

# Journal of the Senate

FIFTIETH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, March 25, 2003—2:30 p.m.

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

Heavenly Father,

It's easy to take for granted  
A place we see each day.  
We have so much upon our minds  
We forget the yesterday.

This is the Kansas Capitol!  
This is a special place;  
Thousands of legislators  
At one time these halls have graced.

Statues of famous Kansans  
Are here for all to see.  
Too often we who work here  
Look, but do not see.

Gorgeous murals everywhere,  
Beautiful to behold,  
But we walk right on by them  
As if we wore blindfolds.

The majestic old green dome  
Stands high against the sky,  
But our eyes are focused straight ahead,  
We rarely look up high.

I know that we don't have the time  
To enjoy it every day,  
But help us, Lord, once in a while  
To pause and quietly pray.

And thank You for all the folks  
Who once worked within these walls,  
And we will stand enchanted  
At what history will recall.

I ask this in the Name of Jesus,

AMEN

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 272**, An act concerning medical assistance; concerning the repayment thereof; creating and imposing a lien on real property of certain recipients of medical assistance; making certain transfers of property voidable; amending K.S.A. 39-709 and repealing the existing section, by Committee on Way and Means.

**SB 273**, An act concerning the liquor control act; amending K.S.A. 41-301, 41-302 and 41-712 and K.S.A. 2002 Supp. 41-719 and repealing the existing sections, by Committee on Federal and State Affairs.

**SB 274**, An act concerning the liquor control act; amending K.S.A. 41-301 and 41-302 and K.S.A. 2002 Supp. 41-719 and repealing the existing sections, by Committee on Federal and State Affairs.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 267**.

Commerce: **SB 269**, **SB 270**.

Federal and State Affairs: **SB 271**.

Ways and Means: **SB 268**.

#### MESSAGE FROM THE GOVERNOR

March 24, 2003

*Message to the Senate of the State of Kansas:*

Enclosed herewith is Executive Order No. 2003-07 for your information.

KATHLEEN SEBELIUS  
Governor

The Vice President announced Executive Order No. 2003-07, Establishing a Kansas Employee Preference Program for the State of Kansas, is on file in the office of the Secretary of the Senate and is available for review at any time.

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2241**, **HB 2404**, **HB 2448**.

Passage of **SB 37**; **Substitute SB 204**.

Also, passage of **SB 15**, as amended, **SB 82**, as amended, **SB 134**, as amended, **SB 151**, as amended.

The House accedes to the request of the Senate for a conference on **SB 109** and has appointed Representatives Vickrey, Ostmeier and Gilbert as conferees on the part of the House.

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2241**, **HB 2404**, **HB 2448** were thereupon introduced and read by title.

#### CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Schmidt the Senate nonconcurrred in the House amendments to **SB 15** and requested a conference committee be appointed.

The Vice President appointed Senators Vratil, Allen and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Umbarger the Senate nonconcurrred in the House amendments to **SB 82** and requested a conference committee be appointed.

The Vice President appointed Senators Umbarger, Vratil and Downey as a conference committee on the part of the Senate.

On motion of Senator Brownlee the Senate nonconcurrred in the House amendments to **SB 134** and requested a conference committee be appointed.

The Vice President appointed Senators Brownlee, Jordan and Barone as a conference committee on the part of the Senate.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

**SENATE RESOLUTION No. 1833—**

A RESOLUTION congratulating and commending the Hanston High School football team and Coach Jerry Slaton for winning the 2002 Eight-man Division II State Football Championship.

WHEREAS, The Hanston High School football team won the 2002 Kansas State High School Activities Association Eight-man Division II State Football Championship with a thrilling 38-12 victory over Hope High School in the state championship game; and

WHEREAS, The Hanston High School "Elks" football team finished the season with a record of 12 wins to 0 losses with nine games being called because of the 45 point mercy rule; and

WHEREAS, The members of the team were Andy Thayer, Phillip Broz, Adam Hann, Simeon Seiler, Zach Lee, Levi Salmans, Ross Bauer, Josh Holmes, Bret Wilkens, Eric Dvorak, Ben Wilkens, Gilbert Thayer, James Granger, Seth Seiler, Chris Hahn, Paul Gilliland, Josh Hubin, Joe Dvorak, Joey Frusher, Dan Burke, Justin Lupfer, Jeremiah Meeks, Dwayne Doyle, Austin Rogers, Austin Cisneros, Cody Howe and Zack Anderson. The head coach was Jerry Slaton, the assistant coaches were Oliver Salmans and Travis Torkelson, and the managers were Chad Aistrup, Brent Pettay and Darren Rogers. Hanston teams have won five state football championships. During the past five years the team had a 60-2 record, played in the state championship game every year and won the championship three times during this time; and

WHEREAS, Coach Jerry Slaton has coached the football team for 27 seasons and has an overall win to loss record of 209-72 (74%); in addition to five state championships, his teams have won 11 Santa Fe Trail League Championships, 16 district championships, 12 bi-district championships, 8 regional championships and 7 sub-state championships; and

WHEREAS, The members of this outstanding team have received statewide recognition for their fine sportsmanship and athletic abilities; and

WHEREAS, The success of this team is due to its excellent teamwork, strong competitive spirit and determination to win plus the enthusiastic support of the school's administrators, the faculty, the students, the players' parents and many area citizens: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That the Hanston High School football team and Coach Jerry Slaton be congratulated and commended for winning the 2002 Kansas State High School Activities Association Eight-man Division II State Football Championship; and

*Be it further resolved:* That the Secretary of the Senate be directed to send five enrolled copies of this resolution to Jerry Slaton, Football Coach, Hanston High School, 203 N. West St., P.O. Box 219, Hanston, Kansas 67849-0219.

On emergency motion of Senator Salmans **SR 1833** was adopted unanimously.

**REPORTS OF STANDING COMMITTEES**

Committee on **Assessment and Taxation** recommends **HB 2205**, as amended by House Committee of the Whole, be amended on page 1, after line 34, by inserting the following:

"Section 1. K.S.A. 79-201q is hereby amended to read as follows: 79-201q. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) (1) All property owned and primarily operated as an airport by a political subdivision, including property leased by the political subdivision for purposes not essential to the operation of an airport, for all taxable years commencing before January 1, 1993.

(2) For all taxable years commencing after December 31, 1992, all property owned and primarily operated as an airport by a political subdivision, including property leased by the political subdivision for purposes essential to the operation of an airport. Payments in lieu of property taxes may be required for any or all of such years for such leased property, and such payments shall be apportioned and distributed in the same manner as general property taxes.

(b) If the term of any lease existing on April 15, 1991, of any such property for purposes not essential to the operation of an airport extends beyond tax year 1992, the expiration date of the exemption provided by subsection (a) shall be the tax year next following the tax year during which such lease expires. Payments in lieu of taxes may be required for taxable years commencing after December 31, 1992, for any such property for the duration of any such lease, and all such payments shall be apportioned and distributed in the same manner as general property taxes.

(c) Nothing in this section shall be deemed to apply to or limit the operation of K.S.A. 27-319, 27-330 or 79-201a Second, and amendments thereto.

(d) All property taxes, including any penalties and interest accrued thereon, imposed upon any property described in subsection (a) and (b) for all taxable years to which such subsections apply are hereby declared to be cancelled but any such amounts paid in any such year shall not be refunded except that with respect to Liberal municipal airport such amounts shall be refunded.

(e) *The county or district appraiser shall value the land and improvements, and the value of the land and improvements may be entered on the assessment rolls in separate entries and descriptions. The provisions of this subsection shall be applicable to all taxable years commencing after December 31, 1992.*

Sec. 2. K.S.A. 79-201s is hereby amended to read as follows: 79-201s. (a) For all taxable years commencing after December 31, 1991, all property owned and primarily operated as an airport by an airport authority established under K.S.A. 3-162 *et seq.*, and amendments thereto, including property leased by the airport authority for aviation related purposes, shall be exempt from all property or ad valorem taxes levied under the laws of this state. If the term of any lease existing on April 15, 1991, of any property for purposes not aviation related extends beyond tax year 1991, such property shall be exempt from all property or ad valorem taxes levied under the laws of this state until the tax year next following the tax year during which such lease expires.

(b) All property or ad valorem taxes, including any penalties and interest accrued thereon, imposed upon any property described by subsection (a) for all taxable years commencing prior to January 1, 1992, are hereby declared to be cancelled.

(c) *The county or district appraiser shall value the land and improvements, and the value of the land and improvements may be entered on the assessment rolls in separate entries and descriptions. The provisions of this subsection shall be applicable to all taxable years commencing after December 31, 1991.*

Sec. 3. K.S.A. 2002 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption, and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a Second, and amendments thereto, for property constructed or purchased, in whole or

in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce and housing, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of taxes for a period not to exceed three years ~~the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).~~

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time

of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x from the property tax levied pursuant to K.S.A. 72-6431, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 Ninth; and (17) from and after July 1, 1998, motor vehicles exempted from taxation by subsection (e) of K.S.A. 79-5107, and amendments thereto.

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

(n) The provisions of subsection ~~(j)~~ and (k) as amended by this act shall be applicable to all ~~taxable years commencing~~ *exemption applications filed in accordance with subsection (a) after December 31, 1995 2002.*;

And by renumbering sections accordingly;

On page 3, in line 11, after "K.S.A." by inserting "79-201q, 79-201s and"; also in line 11, by striking "is" and inserting "and K.S.A. 2002 Supp. 79-213 are";

On page 1, in the title, in line 14, before "special" by inserting "property taxation; relating to exemptions, fair market value and"; in line 15, after "K.S.A." by inserting "79-201q, 79-201s and"; also in line 15, after "79-503a" by inserting "and K.S.A. 2002 Supp. 79-213"; in line 16, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Education** recommends **HB 2231**, as amended by House Committee, be amended on page 1, by striking all in lines 14 through 43;

On page 2, by striking all in lines 1 through 4 and inserting:

"Section 1. K.S.A. 72-6407 is hereby amended to read as follows: 72-6407. (a) "Pupil" means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district. Except as otherwise provided in this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as  $\frac{1}{2}$  pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least  $\frac{5}{6}$  time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least  $\frac{5}{6}$  time, otherwise the pupil shall be counted as that proportion

of one pupil (to the nearest  $\frac{1}{10}$ ) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education and related services, except special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as  $\frac{1}{2}$  pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as  $\frac{1}{2}$  pupil. A pupil in the custody of the secretary of social and rehabilitation services and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils. A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution shall not be counted.

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(c) "At-risk pupils" means pupils who are eligible for free meals under the national school lunch act and who are enrolled in a district which maintains an approved at-risk pupil assistance plan.

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs. The state board shall select not more than ~~3,756~~ preschool-aged at-risk pupils to be counted in the ~~2001-02~~ school year and not more than 5,500 preschool-aged at-risk pupils to be counted in any school year thereafter.

(e) "Enrollment" means: (1) For districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this clause (1), the number of pupils regularly enrolled in the district on September 20; (2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or (3) the number of pupils as determined under K.S.A. 72-6447, and amendments thereto.

