties and responsibilities of the commission shall be appropriated to the commission by the counties comprising the district. The moneys to be appropriated to the commission shall be raised by the governing bodies of the respective counties by the levy of taxes as authorized by the legislatures of the respective party states.

(b) The commission shall not incur any indebtedness or obligation of any kind; nor shall the commission pledge the credit of either or any of the counties comprising the district or either of the states party to this compact, except as authorized by article VI. The budget of the district shall be prepared, adopted and published as provided by law for other political subdivisions of the party states. No budget shall be adopted by the commission until it has been submitted to and reviewed by the governing bodies of the counties comprising the district and the governing body of each city represented on the commission.

(c) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(d) The accounts of the commission shall be open at any reasonable time for inspection by duly authorized representatives of the compacting states, the counties comprising the district, the cities that appoint a commissioner, and other persons authorized by the commission.

#### Article VIII.—Entry into Force

(a) This compact shall enter into force and become effective and binding upon the states of Kansas and Missouri when it has been enacted into law by the legislatures of the respective states.

(b) Amendments to the compact shall become effective upon enactment by the legislatures of the respective states.

#### Article IX.—Termination

This compact shall continue in force and remain binding upon a party state until its legislature shall have enacted a statute repealing the same and providing for the sending of formal written notice of enactment of such statute to the legislature of the other party state.

Upon enactment of such a statute by the legislature of either party state, the sending of notice thereof to the other party state, and payment of any obligations which the metropolitan culture district commission may have incurred prior to the effective date of such statute, including, but not limited to, the retirement of any outstanding bonded indebtedness of the district, the agreement of the party states embodied in the compact shall be deemed fully executed, the compact shall be null and void and of no further force or effect, the metropolitan culture district shall be dissolved, and the metropolitan culture district commission shall be abolished.

Article X.—Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of either of the party states or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of either of the states party thereto, the compact shall thereby be nullified and voided and of no further force or effect.”;

And by renumbering sections accordingly;

Also on page 9, in line 21, after “12-192” by inserting “and 12-2536”;

On page 1, in the title, in line 11, after the semicolon, by inserting “relating to the distribution of revenues of the Kansas and Missouri metropolitan culture district compact;”; also in line 11, after “12-192” by inserting “and 12-2536”

The motion failed and the amendment was rejected.

The Committee recommended **SB 147** be passed as amended by adoption of the committee amendments.

**SB 238** be amended by motion of Senator O'Connor, on page 2, in line 19, by striking “shall” and inserting “may”; in line 20, by striking “shall” and inserting “may”; in line 23, by striking “shall” and inserting “may”, and **SB 238** be passed as amended.

**SB 66; Sub SB 83; SB 94, SB 110** be passed over and retain a place on the calendar.

#### FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **SB 22, SB 51, SB 63, SB 65, SB 67, SB 68, SB 70, SB 79, SB 102; Sub SB 104; SB 106, SB 115, SB 133, SB 135, SB 146, SB 147, SB 166, SB 167, SB 221, SB 223, SB 238** were advanced to Final Action and roll call.

**SB 22**, An act concerning school districts; relating to the capital outlay fund; amending K.S.A. 72-8801, 72-8804, 72-8805, 72-8808 and 72-8810 and repealing the existing sections; also repealing K.S.A. 72-8807 and 72-8809.

On roll call, the vote was: Yeas 27, Nays 13, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Buhler, Corbin, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Jordan, Kerr, Lee, Lyon, Morris, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

Nays: Brungardt, Bunten, Clark, Donovan, Emler, Harrington, Hensley, Huelskamp, Jackson, O'Connor, Pugh, Tyson, Wagle.

The bill passed, as amended.

**SB 51**, An act concerning public utilities; relating to certain employee compensation; prohibiting inclusion in rates.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**SB 63**, An act concerning state boards and commissions, renaming the law enforcement telecommunications committee; amending K.S.A. 74-5701, 74-5702, 74-5703, 74-5704 and 74-5706 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**SB 65**, An act concerning the Kansas certified capital formation company act; relating to certification of capital formation companies; tax credit revisions; amending K.S.A. 74-8222, 74-8223, 74-8225 and 74-8226 and repealing the existing sections.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Jackson, Jordan, Kerr, Lyon, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Feleciano, Hensley, Huelskamp, Lee, Pugh, Tyson.

The bill passed, as amended.

**SB 67**, An act relating to children and minors; concerning open records in the event of a child fatality; amending K.S.A. 38-1508 and K.S.A. 2002 Supp. 38-1507 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **SB 67**. This legislation honors the memory of Brian Edgar, a young boy whose life ended too soon. If we can learn from Brian's death, we should. We owe it to all children whose destiny is charted by the decisions of our state's social service agency to make certain that their safety is assured. This bill is designed to allow the public access to Brian's entire SRS file and to the child in need of care and/or adoption reports and records of any child who dies or who is seriously or critically injured as a result of child abuse or neglect, including the records and reports of SRS contractors. The accountability of our child protection system will be greatly enhanced with the enactment of this bill. If it were allowed under federal law the circumstances requiring disclosure under this bill would have been greater.—DAVID ADKINS

**SB 68**, An act relating to motor vehicles; providing for the helping schools license plate; amending K.S.A. 8-1,141 and repealing the existing section.

On roll call, the vote was: Yeas 32, Nays 7, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schodorf, Steineger, Taddiken, Tyson, Umbarger, Wagle.

Nays: Corbin, Emler, Kerr, Lee, Schmidt, Teichman, Vratil.

Present and Passing: Downey.

The bill passed, as amended.