(f) "Adjusted enrollment" means enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, correlation weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, special education and related services weighting, and transportation weighting to enrollment.

(g) "At-risk pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of at-risk pupils.

(h) "Program weighting" means an addend component assigned to enrollment of districts on the basis of pupil attendance in educational programs which differ in cost from regular educational programs.

(i) "Low enrollment weighting" means an addend component assigned to enrollment of districts having under 1,725 enrollment on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having 1,725 or over enrollment.

(j) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities. School facilities weighting may be assigned to enrollment of a district only if the district has adopted a local option budget and budgeted therein the total amount authorized for the school year. School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

(k) "Transportation weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to the provision or furnishing of transportation.

(l) "Correlation weighting" means an addend component assigned to enrollment of districts having 1,725 or over enrollment on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts having under 1,725 enrollment.

(m) "Ancillary school facilities weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities. Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.

(n) "Juvenile detention facility" means ~~any community juvenile corrections center or facility~~; (1) *Any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which shall not be a jail;*

(2) *any level VI treatment facility licensed by the Kansas department of health and environment which is a psychiatric residential treatment facility for individuals under the age of 21 which conforms with the regulations of the centers for medicare/medicaid services and the joint commission on accreditation of health care organizations governing such facilities; and*

(3) *the Forbes Juvenile Attention Facility, the Sappa Valley Youth Ranch of Oberlin, Salvation Army/Koch Center Youth Services, the Clarence M. Kelley Youth Center, the Clarence M. Kelley Transitional Living Center, Trego County Secure Care Center, St. Francis Academy at Atchison, St. Francis Academy at Ellsworth, St. Francis Academy at Salina, St. Francis Center at Salina, King's Achievement Center, and Liberty Juvenile Services and Treatment.*

(o) "Special education and related services weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to provision of special education and related services for pupils determined to be exceptional children.

Sec. 2. K.S.A. 72-67,115 is hereby amended to read as follows: 72-67,115. (a) The board of ~~any unified~~ education of any school district may:

(1) Offer and teach courses and conduct preschool programs for children under the age ~~provided by law for enrollment in~~ of eligibility to attend kindergarten.

(2) Enter into cooperative or interlocal agreements with one or more other boards for the establishment, operation and maintenance of such preschool programs.

(3) Contract with private, nonprofit corporations or associations or with any public or private agency or institution, whether located within or outside the state, for the establishment, operation and maintenance of such preschool programs.

(4) Prescribe and collect fees for providing such preschool programs.

(b) Fees for providing preschool programs shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, op-

eration and maintenance of the preschool programs. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the school district finance and quality performance act and may be expended whether the same have been budgeted or not and amounts so expended shall not be considered operating expenses.

Sec. 3. K.S.A. 72-8801 is hereby amended to read as follows: 72-8801. (a) The board of education of any school district may make an annual tax levy at a mill rate not to exceed the statutorily prescribed mill rate for a period of not to exceed five years upon the taxable tangible property in the school district for the purposes specified in this act the purpose of providing revenue for the capital outlay fund to finance expenditures authorized by K.S.A. 72-8804, and amendments thereto, and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. No such levy shall be made under this act until a resolution is adopted by the board of education in the following form:

Unified School District No. \_\_\_\_\_,

\_\_\_\_\_ County, Kansas.

#### RESOLUTION

Be It Resolved that:

The above-named school board shall be authorized to make an annual tax levy for a period not to exceed \_\_\_\_\_ years in an amount not to exceed \_\_\_\_\_ mills upon the taxable tangible property in the school district for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing and equipping of buildings necessary for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, architectural expenses incidental thereto, the acquisition of building sites, the undertaking and maintenance of asbestos control projects, the acquisition of school buses and the acquisition of other equipment \_\_\_\_\_ and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. The tax levy authorized by this resolution may be made; unless a petition in opposition to the same, signed by not less than 10% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 40 days after the last publication of this resolution. In the event If a valid petition is filed, the county election officer shall submit the question of whether the tax levy shall be authorized to the electors in the school district at an election called for the such purpose or at the next general election, as is specified by the board of education of the above school district.

#### CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Clerk of the above board of education.

All of the blanks in the above resolution shall be appropriately filled. The blank preceding the word "years" shall be filled with a specific number, and the blank preceding the word "mills" shall be filled with a specific number, and no word shall be inserted in either of the blanks. The resolution shall be published at least once a week for two consecutive weeks in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board of education may make the tax levy specified in the resolution. If a valid petition is filed as provided in the resolution, the board of education may notify the county election officer of the date of an election to be held to submit the question of whether the tax levy shall be authorized. If the board of education fails to notify the county election officer within 60 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board of education within the nine months following the first publication of the resolution.

(b) As used in this act K.S.A. 72-8801 et seq., and amendments thereto:

(1) "Unconditionally authorized to make a capital outlay tax levy" means that the school district has adopted a resolution under this section, has published the same, and either that the resolution was not protested or that it was protested and an election has been held by which the tax levy specified in the resolution was approved;

(2) "Statutorily prescribed mill rate" means four mills or the mill rate necessary to produce the same amount of money that would have been produced by a levy of four mills in the 1988-89 school year; *The provisions of this paragraph shall be subject to K.S.A. 2002 Supp. 79-5040, and amendments thereto.*

(3) "Asbestos control project" means any activity which is necessary or incidental to the control of asbestos-containing material in buildings of school districts and includes, but not by way of limitation, any activity undertaken for the removal or encapsulation of asbestos-containing material, for any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation, for conducting inspections, re-inspections and periodic surveillance of buildings, performing response actions, and developing, implementing and updating operations and maintenance programs and management plans;

(4) "Asbestos" means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite/grunerite), anthophyllite, tremolite, and actinolite; ~~and~~.

(5) "Asbestos-containing material" means any material or product which contains more than 1% asbestos.

(6) "Utility services" means utility services provided to school facilities including, but not limited to, gas, electric, water, telephone, sewage and solid waste disposal.

(7) "Insurance" means property, fire, casualty and liability insurance.

Sec. 4. K.S.A. 72-8804 is hereby amended to read as follows: 72-8804. (a) *If the resolution adopted under K.S.A. 72-8801, and amendments thereto, so specified, any moneys in the capital outlay fund of any school district and any moneys received from issuance of bonds under K.S.A. 72-8805 or 72-8810, and amendments thereto, may be used for the purpose of:*

(1) The acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing and equipping of buildings necessary for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board of education; *and* architectural expenses incidental thereto;

(2) The acquisition of building sites;

(3) The undertaking and maintenance of asbestos control projects;

(4) The acquisition of school buses ~~and~~.

(5) *The acquisition of computers, computer software and other technology expenses.*

(6) The acquisition of other equipment.

(7) *Cost of utility services.*

(8) *Insurance premiums.*

(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.*

(c) The board of education of any school district ~~is hereby authorized to~~ *may* invest any portion of the capital outlay fund of the school district which is not currently needed in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein or may invest the same in direct obligations of the United States government maturing or redeemable at par and accrued interest within three years from date of purchase, the principal and interest whereof is guaranteed by the government of the United States. All interest received on any such investment shall ~~upon receipt thereof~~ be credited to the capital outlay fund.

Sec. 5. K.S.A. 72-8805 is hereby amended to read as follows: 72-8805. Any school district which is unconditionally authorized to make a capital outlay tax levy, in lieu of making all or part of such tax levy, may issue and sell general obligation bonds as now provided by law for the issuance of general obligation bonds for buildings necessary for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board of education of the school district, ~~except that such bonds shall be issued to mature in not more than five years and~~ except that no election shall be required.

~~In the event that~~ If bonds are issued under authority of this section, the amount of the bonds which may be issued shall be determined as follows:

(a) Subject to the provisions of subsection (b), the amount of the bonds shall not exceed the amount of the product which results from multiplying the statutorily prescribed mill rate ~~times five~~ times the assessed valuation of the taxable tangible property in the school district at the time the bonds are issued, less the sum of all amounts specified in subsections (c), (d) and (e) of this section.

(b) If the resolution adopted under K.S.A. 72-8801, and amendments thereto, specified a lesser mill rate than the statutorily prescribed mill rate ~~or a lesser number of years than five~~, the ~~respective multipliers~~ *multiplier* specified in subsection (a) of this section shall be reduced accordingly.

(c) The amount of bonds shall be reduced by all amounts which have been or will be received by the school district from any tax levy made under authority of K.S.A. 72-8801, and amendments thereto, before such bonds are issued.

(d) The amount of bonds shall be reduced by the estimated amount of interest to be paid on the bonds.

(e) The amount of bonds shall be reduced by an amount equal to the amount of unpaid principal on bonds which have theretofore been issued under this section.

Sec. 6. K.S.A. 72-8808 is hereby amended to read as follows: 72-8808. ~~Whenever an initial resolution has been adopted under K.S.A. 72-8801, and amendments thereto, and such resolution specified a lesser mill rate than the statutorily prescribed mill rate or a lesser number of years than five, the board of education of the school district may adopt a second resolution under the same procedure as is provided in K.S.A. 72-8801, and amendments thereto, for the initial resolution and subject to the same conditions and for the same purposes as provided in K.S.A. 72-8801, and amendments thereto, and shall be authorized to make such additional tax levy as is specified in such second resolution for the remainder of the five years succeeding the adoption of the initial resolution. Any such second resolution shall be limited in amount as specified in K.S.A. 72-8801, and amendments thereto, less such amount as has been authorized in the initial resolution, and not to exceed the statutorily prescribed mill rate in any one year. In the event that~~ *The board of education of any school district which has adopted a resolution under K.S.A. 72-8801, and amendments thereto, may adopt subsequent resolutions adjusting the amount of the tax levy or the duration of such levy or addressing the uses of the moneys derived from a levy made pursuant to the subsequent resolution. If the board adopts a resolution pursuant to this section, the existing resolution shall remain in force and effect until the resolution adopted pursuant to this section becomes effective. If any such resolution is so adopted and the tax levy therein specified is approved under the conditions specified in K.S.A. 72-8801, and amendments thereto, the amount of bonds which may be issued under K.S.A. 72-8805, and amendments thereto, may be increased accordingly.*

Sec. 7. K.S.A. 72-8810 is hereby amended to read as follows: 72-8810. Any school district which ~~is authorized to make a tax levy~~ *adopts a resolution* under K.S.A. 72-8809, and amendments thereto, may issue and sell general obligation bonds based upon and in lieu of making all or part of such tax levy. Any bonds issued under authority of this section shall be subject to like limitations as bonds issued under K.S.A. 72-8805, and amendments thereto, and shall be issued in the same manner.

Sec. 8. K.S.A. 72-6407, 72-6407a, 72-67,115, 72-7108a, 72-8801, 72-8804, 72-8805, 72-8807, 72-8808, 72-8809 and 72-8810 are hereby repealed.”;

By renumbering the remaining section accordingly;

Also on page 2, in line 6, by striking “statute book” and inserting “Kansas register”;

In the title, by striking all in lines 10 and 11 and inserting:

“AN ACT concerning schools and school districts; relating to the powers and duties of local boards of education; amending K.S.A. 72-6407, 72-67,115, 72-8801, 72-8804, 72-8805, 72-8808 and 72-8810 and repealing the existing section; also repealing 72-6407a, 72-7108a, 72-8807 and 72-8809.”; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HB 2310**, as amended by House Committee, be passed.

Also **SB 254** be amended on page 2, in line 4, by striking all following "of"; by striking all in line 5; in line 6, by striking all preceding "on" and inserting "K.S.A. 21-4106 or 21-4107, and amendments thereto,"; in line 40, by striking all following "of"; by striking all in line 41; in line 42, by striking all preceding "in" and inserting "K.S.A. 21-4106 or 21-4107, and amendments thereto,";

On page 3, by striking all in lines 14 and 15; preceding line 16, by inserting:

"New Sec. 3. (a) As used in this section:

(1) "Place of public assembly" means a building or structure with an occupancy capacity of 50 or more.

(2) "Pyrotechnics" mean any controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation or a combination of these effects to provide the maximum effect from the least volume for entertainment purposes.

(3) "Pyrotechnic device" means any device which contains pyrotechnic material and which is capable of producing a visual or audible effect for entertainment purposes.

(4) "Pyrotechnic material" means a chemical mixture used to produce visible or audible effects by combustion for entertainment purposes.

(b) (1) Except as provided by this section, the use of any pyrotechnics, pyrotechnic device or pyrotechnic material is prohibited in any building which is a place of public assembly.

(2) The use of pyrotechnics, pyrotechnic devices or pyrotechnic materials in violation of this section or any rules and regulations adopted pursuant to this section or any ordinance or resolution prohibiting or restricting such use shall constitute a common nuisance.

(c) The provisions of subsection (b) shall not apply to:

(1) Any building in which there has been installed an automatic sprinkler system which is adequate for suppression of a fire in the building or structure and such system is functioning properly;

(2) any building in which the interior and exterior walls and ceilings are constructed with or consist of fire-restrictive materials;

(3) religious ceremonies;

(4) candles that are securely supported on noncombustible bases and if the candle flame is protected;

(5) any other building, structure or use exempted by rules and regulations adopted by the state fire marshal.

(d) The state fire marshal shall adopt any rules and regulations necessary to implement the provisions of this section.

Sec. 4. K.S.A. 2002 Supp. 22-3901 is hereby amended to read as follows: 22-3901. The following unlawful activities and the use of real ~~and~~ or personal property in maintaining and carrying on such activities are hereby declared to be common nuisances:

(a) Commercial gambling;

(b) dealing in gambling devices;

(c) possession of gambling devices;

(d) promoting obscenity;

(e) promoting prostitution;

(f) habitually promoting prostitution;

(g) violations of any law regulating controlled substances;

(h) habitual violations of any law regulating the sale or exchange of alcoholic liquor or cereal malt beverages, by any person not licensed pursuant to chapter 41 of the Kansas Statutes Annotated;

(i) habitual violations of any law regulating the sale or exchange of cigarettes or tobacco products, by any person not licensed pursuant to article 33 of chapter 79 of the Kansas Statutes Annotated; ~~or~~

(j) any felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies or

felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, or any substantially similar offense from another jurisdiction; or

(k) *use of pyrotechnics, pyrotechnic devices or pyrotechnic materials in violation of section 3, and amendments thereto.*

Any real property used as a place where any such activities are carried on or permitted to be carried on and any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property designed for and used on such premises in connection with such unlawful activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-3904, and amendments thereto.

Sec. 5. K.S.A. 22-3902 is hereby amended to read as follows: 22-3902. (1) Unless otherwise provided by law, proceedings under K.S.A. 22-3901 through 22-3904, and amendments thereto, shall be governed by the provisions of the Kansas code of civil procedure relating to the abatement of common nuisances.

(2) (A) In addition to the procedure established by this section, if a person is arrested for an unlawful act listed in K.S.A. 22-3901, and amendments thereto, the attorney general, city, county or district attorney may petition the court for a hearing to determine whether an unlawful activity is or has been occurring on such owner's property. The owner of the property on which such person is or was committing an unlawful activity may be given notice of such hearing. *Except as provided by paragraph (B)*, a hearing shall be held before the court within 30 days of the notification. If the court determines by a preponderance of the evidence that an unlawful act occurred, such act shall render void any lease under which a tenant holds possession, and shall cause the right of possession to revert to the owner who may evict the tenant. If the owner does not commence eviction proceedings against the tenant within 30 days of the court determination, the attorney general or the city, county or district attorney may proceed to file a petition pursuant to subsection (3). The provisions of this subsection are in addition to any remedy provided pursuant to the residential landlord and tenant act.

(B) *In the case of a violation of subsection (k) of K.S.A. 22-3901, and amendments thereto, a hearing shall be held before the court within five days of the notification.*

(3) Proceedings under K.S.A. 22-3901 through 22-3904, and amendments thereto, shall be instituted only in the name of the state of Kansas upon the petition of the attorney general or the city, county or district attorney to enjoin a nuisance within the city, county or district.

(4) The petition shall describe any real estate alleged to be used or to have been used as a place where such common nuisance is or was maintained or permitted and shall identify the owner or person in charge of such real estate. It shall describe any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property designed for and used in such unlawful activity. It shall pray for the particular relief sought with respect to such property.

(5) The petition for injunction may include or be accompanied by an application for an order for the seizure of the effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property described in the petition. If the court finds that there is probable cause to believe that the personal property described is or has been used for any of the unlawful purposes set forth in K.S.A. 22-3901 and amendments thereto, the court may order the sheriff or other law enforcement officer to seize such personalty and to hold it in custody pending further order of the court. An order for seizure shall particularly describe the personal property to be seized.

(6) An order for seizure of materials alleged to be obscene shall not be issued until after a hearing at which evidence in support of the application for such order has been heard. At least three days notice of such hearing shall be given to the owner or person in possession of such material. Pending such hearing, the court may make an order prohibiting the owner or person in possession from removing such material from the jurisdiction of the court.

(7) No bond or other security shall be required for any restraining order, order for seizure or injunction issued under K.S.A. 22-3901 through 22-3904, and amendments thereto, in an action brought by the attorney general or city, county or district attorney.

(8) The provisions of K.S.A. 22-3901 through 22-3904, and amendments thereto, shall not limit nor otherwise affect proceedings under K.S.A. 60-908 and amendments thereto, but shall be supplemental and in addition to, and not in lieu of, the remedy provided by that statute.

(9) The attorney general or the city, county or district attorney shall give notice of proceedings under K.S.A. 22-3901 through 22-3904 and amendments thereto by sending a copy of the petition to enjoin a nuisance by certified mail, return receipt requested, to each person having ownership of or a security interest in the property if: (a) The property is of a type for which title, registration or deed is required by law; (b) the owner of the property is known in fact at the time of seizure; or (c) the property is subject to a security interest perfected in accordance with the uniform commercial code. The attorney general or the city, county or district attorney shall be obligated only to make diligent search and inquiry as to the owner of the property and if, after diligent search and inquiry, the attorney general or city, county or district attorney is unable to ascertain the owner, the requirement of actual notice by mail with respect to persons having perfected security interest in the property shall not be applicable.

Sec. 6. K.S.A. 22-3904 is hereby amended to read as follows: 22-3904. (1) Upon final judgment that any real property is being or has been used as a place where any of the unlawful activities set forth in K.S.A. 22-3901 and amendments thereto are carried on or permitted to be carried on, the court may order that any ~~house, building, room~~ or other structure located on such real estate be closed and padlocked for a period of not more than two years, subject to modification in the manner provided by K.S.A. 60-910 and amendments thereto, if the court finds that the owner of the property knew or should have known under the circumstances of the maintenance of a common nuisance on the property and did not make a bona fide attempt to abate such nuisance under the circumstances. The court may require, as part of the judgment, that the owner, lessee, tenant or occupant enter into a bond to the state of Kansas, in such amount and with security as the court may require, conditioned that such owner, lessee, tenant or occupant will not within a period of two years use or permit the use of such real estate in violation of law. If any condition of such bond is violated, the whole amount may be recovered as a penalty. In addition, the court may assess a civil penalty not to exceed \$25,000 against any or all defendants, based upon the severity of the nuisance and its duration. Such penalty shall be paid into the county treasury, if recovered by a county or district attorney, and into the city treasury, if recovered by a city attorney.

(2) Upon final judgment that any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property are designed for and have been used in carrying on any of the unlawful activities set forth in K.S.A. 22-3901 and amendments thereto, the court may order that such effects, equipment, paraphernalia, fixtures, appliances, musical instruments and other personal property be publicly destroyed by the sheriff or other law enforcement officer or that such personal property be sold in the manner provided for sales in execution of judgment.

(3) The proceeds of any sale of personal property pursuant to subsection (2) shall be applied as follows:

- (a) First, to the fees and costs of the *abatement or removal of the nuisance and the sale*.
- (b) Second, to the costs of closing the structure and keeping it closed.
- (c) Third, to payment of the costs of the action.
- (d) Fourth, to payment of any civil penalty imposed pursuant to this section or any fine imposed for contempt in the proceedings.
- (e) Fifth, to the owner of the personal property.

(4) Subject to the provisions of subsection (3), upon final judgment for the state the court shall adjudge that any defendant who was maintaining the common nuisance pay all costs, including a reasonable fee, fixed by the court, to be paid to the prosecuting attorney. Such costs shall be a lien upon any real property against which an order of abatement is obtained, if the court finds that the owner of such property knew or should have known

under the circumstances of the maintenance of the common nuisance on the property and did not make a bona fide attempt to abate such nuisance under the circumstances.

(5) For purposes of this section, evidence of a bona fide attempt to abate such nuisance by the owner of the property shall include, but not be limited to, the filing of a written report, by such owner or at such owner's direction, to the local law enforcement agency that the property is suspected by the owner of the property of being used in maintaining and carrying on any of the unlawful activities set forth in K.S.A. 22-3901 and amendments thereto.