## EXPLANATION OF VOTE

I vote “no” on **SB 68** because we have allowed the special tag program to get out of control. The proliferation of these special tags needs to be stopped or at least made rational. Therefore, I vote “no” not because I lack the inclination to support schools, but because I have said I would oppose all new specialty tags until we have a rational policy.—DAVE KERR

Senators Lee, Teichman and Vratil request the record to show they concur with the “Explanation of Vote” offered by Senator Kerr on **SB 68**.

MR. PRESIDENT: I support adequately funding public education. I oppose creating yet another type of license plate in Kansas adding to the almost 40 we already have. I believe we ought to do the former without doing the latter. Therefore, I vote no on **SB 68**.—DEREK SCHMIDT

**SB 70**, An act repealing K.S.A. 39-7,154; concerning pass-through of child support.

On roll call, the vote was: Yeas 24, Nays 16, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Gooch, Goodwin, Jackson, Jordan, Kerr, Lee, Lyon, Morris, Oleen, Schodorf, Teichman, Umbarger, Vratil, Wagle.

Nays: Barone, Brownlee, Emler, Feleciano, Gilstrap, Haley, Harrington, Hensley, Huelskamp, O'Connor, Pugh, Salmans, Schmidt, Steineger, Taddiken, Tyson.

The bill passed.

## EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 70** because the repeal on the \$40 pass-through is a \$1.1 M hit on single parent families. The agency may feel the need to recoup some of their expenses, but get from the payor, not the payee. Raising State revenues on the backs of single parent families is immoral and just plain wrong.—KAY O'CONNOR

Senators Barone, Brownlee, Feleciano and Harrington request the record to show they concur with the “Explanation of Vote” offered by Senator O'Connor on **SB 70**.

**SB 79**, An act concerning cities; relating to protest petitions; amending K.S.A. 12-751a and repealing the existing section.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Tyson, Umbarger, Wagle.

Nays: Adkins, Allen, Barone, Brownlee, Brungardt, Buhler, Haley, Teichman, Vratil.

The bill passed, as amended.

**SB 102**, An act concerning elections; relating to ballots; amending K.S.A. 25-1122f, 25-2908 and 25-3002 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**Sub SB 104**, An act relating to public utilities; concerning prior determination of rate-making principles and treatment by the corporation commission.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh,

Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The substitute bill passed.

**SB 106**, An act relating to the public health and welfare of all Kansans; identifying major health care issues and establishing objectives and priorities.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**SB 115**, An act concerning the state board of tax appeals; relating to membership thereof; amending K.S.A. 74-2433 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**SB 133**, An act concerning workers compensation; relating to compilation and publication of certain statistics and data; amending K.S.A. 2002 Supp. 44-557a and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**SB 135**, An act concerning meat and poultry; relating to inspections of livestock; amending K.S.A. 65-6a18 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**SB 146**, An act concerning income taxation; relating to dividend income; amending K.S.A. 2002 Supp. 79-32,117 and repealing the existing section.

On roll call, the vote was: Yeas 20, Nays 20, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brungardt, Buhler, Bunten, Corbin, Donovan, Downey, Emler, Goodwin, Hensley, Jackson, Kerr, Lee, Morris, Oleen, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Nays: Adkins, Allen, Barone, Brownlee, Clark, Feleciano, Gilstrap, Gooch, Haley, Harrington, Huelskamp, Jordan, Lyon, O'Connor, Pugh, Salmans, Schmidt, Steineger, Tyson, Wagle.

A constitutional majority having failed to vote in favor of the bill, **SB 146** did not pass.

## EXPLANATION OF VOTE

MR. PRESIDENT: Our President G. W. Bush has offered a promising plan to revive our nation's economy. One of the central tenets of his recovery plan is the elimination of the taxation of dividend income. This would mean more dollars in taxpayer's pockets—except in Kansas. Instead **SB 146** would cripple our president's plan in Kansas by making certain that Kansas will continue to tax what even the federal government will not. Once again, Kansas would declare herself a taxpayer-*unfriendly* state. —TIM HUELSKAMP

Senators Brownlee, Harrington, Jordan, Lyon, O'Connor, Pugh and Tyson request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on **SB 146**.

**SB 147**, An act relating to sales taxation; authorizing certain counties to impose a countywide sales tax; amending K.S.A. 12-192 and K.S.A. 2002 Supp. 12-187 and repealing the existing sections.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**SB 166**, An act concerning elections; relating to vacancies in offices; amending K.S.A. 25-318 and 25-3901 and repealing the existing sections.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Emler, Harrington, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barone, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Steineger.

The bill passed, as amended.

**SB 167**, An act relating to cities; relating to nuisance abatement; amending K.S.A. 12-1617e and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

**SB 221**, An act concerning wildlife and parks; relating to conservation stamps; amending K.S.A. 2002 Supp. 32-988 and repealing the existing section.

On roll call, the vote was: Yeas 32, Nays 8, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gooch, Goodwin, Harrington, Hensley, Jackson, Jordan, Kerr, Lee, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barnett, Barone, Feleciano, Gilstrap, Haley, Huelskamp, Lyon, Steineger.

The bill passed, as amended.

**SB 223**, An act concerning state agency purchasing procedures; relating to the reverse auctioning electronic procurement process; repealing the Kansas performance review act; amending K.S.A. 75-3711a, 75-3711b, 75-3738, 75-3740 and 76-721 and K.S.A. 2002 Supp. 75-3739 and 75-3739a and repealing the existing sections; also repealing K.S.A. 75-3711d, 75-7101, 75-7102, 75-7103, 75-7104, 75-7105 and 75-7107.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**SB 238**, An act enacting the efficiency in local government act; amending K.S.A. 12-301 and 12-3909 and K.S.A. 2002 Supp. 19-205 and repealing the existing sections.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Harrington, Huelskamp, Jackson.

The bill passed, as amended.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Thursday, February 27, 2003.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