Sec. 7. K.S.A. 31-133 is hereby amended to read as follows: 31-133. (a) The state fire marshal shall adopt reasonable rules and regulations, consistent with the provisions of this act, for the safeguarding of life and property from fire, explosion and hazardous materials. Such rules and regulations shall include, but not be limited to the following:

(1) The keeping, storage, use, sale, handling, transportation or other disposition of highly flammable materials, including crude petroleum or any of its products, natural gas for use in motor vehicles, and of explosives, including gunpowder, dynamite, fireworks and fire-crackers; and any such rules and regulations may prescribe the materials and construction of receptacles and buildings to be used for any of such purposes;

(2) the transportation of liquid fuel over public highways in order to provide for the public safety in connection therewith;

(3) the construction, maintenance and regulation of exits and fire escapes from buildings and all other places in which people work, live or congregate from time to time for any purpose, including apartment houses, as defined by K.S.A. 31-132a, and amendments thereto. Such rules and regulations shall not apply to buildings used wholly as dwelling houses containing no more than two families;

(4) the installation and maintenance of equipment intended for fire control, detection and extinguishment in all buildings and other places in which persons work, live or congregate from time to time for any purpose, including apartment houses as defined by K.S.A. 31-132a, and amendments thereto. Such rules and regulations shall not apply to buildings used wholly as dwelling houses containing no more than two families;

(5) requiring administrators of public and private schools and educational institutions, except community colleges, colleges and universities, to conduct at least one fire drill each month at some time during school hours, aside from the regular dismissal at the close of the day's session, and prescribing the manner in which such fire drill is to be conducted;

(6) procedures for the reporting of fires and explosions occurring within the state and for the investigation thereof;

(7) procedures for reporting by health care providers of treatment of second and third degree burn wounds involving 20% or more of the victim's body and requiring hospitalization of the victim, which reporting is hereby authorized notwithstanding any provision of K.S.A. 60-427, and amendments thereto, to the contrary;

(8) requiring administrators of public and private schools and educational institutions, except community colleges, colleges and universities, to establish tornado procedures, which procedures shall provide for at least three tornado drills to be conducted each year at some time during school hours, aside from the regular dismissal at the close of the day's session, shall describe the manner in which such tornado drills are to be conducted, and shall be subject to approval by the state fire marshal;

(9) requiring administrators of community colleges, colleges and universities to establish tornado procedures, which procedures shall be subject to approval by the director of the disaster agency of the county;

(10) the development and implementation of a statewide system of hazardous materials assessment and response; ~~and~~

(11) *the use of pyrotechnics, pyrotechnic devices and pyrotechnic materials; and*

~~(11)~~ (12) other safeguards, protective measures or means adapted to render inherently safe from the hazards of fire or the loss of life by fire any building or other place in which people work, live or congregate from time to time for any purpose, except buildings used wholly as dwelling houses containing no more than two families.

(b) Any rules and regulations of the state fire marshal adopted pursuant to this section may incorporate by reference specific editions, or portions thereof, of nationally recognized fire prevention codes.

(c) The rules and regulations adopted pursuant to this section shall allow facilities in service prior to the effective date of such rules and regulations, and not in strict conformity therewith, to continue in service, so long as such facilities are not determined by the state fire marshal to constitute a distinct hazard to life or property. Any such determination shall be subject to the appeal provisions contained in K.S.A. 31-140, and amendments thereto.

New Sec. 8. Notice of a conviction of a violation of K.S.A. 21-4106 or 21-4107, and amendments thereto, for maintaining or permitting a public nuisance on the premises of a club or drinking establishment licensed under the club and establishment act shall be given to the director of the division of alcoholic beverage control. In the case of a retailer licensed under K.S.A. 41-2701 *et seq.*, and amendments thereto, such notice shall be given to the governing body of the city or county which issued the license to the retailer.

Sec. 9. K.S.A. 22-3902, 22-3904, 31-133 and 41-2611 and K.S.A. 2002 Supp. 22-3901 and 41-2708 are hereby repealed.”;

In the title, in line 9, by striking all following “concerning”; in line 10, by striking all preceding the semicolon, by inserting “the use of pyrotechnics, pyrotechnic devices and pyrotechnic materials; concerning penalties for the unlawful use thereof; concerning the powers and duties of the state fire marshal”; also in line 10, following “K.S.A.”, by inserting “22-3902, 22-3904, 31-133 and”; in line 11, after “Supp.” by inserting “22-3901 and”; and the bill be passed as amended.

**HB 2101**, as amended by House Committee, be amended on page 1, in line 34, by striking “Any” and inserting “Except as provided by this section, any”;

On page 2, in line 10, by striking “and”; preceding line 11, by inserting:

“(4) the application for renewal shall be accompanied by proof, satisfactory to the attorney general, that the applicant has complied with the continuing education requirement of subsection (b); and”;

Also on page 2, in line 11, by striking “(4)” and inserting “(5)”; preceding line 13, by inserting:

“(b) An individual licensee, as a condition of license renewal, shall be required to attend not less than 24 hours of continuing education programs approved by the attorney general. The attorney general shall adopt rules and regulations establishing requirements for such programs. In establishing such requirements the attorney general may consider existing programs of continuing education being offered by professional associations of private detectives, private detective agencies or private patrol operators. The attorney general may enter into contracts for the administration of the provisions of this subsection.”;

Also on page 2, in line 13, by striking “(b)” and inserting “(c)”; following line 13, by inserting:

“Sec. 3. K.S.A. 2002 Supp. 75-7b13 is hereby amended to read as follows: 75-7b13. (a) The attorney general may censure, limit, condition, suspend or revoke a license issued under this act if, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the attorney general determines that the licensee or, if the licensee is an organization, any of its officers, directors, partners or associates has:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) violated any provisions of this act;

(3) violated any rules and regulations of the attorney general adopted pursuant to the authority contained in this act;

(4) been convicted of a felony, vehicular homicide, assault, battery, assault of a law enforcement officer, misdemeanor battery against a law enforcement officer, criminal restraint, sexual battery, endangering a child, intimidation of a witness or victim or any crime involving moral turpitude or illegally using, carrying, or possessing a dangerous weapon subsequent to the issuance of the license;

(5) impersonated, or permitted or aided and abetted an employee to impersonate, a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof;

(6) committed or permitted any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(7) willfully failed or refused to render to a client services or a report as agreed between the parties, and for which compensation has been paid or tendered in accordance with the agreement of the parties;

(8) committed assault, battery or kidnapping or used force or violence on any person without proper justification;

(9) knowingly violated or advised, encouraged or assisted the violation of, any court order or injunction in the course of business as a licensee;

(10) acted as a runner or capper for any attorney;

(11) used any letterhead, advertisement or other printed matter, or in any manner whatever represented that such person is an instrumentality of the federal government, a state or any political subdivision thereof;

(12) used false, misleading or deceptive information in any advertisement, solicitation or contract for business;

(13) has committed any act in the course of the licensee's business constituting dishonesty or fraud;

(14) *failed to obtain continuing education as required by this act;*

(15) misused a firearm permit badge; or

~~(15)~~ (16) committed any act which is a ground for denial of an application for a license under this act.

(b) The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction as that term is used in this section or in K.S.A. 75-7b04, and amendments thereto, and a plea or verdict of guilty or a conviction following a plea of *nolo contendere* is deemed to be a conviction within the meaning thereof.

(c) Upon final disposition of the proceedings for a violation relating to the misuse of a firearm permit badge, the attorney general may bring an action for violation of K.S.A. 21-3824 or ~~K.S.A.~~ 21-3825, and amendments thereto.”;

By renumbering sections accordingly;

On page 5, in line 40, following “75-7b07,” by inserting “75-7b13,”;

In the title, in line 14, following “75-7b07,” by inserting “75-7b13,”; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2132** be passed.

Also **HB 2125**, as amended by House Committee, be amended on page 1, in line 17, by striking all after “Section 1.”; by striking all in lines 18 through 43;

On page 2, by striking all in lines 1 through 13; in line 14, by striking “(c) (1)” and inserting “(a)”;

in line 22, by striking “one” and inserting “both”; also in line 22, by striking “has” and inserting “have”; following line 41, by inserting:

(b) Upon completion of the pilot project, the office of judicial administration shall make a report to the legislature.”;

Also on page 2, in line 42, by striking “(2)” and inserting “(c)”;

also in line 42, by striking “subsection” and inserting “section”; by striking all of line 43; by renumbering section “4.” as section “2.”;

On page 1, in the title, in line 12, by striking “foster parents” and inserting “certain parties”;

in line 13, by striking all after “proceedings”;

in line 14, by striking all before the period; and the bill be passed as amended.

**HB 2271**, as amended by House Committee, be amended on page 4, by striking all in lines 14 through 31;

By renumbering the remaining sections accordingly;

Also on page 4, in line 32, by striking “and 21-3720”;

On page 1, in the title, in line 11, by striking “and 21-3720”; and the bill be passed as amended.

**HB 2297**, as amended by House Committee, be amended on page 1, in line 16, by striking all after “60-739.”;

by striking all in lines 17 through 32 and inserting the following:

“(a) The court shall direct the garnishee to pay to the court such amount that the garnishee is holding, as indicated by the answer, or such lesser amount as warranted, if:

(1) The garnishment has attached to property other than earnings of the judgment debtor;

(2) ten days have passed since receipt of the answer of the garnishee by the court; and

(3) no reply to the answer has been filed.

(b) The court shall promptly refund to the judgment debtor any overpayment of the claim. The garnishee may release the funds, credits or indebtedness that have been attached pursuant to the order of garnishment if no order to pay the court has been received within 60 days following the garnishee's receipt of the order of garnishment.”;

Also on page 1, in line 34, by striking all after “61-3512.”; by striking all in lines 35 through 43;

On page 2, by striking all in lines 1 through 7 and inserting the following: “(a) The court shall direct the garnishee to pay to the court such amount that the garnishee is holding, as indicated by the answer, or such lesser amount as warranted, if:

(1) The garnishment has attached to property other than earnings of the judgment debtor;

(2) ten days have passed since receipt of the answer of the garnishee by the court; and

(3) no reply to the answer has been filed.

(b) The court shall promptly refund to the judgment debtor any overpayment of the claim. The garnishee may release the funds, credits or indebtedness that have been attached pursuant to the order of garnishment if no order to pay the court has been received within 60 days following the garnishee's receipt of the order of garnishment.”; and the bill be passed as amended.

Committee on **Natural Resources** recommends **Substitute for HB 2219** be amended by substituting a new bill to be designated as “SENATE Substitute for Substitute for HOUSE BILL No. 2219,” as follows:

“SENATE Substitute for Substitute for HOUSE BILL No. 2219

By Committee on Natural Resources

“AN ACT concerning classified stream segments; relating to recreational use; amending K.S.A. 2002 Supp. 82a-2001 and repealing the existing section.”;

and the substitute bill be passed.

Committee on **Public Health and Welfare** recommends **HB 2176**, as amended by House Committee, be amended on page 1, in line 25, by striking all after “which”; in line 26, by striking all before the period and inserting “surgical abortions are performed”;

On page 2, in line 43, by striking all after “(4)”;

On page 3, in line 1, by striking all before the period and inserting “Another individual is present in the room during a pelvic examination or during the abortion procedure and if the physician is male then the other individual shall be female”; in line 26, before the period, by inserting “as indicated”;

On page 4, in line 31, by striking all after “physician”; in line 32, by striking “state remains” and inserting “or a nurse who is advanced cardiovascular life support trained shall remain”; in line 33, by striking all before the last “and” and inserting “discharged”; in line 35, after “physician” by inserting “or nurse”; also in line 35, by striking “sign the discharge order and”;

On page 6, in line 29, after “(m)” by inserting “(1) No person shall operate an abortion clinic in this state unless such clinic holds a currently valid license as an abortion clinic under this act.”; after line 36, by inserting the following:

“(2) The department shall deny, suspend or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this act and rules and regulations adopted pursuant thereto, a failure to report any information required to be reported under subsections (i) and (j) or a failure to maintain a risk management program as required under subsection (j), after notice and an opportunity for hearing to the applicant or licensee in accordance with the provisions of the Kansas administrative procedure act.”;

Also on page 6, in line 39, after the period, by inserting “The secretary periodically shall review and update current practice and technology standards under this act and based on current practice or technology adopt by rules and regulations alternative practice or technology standards found by the secretary to be as effective as those enumerated in this act.”;

On page 7, in line 1, by striking all after “(p)”; by striking all in line 2; in line 3, by striking all before “In”; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2150**, as amended by House Committee, be amended on page 1, in line 26, by striking “counties not operating under the county”; in line 27, by striking all preceding the comma and inserting “Douglas, Shawnee and Sedgwick counties”; in line 43, preceding “In” by inserting “(a)”; and the bill be passed as amended.

On page 2, in line 2, by striking all after the period; by striking all of lines 3 and 4; in line 5, by striking all before “The”; following line 15, by inserting:

“(b) In townships located in Douglas, Shawnee and Sedgwick counties, the township board shall place and maintain traffic-control devices and guidance, warning and regulatory signs on all township roads as provided by K.S.A. 8-2005, and amendments thereto.”; and the bill be passed as amended.

Also **HB 2160** be amended on page 1, following line 12, by inserting the following:

“New Section 1. Contract motor carriers transporting household goods or passengers holding permits issued by the commission under the former authority of K.S.A. 66-1,112a, 66-1,112b or 66-1,112c, and amendments thereto, shall now be considered as holding certificates of convenience and necessity to transport such household goods and passengers as originally granted to that motor carrier by the commission. Contract motor carriers transporting property other than household goods or transporting passengers and holding permits issued by the commission under the former authority of K.S.A. 66-1,112a, 66-1,112b or 66-1,112c, and amendments thereto, shall now be considered as holding certificates of public service to transport such property other than household goods or transporting passengers as originally granted to that motor carrier by the commission. Contract motor carriers with rates and tariffs on file with the commission under the authority of K.S.A. 66-1,112 and 66-1,112f, and amendments thereto, shall be considered public motor carriers with the same rates and tariffs on file with the commission.

New Sec. 2. The state corporation commission is hereby authorized, in cooperation with the secretary of transportation, to adopt and enforce such rules and regulations as may be necessary to regulate the safety of railroad grade crossings on Kansas city, county, township and state roads, to the extent not preempted by federal law.

Sec. 3. K.S.A. 8-142 is hereby amended to read as follows: 8-142. It shall be unlawful for any person to commit any of the following acts and except as otherwise provided, violation is subject to penalties provided in K.S.A. 8-149, and amendments thereto:

*First:* To operate, or for the owner thereof knowingly to permit the operation, upon a highway of any vehicle, as defined in K.S.A. 8-126, and amendments thereto, which is not registered, or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the division for the current registration year, including any registration decal required to be affixed to any such license plate pursuant to K.S.A. 8-134, and amendments thereto, subject to the exemptions allowed in K.S.A. 8-135, 8-198 and 8-1751a, and amendments thereto.

*Second:* To display or cause or permit to be displayed, or to have in possession, any registration receipt, certificate of title, registration license plate, registration decal, accessible parking placard or accessible parking identification card knowing the same to be fictitious or to have been canceled, revoked, suspended or altered. A violation of this part *Second* shall constitute an unclassified misdemeanor punishable by a fine of not less than \$100 and forfeiture of the item. A mandatory court appearance shall be required of any person violating this part *Second*. This part *Second* shall not apply to the possession of: (a) Model year license plates displayed on antique vehicles as allowed under K.S.A. 8-172, and amendments thereto; or (b) distinctive license plates allowed under K.S.A. 8-1,147, and amendments thereto.

*Third:* To lend to or knowingly permit the use by one not entitled thereto any registration receipt, certificate of title, registration license plate or registration decal issued to the person so lending or permitting the use thereof.

*Fourth:* To fail or refuse to surrender to the division, upon demand, any registration receipt, certificate of title, registration license plate or registration decal which has been suspended, canceled or revoked.

*Fifth:* To use a false or fictitious name or address in any application for a certificate of title, the registration of any vehicle or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application.

*Sixth:* For the owner of a motor vehicle to file application for the registration thereof, in any county other than the county in which the owner of the vehicle resides or has a bona fide place of business, which place is not an office or facility established or maintained solely for the purpose of obtaining registration.

*Seventh:* To operate on the highways of this state a vehicle or combination of vehicles whose weight with cargo is in excess of the gross weight for which the truck or truck tractor propelling the same is registered, except as provided by K.S.A. 8-143, and amendments thereto, and subsections (a) to (f), inclusive, of K.S.A. 8-1911, and amendments thereto. Such gross weight shall not be required to be in excess of the limitations described by K.S.A. 8-1908 and 8-1909, and amendments thereto, for such vehicle or combination of vehicles of which it is a part. Any person or owner who operates a vehicle in this state with a registration in violation of subsection (2) of K.S.A. 8-143, and amendments thereto, shall be required to pay the additional fee equal to the fee required by the applicable registration fee schedule, less the amount of the fee required for the gross weight for which the vehicle is registered to obtain the proper registration therewith. A fine of \$75 shall be assessed for all such gross weight registration violations.

*Eighth:* To operate a local truck or truck tractor which is registered for a gross weight of more than 12,000 pounds as a common ~~or contract~~ carrier outside a radius of three miles beyond the corporate limits of the city in which such vehicle was based when registered and licensed or to operate any other local truck or truck tractor licensed for a gross weight of more than 12,000 pounds outside a radius of 25 miles beyond the corporate limits of the city in which such vehicle was based when registered and licensed, except as provided in subsection (2) of K.S.A. 8-143 or 8-143i, and amendments thereto.

*Ninth:* To operate on the highways of this state a farm truck or farm trailer other than to transport: (a) Agricultural products produced by such owner; (b) commodities purchased by the owner for use on the farm owned or rented by the owner of such vehicles; (c) commodities for religious or educational institutions being transported by the owner of such vehicles for charity and without compensation of any kind, except as provided in subsection (c) of K.S.A. 66-1,109, and amendments thereto; or (d) sand, gravel, slag stone, limestone, crushed stone, cinders, black top, dirt or fill material to a township road maintenance or construction site of the township in which the owner of such truck resides.

*Tenth:* To operate a farm truck or truck tractor used in combination with a trailer or semitrailer for a gross weight which does not include the empty weight of the truck or truck tractor or of the combination of any truck or truck tractor and any type of trailer or semitrailer, plus the maximum weight of cargo which will be transported on or with the same; and such farm truck or farm truck tractor used to transport a gross weight of more than 54,000 pounds shall have durably lettered on the side of the motor vehicle the words "farm vehicle—not for hire."

*Eleventh:* To operate on the highways of this state any truck or truck tractor without the current quarter of license fees being paid thereon.

*Twelfth:* To operate on the highways of this state a truck or truck tractor without carrying in the cab a copy of the registration receipt for such vehicle or without having painted or otherwise durably marked on said vehicle on both sides thereof, the gross weight for which said vehicle is licensed and the name and address of the owner thereof, except as provided in K.S.A. 8-143e, and amendments thereto.

*Thirteenth:* To operate on the highways of this state a farm trailer carrying more than 6,000 pounds without being registered and the registration fees paid thereon.

*Fourteenth:* To operate more than 6,000 miles in any calendar year any truck or truck tractor which has been registered and licensed to operate not more than 6,000 miles in such calendar year, as provided in subsection (2) of K.S.A. 8-143, and amendments thereto, unless the additional fee required by said subsection (2) has been paid.

*Fifteenth:* For any owner who has registered a truck or truck tractor on the basis of operating not more than 6,000 miles to fail to keep the records required by the director of

vehicles, or to fail to comply with rules and regulations of the secretary of revenue relating to such registration.

*Sixteenth:* To operate a vehicle or combination of vehicles on the national system of interstate and defense highways with a gross weight greater than permitted by the laws of the United States Congress.

Sec. 4. K.S.A. 2002 Supp. 8-2,127 is hereby amended to read as follows: 8-2,127. Vehicles that are exempt from this act include:

- (a) Farm vehicles, defined as follows:
  - (1) Registered as a farm truck or truck tractor under K.S.A. 8-143, and amendments thereto;
  - (2) used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm;
  - (3) not used in the operations of a common ~~or contract~~ motor carrier; and
  - (4) used within 150 air miles of any farm or farms owned or leased by the registered owner of such farm vehicle;
- (b) vehicles operated by firefighters and other persons which are necessary to the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals and are not subject to normal traffic regulation. These vehicles include fire trucks, hook and ladder trucks, foam or water transport trucks, police SWAT team vehicles, ambulances or other vehicles that are used in response to emergencies;
- (c) military vehicles which are operated by military personnel in pursuit of military purposes and all noncivilian operators of equipment owned or operated by the United States department of defense. This applies to any active duty military personnel and members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians, civilians who are required to wear military uniforms and are subject to the code of military justice; and
- (d) motor vehicles, which would otherwise be considered commercial motor vehicles, if such vehicles are used solely and exclusively for private noncommercial use and any operator of such vehicles.

Sec. 5. K.S.A. 8-2107 is hereby amended to read as follows: 8-2107. (a) (1) Notwithstanding any other provisions of the uniform act regulating traffic on highways, when a person is stopped by a police officer for any of the offenses described in subsection (d) and such person is not immediately taken before a judge of the district court, the police officer may require the person stopped, subject to the provisions of subsection (c), to deposit with the officer a valid Kansas driver's license in exchange for a receipt therefor issued by such police officer, the form of which shall be approved by the division of vehicles. Such receipt shall be recognized as a valid temporary Kansas driver's license authorizing the operation of a motor vehicle by the person stopped until the date of the hearing stated on the receipt. The driver's license and a written copy of the notice to appear shall be delivered by the police officer to the court having jurisdiction of the offense charged as soon as reasonably possible. If the hearing on such charge is continued for any reason, the judge may note on the receipt the date to which such hearing has been continued and such receipt shall be recognized as a valid temporary Kansas driver's license until such date, but in no event shall such receipt be recognized as a valid Kansas driver's license for a period longer than 30 days from the date set for the original hearing. Any person who has deposited a driver's license with a police officer under this subsection (a) shall have such license returned upon final determination of the charge against such person.

(2) In the event the person stopped deposits a valid Kansas driver's license with the police officer and fails to appear in the district court on the date set for appearance, or any continuance thereof, and in any event within 30 days from the date set for the original hearing, the court shall forward such person's driver's license to the division of vehicles with an appropriate explanation attached thereto. Upon receipt of such person's driver's license, the division shall suspend such person's privilege to operate a motor vehicle in this state until such person appears before the court having jurisdiction of the offense charged, the court makes a final disposition thereof and notice of such disposition is given by the court

to the division. No new or replacement license shall be issued to any such person until such notice of disposition has been received by the division. The provisions of K.S.A. 8-256, and amendments thereto, limiting the suspension of a license to one year, shall not apply to suspensions for failure to appear as provided in this subsection (a).

(b) No person shall apply for a replacement or new driver's license prior to the return of such person's original license which has been deposited in lieu of bond under this section. Violation of this subsection (b) is a class C misdemeanor. The division may suspend such person's driver's license for a period of not to exceed one year from the date the division receives notice of the disposition of the person's charge as provided in subsection (a).

(c) (1) In lieu of depositing a valid Kansas driver's license with the stopping police officer as provided in subsection (a), the person stopped may elect to give bond in the amount specified in subsection (d) for the offense for which the person was stopped. When such person does not have a valid Kansas driver's license, such person shall give such bond. Such bond shall be subject to forfeiture if the person stopped does not appear at the court and at the time specified in the written notice provided for in K.S.A. 8-2106, and amendments thereto.

(2) Such bond may be a cash bond, a bank card draft from any valid and unexpired credit card approved by the division of vehicles or superintendent of the Kansas highway patrol or a guaranteed arrest bond certificate issued by either a surety company authorized to transact such business in this state or an automobile club authorized to transact business in this state by the commissioner of insurance. If any of the approved bank card issuers redeem the bank card draft at a discounted rate, such discount shall be charged against the amount designated as the fine for the offense. If such bond is not forfeited, the amount of the bond less the discount rate shall be reimbursed to the person providing the bond by the use of a bank card draft. Any such guaranteed arrest bond certificate shall be signed by the person to whom it is issued and shall contain a printed statement that such surety company or automobile club guarantees the appearance of such person and will, in the event of failure of such person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person not to exceed an amount to be stated on such certificate.

(3) Such cash bond shall be taken in the following manner: The police officer shall furnish the person stopped a stamped envelope addressed to the judge or clerk of the court named in the written notice to appear and the person shall place in such envelope the amount of the bond, and in the presence of the police officer shall deposit the same in the United States mail. After such cash payment, the person stopped need not sign the written notice to appear, but the police officer shall note the amount of the bond mailed on the notice to appear form and shall give a copy of such form to the person. If the person stopped furnishes the police officer with a guaranteed arrest bond certificate or bank card draft, the police officer shall give such person a receipt therefor and shall note the amount of the bond on the notice to appear form and give a copy of such form to the person stopped. Such person need not sign the written notice to appear, and the police officer shall present the notice to appear and the guaranteed arrest bond certificate or bank card draft to the court having jurisdiction of the offense charged as soon as reasonably possible.

(d) The offenses for which appearance bonds may be required as provided in subsection (c) and the amounts thereof shall be as follows:

On and after July 1, 1996:	
Reckless driving.....	\$82
Driving when privilege is canceled, suspended or revoked.....	82
Failure to comply with lawful order of officer.....	57
Registration violation (registered for 12,000 pounds or less).....	52
Registration violation (registered for more than 12,000 pounds).....	92
No driver's license for the class of vehicle operated or violation of	
restrictions.....	52
Spilling load on highway.....	52

## Overload:

Gross weight of vehicle or combination of vehicles .....	an amount equal to the fine plus docket fee to be imposed if convicted	
Gross weight upon any axle or tandem, triple or quad axles .....	an amount equal to the fine plus docket fee to be imposed if convicted	
Failure to obtain proper registration, clearance or to have current certification as required by K.S.A. 66-1324, and amendments thereto ....		272
Insufficient liability insurance for motor carriers pursuant to K.S.A. 66-1,128 or 66-1314, and amendments thereto .....		122
Failure to obtain interstate motor fuel tax authorization pursuant to K.S.A. 79-34,122, and amendments thereto .....		122
Improper equipment (glass or fire extinguishers) .....		52
No authority as private <del>contract</del> or common carrier .....		122
No current driver's daily log .....		52
Invalid or no physical examination card .....		52
Transporting open container of alcoholic liquor or cereal malt beverage accessible while vehicle in motion .....		223

(e) In the event of forfeiture of any bond under this section, \$54 of the amount forfeited shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(f) None of the provisions of this section shall be construed to conflict with the provisions of the nonresident violator compact.

(g) When a person is stopped by a police officer for any traffic infraction and the person is a resident of a state which is not a member of the nonresident violator compact, K.S.A. 8-1219 *et seq.*, and amendments thereto, or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount specified in the uniform fine schedule in subsection (c) of K.S.A. 8-2118, and amendments thereto, plus \$54 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(h) When a person is stopped by a police officer for failure to provide proof of financial security pursuant to K.S.A. 40-3104, and amendments thereto, and the person is a resident of another state or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount of \$54, plus \$54 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

Sec. 6. K.S.A. 32-1009 is hereby amended to read as follows: 32-1009. Except as provided in rules and regulations adopted pursuant to K.S.A. 32-963, *and amendments thereto*, it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale or ship nongame species deemed by the secretary to be in need of conservation pursuant to K.S.A. 32-959, *and amendments thereto*. Subject to the same exception, it shall further be unlawful for any common ~~or contract~~ carrier knowingly to transport or receive for shipment nongame species deemed by the secretary to be in need of conservation pursuant to K.S.A. 32-959, *and amendments thereto*.

Sec. 7. K.S.A. 44-503c is hereby amended to read as follows: 44-503c. (a) (1) Any individual who is an owner-operator and the exclusive driver of a motor vehicle that is leased or contracted to a licensed motor carrier shall not be considered to be a contractor or an employee of the licensed motor carrier within the meaning of K.S.A. 44-503, and amendments thereto, or an employee of the licensed motor carrier within the meaning of subsection (b) of K.S.A. 44-508, and amendments thereto, and the licensed motor carrier shall not be considered to be a principal within the meaning of K.S.A. 44-503, and amendments thereto, or an employer of the owner-operator within the meaning of subsection (a) of K.S.A.

44-508, and amendments thereto, if the owner-operator is covered by an occupational accident insurance policy and is not treated under the terms of the lease agreement or contract with the licensed motor carrier as an employee for purposes of the federal insurance contribution act, 26 U.S.C. § 3101 *et seq.*, the federal social security act, 42 U.S.C. § 301 *et seq.*, the federal unemployment tax act, 26 U.S.C. § 3301 *et seq.*, and the federal statutes prescribing income tax withholding at the source, 26 U.S.C. § 3401 *et seq.*

(2) As used in this subsection:

(A) "Motor vehicle" means any automobile, truck-trailer, semitrailer, tractor, motor bus or any other self-propelled or motor-driven vehicle used upon any of the public highways of Kansas for the purpose of transporting persons or property;

(B) "licensed motor carrier" means any person, firm, corporation or other business entity that holds a certificate of convenience and necessity, a certificate of public service, a ~~contract carrier permit~~, or an interstate license as a common, ~~contract~~ or exempt carrier from the state corporation commission or is required to register motor carrier equipment pursuant to 49 U.S.C. § 11506; and

(C) "owner-operator" means an individual who is the owner of a single motor vehicle that is driven exclusively by the owner under a lease agreement or contract with a licensed motor carrier.

(b) Notwithstanding any other provision of this act, a licensed motor carrier may by lease agreement or contract secure workers compensation insurance for an owner-operator, otherwise subject to the act by statute or election, and may charge-back to the owner-operator the premium for such workers compensation insurance, and by doing so does not create an employer-employee relationship between the licensed motor carrier and the owner-operator, or subject the licensed motor carrier to liability under subsection (d)(1) of K.S.A. 44-5,120 and amendments thereto.

(c) For purposes of subsection (b) of this section only, "owner-operator" means a person, firm, corporation or other business entity that is the owner of one or more motor vehicles that are driven exclusively by the owner or the owner's employees or agents under a lease agreement or contract with a licensed motor carrier; provided that neither the owner-operator nor the owner's employees are treated under the term of the lease agreement or contract with the licensed motor carrier as an employee for purposes of the federal insurance contribution act, 26 U.S.C. § 3101 *et seq.*, the federal social security act, 42 U.S.C. § 301 *et seq.*, the federal unemployment tax act, 26 U.S.C. § 3301 *et seq.*, and the federal statutes prescribing income tax withholding at the source, 26 U.S.C. § 3401 *et seq.*

Sec. 8. K.S.A. 60-305a is hereby amended to read as follows: 60-305a. Every individual, partnership, association or corporation engaged in the business of transportation as a common carrier ~~or contract carrier~~, which is subject to regulation by the state corporation commission, doing business in this state shall designate some person residing in this state on whom all process and notices issued by any court of record may be served. In every case such individual, partnership, company or corporation shall file a certificate of the appointment and designation of such person in the office of the state corporation commission or as required pursuant to 49 U.S.C. 11506. The service of the process upon the person so designated, in any civil action, shall be deemed and held to be as effectual and complete as if service of such process were made upon the president or other chief officer of such individual, partnership, company or corporation. Any individual, partnership, company or corporation may revoke the appointment and designation of such person upon whom process may be served, by appointing any other person qualified as above specified and filing a certificate of such appointment. Every second or subsequent appointment shall also designate the person whose place is filled by such appointment. If any such individual, partnership, company or corporation fails to designate and appoint such person, as required by this section, such process may be served in any county as provided by provisions of article 3 of chapter 60 of Kansas Statutes Annotated, and amendments thereto.

Sec. 9. K.S.A. 65-1626 is hereby amended to read as follows: 65-1626. For the purposes of this act:

(a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(1) A practitioner or pursuant to the lawful direction of a practitioner;

(2) the patient or research subject at the direction and in the presence of the practitioner; or

(3) a pharmacist as authorized in K.S.A. 65-1635a and amendments thereto.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser but shall not include a common ~~or contract~~ carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

(c) "Board" means the state board of pharmacy created by K.S.A. 74-1603 and amendments thereto.

(d) "Brand exchange" means the dispensing of a different drug product of the same dosage form and strength and of the same generic name than the brand name drug product prescribed.

(e) "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

(f) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of any drug whether or not an agency relationship exists.

(g) "Direct supervision" means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

(h) "Dispense" means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner.

(i) "Dispenser" means a practitioner or pharmacist who dispenses prescription medication.

(j) "Distribute" means to deliver, other than by administering or dispensing, any drug.

(k) "Distributor" means a person who distributes a drug.

(l) "Drug" means: (1) Articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official national formulary, or any supplement of any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clause (1), (2) or (3) of this subsection; but does not include devices or their components, parts or accessories, except that the term "drug" shall not include amygdalin (laetrile) or any livestock remedy, if such livestock remedy had been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated prior to its repeal.

(m) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(n) "Generic name" means the established chemical name or official name of a drug or drug product.

(o) (1) "Institutional drug room" means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and which is maintained or operated for the purpose of providing the drug needs of:

(A) Inmates of a jail or correctional institution or facility;

(B) residents of a juvenile detention facility, as defined by the Kansas code for care of children and the Kansas juvenile justice code;

(C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas;

(D) employees of a business or other employer; or

(E) persons receiving inpatient hospice services.

(2) "Institutional drug room" does not include:

(A) Any registered pharmacy;

(B) any office of a practitioner; or

(C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

(p) "Medical care facility" shall have the meaning provided in K.S.A. 65-425 and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b and amendments thereto except community mental health centers and facilities for the mentally retarded.

(q) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by: (1) A practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice; (2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or (3) a pharmacist or the pharmacist's authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

(r) "Person" means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

(s) "Pharmacist" means any natural person licensed under this act to practice pharmacy.

(t) "Pharmacist in charge" means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist in charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

(u) "Pharmacy," "drug store" or "apothecary" means premises, laboratory, area or other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.

(v) "Pharmacy student" means an individual, registered with the board of pharmacy, enrolled in an accredited school of pharmacy.

(w) "Pharmacy technician" means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

(x) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

(y) "Preceptor" means a licensed pharmacist who possesses at least two years' experience as a pharmacist and who supervises students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist.

(z) "Prescription" means, according to the context, either a prescription order or a prescription medication.

(aa) "Prescription medication" means any drug, including label and container according to context, which is dispensed pursuant to a prescription order.

(bb) "Prescription-only drug" means any drug whether intended for use by man or animal, required by federal or state law (including 21 United States Code section 353, as amended) to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

(cc) "Prescription order" means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner or a mid-level practitioner in the authorized course of professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such practitioner or mid-level practitioner.

(dd) "Probation" means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

(ee) "Professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of pharmacy practice or other behavior which demonstrates a manifest incapacity or incompetence to practice pharmacy.

(ff) "Retail dealer" means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug intended for human use by hypodermic injection.

(gg) "Secretary" means the executive secretary of the board.

(hh) "Unprofessional conduct" means:

(1) Fraud in securing a registration or permit;

(2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;

(3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;

(4) intentionally falsifying or altering records or prescriptions;

(5) unlawful possession of drugs and unlawful diversion of drugs to others;

(6) willful betrayal of confidential information under K.S.A. 65-1654 and amendments thereto;

(7) conduct likely to deceive, defraud or harm the public;

(8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;

(9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or

(10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

(ii) "Mid-level practitioner" means an advanced registered nurse practitioner issued a certificate of qualification pursuant to K.S.A. 65-1131 and amendments thereto who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130 and amendments thereto or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08 and amendments thereto.

(jj) "Vaccination protocol" means a written protocol, agreed to by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, which establishes procedures and recordkeeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

(kk) "Veterinary medical teaching hospital pharmacy" means any location where prescription-only drugs are stored as part of an accredited college of veterinary medicine and from which prescription-only drugs are distributed for use in treatment of or administration to a non-human.

Sec. 10. K.S.A. 65-4101 is hereby amended to read as follows: 65-4101. As used in this act: (a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by: (1) A practitioner or pursuant to the lawful direction of a practitioner; or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common ~~or contract~~ carrier, public warehouseman or employee of the carrier or warehouseman.

(c) "Board" means the state board of pharmacy.

(d) "Bureau" means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

(e) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments to these sections.

(f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(g) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(h) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery, or pursuant to the prescription of a mid-level practitioner.

(i) "Dispenser" means a practitioner or pharmacist who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means: (1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2) or (3) of this subsection. It does not include devices or their components, parts or accessories.

(m) "Immediate precursor" means a substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(n) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance: (1) By a practitioner or the practitioner's agent pursuant to a lawful

order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

(o) "Marijuana" means all parts of all varieties of the plant *Cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

(p) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis: (1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1) but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(q) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102 and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(r) "Opium poppy" means the plant of the species *Papaver somniferum l.* except its seeds.

(s) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(t) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(u) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

(v) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

(w) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(x) "Ultimate user" means a person who lawfully possesses a controlled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household.

(y) "Isomer" means all enantiomers and diastereomers.

(z) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425 and amendments thereto.

(aa) "Cultivate" means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

(bb) (1) "Controlled substance analog" means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107 and amendments thereto;

(B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107 and amendments thereto; or

(C) with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107 and amendments thereto.

(2) "Controlled substance analog" does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug, and cosmetic act (21 U.S.C. 355) to the extent conduct with respect to the substance is permitted by the exemption.

(cc) "Mid-level practitioner" means an advanced registered nurse practitioner issued a certificate of qualification pursuant to K.S.A. 65-1131 and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08 and amendments thereto.

Sec. 11. K.S.A. 65-4116 is hereby amended to read as follows: 65-4116. (a) Every person who manufactures, distributes or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance within this state shall obtain annually a registration issued by the board in accordance with the uniform controlled substances act and with rules and regulations adopted by the board.

(b) Persons registered by the board under this act to manufacture, distribute, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this act.

(c) The following persons need not register and may lawfully possess controlled substances under this act, as specified in this subsection:

(1) An agent or employee of any registered manufacturer, distributor or dispenser of any controlled substance if the agent or employee is acting in the usual course of such agent or employee's business or employment;

(2) a common ~~or contract~~ carrier or warehouseman or an employee thereof whose possession of any controlled substance is in the usual course of business or employment;

(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or a mid-level practitioner or in lawful possession of a schedule V substance;

(4) persons licensed and registered by the board under the provisions of the acts contained in article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, to manufacture, dispense or distribute drugs are considered to be in compliance with the registration provision of the uniform controlled substances act without additional proceedings before the board or the payment of additional fees, except that manufacturers and distributors shall complete and file the application form required under the uniform controlled substances act;

(5) any person licensed by the state board of healing arts under the Kansas healing arts act;

(6) any person licensed by the state board of veterinary examiners;

(7) any person licensed by the Kansas dental board;

(8) a mid-level practitioner; and

(9) any person who is a member of the Native American Church, with respect to use or possession of peyote, whose use or possession of peyote is in, or for use in, bona fide religious ceremonies of the Native American Church, but nothing in this paragraph shall authorize the use or possession of peyote in any place used for the confinement or housing of persons arrested, charged or convicted of criminal offenses or in the state security hospital.

(d) The board may waive by rules and regulations the requirement for registration of certain manufacturers, distributors or dispensers if the board finds it consistent with the public health and safety, except that licensure of any person by the state board of healing arts to practice any branch of the healing arts, Kansas dental board or the state board of veterinary examiners shall constitute compliance with the registration requirements of the uniform controlled substances act by such person for such person's place of professional practice. Evidence of abuse as determined by the board relating to a person licensed by the state board of healing arts shall be submitted to the state board of healing arts and the attorney general within 60 days. The state board of healing arts shall, within 60 days, make findings of fact and take such action against such person as it deems necessary. All findings of fact and any action taken shall be reported by the state board of healing arts to the board of pharmacy and the attorney general. Evidence of abuse as determined by the board relating to a person licensed by the state board of veterinary examiners shall be submitted to the state board of veterinary examiners and the attorney general within 60 days. The state board of veterinary examiners shall, within 60 days, make findings of fact and take such action against such person as it deems necessary. All findings of fact and any action taken shall be reported by the state board of veterinary examiners to the board of pharmacy and the attorney general. Evidence of abuse as determined by the board relating to a dentist licensed by the Kansas dental board shall be submitted to the Kansas dental board and the attorney general within 60 days. The Kansas dental board shall, within 60 days, make findings of fact and take such action against such dentist as it deems necessary. All findings of fact and any action taken shall be reported by the Kansas dental board to the board of pharmacy and the attorney general.

(e) A separate annual registration is required at each place of business or professional practice where the applicant manufactures, distributes or dispenses controlled substances.

(f) The board may inspect the establishment of a registrant or applicant for registration in accordance with the board's rules and regulations.

(g) (1) The registration of any person or location shall terminate when such person or authorized representative of a location dies, ceases legal existence, discontinues business or professional practice or changes the location as shown on the certificate of registration. Any registrant who ceases legal existence, discontinues business or professional practice, or changes location as shown on the certificate of registration, shall notify the board promptly of such fact and forthwith deliver the certificate of registration directly to the secretary or executive secretary of the board. In the event of a change in name or mailing address the person or authorized representative of the location shall notify the board promptly in advance of the effective date of this change by filing the change of name or mailing address with the board. This change shall be noted on the original application on file with the board.

(2) No registration or any authority conferred thereby shall be assigned or otherwise transferred except upon such conditions as the board may specifically designate and then only pursuant to the written consent of the board.

Sec. 12. K.S.A. 65-7004 is hereby amended to read as follows: 65-7004. The provisions of this act shall not apply to: (a) A distribution of a regulated chemical to or by a common ~~or contract~~ carrier for carriage in the lawful and usual course of the business of the common ~~or contract~~ carrier, or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman;

(b) the lawful administering or dispensing of a regulated chemical by a licensed practitioner in the course of professional practice or research;

(c) the purchase, distribution or possession of a regulated chemical by a local, state or federal law enforcement agency while in the discharge of official duties unless the Kansas bureau of investigation properly notifies the local law enforcement agency relying on the exclusion that its investigatory activities are contrary to the public interest; or

(d) products containing ephedra or ma huang, which do not contain any chemically synthesized ephedrine alkaloids, and are lawfully marketed as dietary supplements under federal law.”;

Also on page 1, in line 13, by striking “Section 1.” and inserting “Sec. 13.”;

On page 3, by striking all in line 5 and inserting:

“Sec. 14. K.S.A. 66-1,105 is hereby amended to read as follows: 66-1,105. The orders and decisions of the ~~corporation~~ commission on the matters covered by this act shall be made in writing and ~~a certified copy thereof~~ *copies of such decisions* shall be served on ~~the motor carrier affected thereby by certified~~ *motor carriers by first class mail*, except that ~~such copies when mailed to private carriers and carriers having licenses under K.S.A. 66-1,116 or permits under K.S.A. 66-1,112g shall be mailed such copies by first class mail orders and decisions potentially resulting in a negative impact upon any motor carrier's authority and initial orders in show cause proceedings shall be served by certified mail, return receipt requested.~~ Every ~~such~~ order and decision of the commission on matters covered by this act shall become operative and effective within 30 days after ~~such~~ service, and ~~such~~ the motor carrier shall carry the provisions of ~~such the~~ order into effect, unless the order is enjoined or set aside by a court of proper jurisdiction.

Sec. 15. K.S.A. 66-1,108 is hereby amended to read as follows: 66-1,108. As used in this act:

(a) “Commission” means the corporation commission of the state of Kansas;

~~(b) “contract motor carrier of property” means any person engaged in the transportation by motor vehicle of property for hire and not included in the term public motor carrier of property;~~

~~(c) “contract motor carrier of passengers” means any person engaged in the transportation by motor vehicle of persons for hire and not included in the term public motor carrier of passengers;~~

(b) “gross combination vehicle weight rating” means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load thereon;

(c) “gross vehicle weight rating” means the value specified by the manufacturer as the loaded weight of a single motor vehicle;

(d) “household goods” means property and personal effects used or to be used in a dwelling, when a part of the equipment or supply of such dwelling and such other similar property, as the commission may provide by rules and regulations, if the transportation of such effects or property is:

(1) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in such householder's dwelling; or

(2) arranged and paid for by another party.

(e) “Motor carrier” means any person operating as a for hire motor carrier or a private motor carrier, and any of ~~their~~ *that person's* agents, officers, representatives, as well as employees responsible for hiring, supervising, training, assigning or dispatching of drivers and employees concerned with the installation, inspection and maintenance of motor vehicle equipment or accessories or both;

(f) “motor vehicle” means any automobile, truck, trailer, semitrailer, tractor, motor bus or any other self-propelled or motor-driven vehicle used upon any of the public highways of the state for the purpose of transporting persons or property;

(g) “person” means any individual, firm, partnership, limited liability partnership, corporation, limited liability company, association or their lessees, trustees or receivers;

(h) “private motor carrier” means a person who provides transportation of property or passengers, by commercial vehicle and is not a for hire motor carrier;

(i) “public highways” means every public street, alley, road or highway or thoroughfare of any kind used by the public;

(j) “public motor carrier of household goods” means any person who undertakes for hire to transport by motor vehicle from place to place, the household goods of others who may choose to employ *or contract with* the motor carrier;

(k) “public motor carrier of passengers” means any person who undertakes for hire to transport by motor vehicle, from place to place, persons who may choose to employ *or contract with* the motor carrier; and

(l) “public motor carrier of property” means any person who undertakes for hire to transport by motor vehicle, from place to place, the property other than household goods of others who may choose to employ *or contract with* the motor carrier.

Sec. 16. K.S.A. 66-1,109 is hereby amended to read as follows: 66-1,109. This act shall not require the following carriers to obtain a certificate, license or permit from the commission or file rates, tariffs, annual reports or provide proof of insurance with the commission:

(a) Transportation by motor carriers wholly within the corporate limits of a city or village in this state, or between contiguous cities or villages in this state or in this and another state, or between any city or village in this or another state and the suburban territory in this state within three miles of the corporate limits, or between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority, except that none of the exemptions specified in this subsection (a) shall apply to wrecker carriers and none of such exemptions shall apply to motor carriers of passengers, other than motor carriers of passengers operating as a part of the general transit system serving any such city or village in this or another state, operating on regular routes and time schedules between any city or village in this or another state, and the suburban territory in this state;

(b) a private motor carrier who operates within a radius of 25 miles beyond the corporate limits of its city or village of domicile, or who operates between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority;

(c) the owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in a motor vehicle of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment;

(d) persons operating motor vehicles used only to transport property when no common carrier is accessible, but when common-carrier service is available then this last exemption is limited to the transportation of such property from origin to the nearest practicable common-carrier receiving or loading point, or from a common-carrier unloading point by way of the shortest practicable route to destination, providing such motor vehicle does not pass a practicable delivery or receiving point of a common carrier equipped to transport such load, or when used to transport property from the point of origin to point of destination thereof when the destination of such property is less distant from the point of origin thereof than the nearest practicable common-carrier receiving or loading point equipped to transport such load;

(e) (1) the transportation of children to and from school, or (2) to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities;

(f) a new vehicle dealer as defined by K.S.A. 8-2401, and amendments thereto, when transporting property to or from the place of business of such dealer;

(g) motor vehicles carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work, not having been sold or being transported for the purpose of sale;

(h) persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles;

- (i) the operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers;
- (j) motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivision of this state, including vehicles used exclusively for handling U.S. mail, *and the operation of motor vehicles used exclusively by organizations operating public transportation systems pursuant to 49 U.S.C. sections 5307, 5310 and 5311*;
- (k) any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity of not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work;
- (l) motor vehicles used to transport water for domestic purposes or livestock consumption;
- (m) transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, calcium chloride, bituminous or concrete paving mixtures, blacktop, dirt or fill material to a construction site, highway maintenance or construction project or other storage facility and the operation of ready-mix concrete trucks in transportation of ready-mix concrete;
- (n) the operation of a vehicle used exclusively for the transportation of solid waste, as the same is defined by K.S.A. 65-3402, and amendments thereto, to any solid waste processing facility or solid waste disposal area, as the same is defined by K.S.A. 65-3402, and amendments thereto;
- (o) the transporting of vehicles used solely in the custom combining business when being transported by persons engaged in such business;
- (p) the operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state;
- (q) transportation by taxi or bus companies operated exclusively within any city or within 25 miles of the point of its domicile in a city;
- (r) a vehicle being operated with a dealer license plate issued under K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A. 8-136, and amendments thereto, and vehicles being operated with a full-privilege license plate issued under K.S.A. 8-2425, and amendments thereto;
- (s) any person operating a motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, transporting property sold or to be sold by the owner or operator of such motor vehicle, except motor vehicles transporting hazardous materials which require placards;

As used in this subsection, "gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle. The gross vehicle weight rating of a combination (articulated) vehicle commonly referred to as the "gross combination weight rating" is the gross vehicle weight rating of the power unit, plus the gross vehicle weight rating of the towed unit or units.

- (t) the operation of vehicles used for transporting materials used in the servicing or repairing of the refractory linings of industrial boilers; and
- (u) transportation of newspapers published at least one time each week.

Sec. 17. K.S.A. 66-1,111 is hereby amended to read as follows: 66-1,111. No public motor carrier of property or passengers, ~~contract motor carrier of property or passengers for hire~~ or private motor carrier of property or local cartage carrier shall operate any motor vehicle for the transportation of either persons or property on any public highway in this state except in accordance with the provisions of this act, ~~the act of which this act is amendatory~~, and amendments thereto, and other applicable laws.

Sec. 18. K.S.A. 66-1,112 is hereby amended to read as follows: 66-1,112. (a) The commission is hereby vested with power and authority and it shall be its duty to license, supervise and regulate every public motor carrier of property, of household goods or of passengers in

this state, to the full extent not preempted by federal law, including fixing and approving reasonable maximum or minimum, or maximum and minimum rates, fares, charges, classifications and rules and regulations pertaining to the transportation of household goods or passengers as defined in 49 U.S.C. 13102. The commission shall prescribe rules and regulations related to uniform cargo liability, uniform bills of lading, uniform cargo credit and antitrust immunity for joint-line rates and routes, classifications and mileage guides. The commission is hereby vested with power and authority and it shall be its duty to license, supervise and regulate every public motor carrier transporting property, household goods or passengers in this state, and to regulate and supervise the accounts, schedules, service and method of operation of same; to prescribe a uniform system and classification of accounts to be used; to require the filing of annual and other reports and any other data; and to supervise and regulate public motor carriers transporting property, household goods or passengers in all matters affecting the relationship between such public motor carriers of property, of household goods or of passengers and the traveling and shipping public.

(b) The commission shall have power and authority, by general order or otherwise, to prescribe reasonable and necessary rules and regulations governing all such motor carriers. All laws relating to the powers, duties, authority and jurisdiction of the corporation commission over common carriers are hereby made applicable to all such motor carriers except as herein otherwise specifically provided.

(c) In order to insure nondiscriminatory, nonpreferential and just and reasonable rates, joint rates, fares, tolls, charges and exactions for all shippers, the commission shall establish rate-making procedures for all motor common ~~and contract~~ carriers, including collective rate-making procedures for joint consideration, initiation and establishment of such rates and charges for transporting household goods or passengers as defined in 49 U.S.C. 13102. The commission shall prescribe reasonable rules and regulations related to uniform cargo liability, uniform bills of lading, uniform cargo credit and antitrust immunity for joint-line rates and routes, classifications and mileage guides. Joint and collective rate-making shall be limited to:

(1) That which is necessary to formulate one or more joint rates as such term is used in K.S.A. 66-117, and amendments thereto;

(2) general rate increases or decreases if the tariff proposal gives shippers, under procedures approved by the ~~state corporation~~ commission, at least 15 days' notice of the proposal and an opportunity to present comments on it before a tariff is filed with the commission and if discussion of such increases or decreases is related to industry average carrier costs and does not include discussion related exclusively to individual markets or particular single-line rates;

(3) changes in commodity classifications;

(4) changes in tariff structures if discussion of such changes is related to industry average carrier costs and does not include discussion related exclusively to individual markets or particular single-line rates; and

(5) publishing of tariffs, filing of independent actions for individual members and changes in rules and regulations which are of at least substantially general application throughout the area in which such changes will apply.

(d) The provisions of K.S.A. 50-101 *et seq.*, and amendments thereto, shall not apply to the activities and procedures of persons, groups, agencies, bureaus or other entities where such activities and procedures have received approval by order of the ~~state corporation~~ commission under this statute.

Sec. 19. K.S.A. 66-1,112h is hereby amended to read as follows: 66-1,112h. Upon the request of the holder of any ~~contract carrier permit~~, private carrier permit or interstate license, while serving in the armed forces of the United States, the ~~state corporation~~ commission is hereby authorized to grant to such holder a suspension of such permit or license for such period and upon such terms and conditions as the commission may determine: *Provided*, *except* that nothing herein shall be construed to limit the authority of the commission to cancel or revoke a permit or license for violations of statutes or rules and regulations which have occurred prior to or during such suspension.

Sec. 20. K.S.A. 66-1,114 is hereby amended to read as follows: 66-1,114. (a) Except as hereinafter provided, it shall be unlawful for any public motor carrier to operate as a carrier

of household goods or passengers in intrastate commerce within this state without first having obtained from the ~~corporation~~ commission a certificate of convenience and necessity to transport household goods or passengers. The ~~corporation~~ commission, upon the filing of an application for a certificate, shall fix a time and place for hearing thereon, which shall be not less than 20 and not more than 60 days after the filing and shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Notices of hearings shall be published ~~bimonthly in the first and third issues of the Kansas register~~ *electronically on the commission's web site within three days of the filing of the application*. Any person may offer testimony at such hearing.

(b) If the commission finds that the proposed service or any part thereof is proposed to be performed by the applicant, that the applicant is fit, willing and able to perform such service, and that the applicant is in compliance with the commission's safety rules and regulations, liability and cargo insurance requirements and other applicable state laws, the commission shall issue the certificate of convenience and necessity to transport household goods and passengers, except that if the commission finds that the proposed service is inconsistent with the public convenience and necessity, the commission shall not issue the certificate.

(c) Within 12 months of the issuance to a public motor carrier of a certificate of convenience and necessity to transport household goods or passengers, the commission shall verify that such public motor carrier continues to be fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability and cargo insurance requirements and other applicable state laws.

Sec. 21. K.S.A. 66-1,114b is hereby amended to read as follows: 66-1,114b. (a) Except as hereinafter provided, it shall be unlawful for any public motor carrier to operate as a carrier of property other than household goods or *as a carrier of passengers* in intrastate commerce within this state without first having obtained from the ~~corporation~~ commission a certificate of public service to transport property other than household goods or *to transport* passengers.

(b) The ~~corporation~~ commission, upon the filing of an application for a certificate of public service ~~to transport property other than household goods~~, shall ascertain that the motor carrier is fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability and cargo insurance requirements and other applicable state laws. *Once a motor carrier submits a complete application demonstrating that the motor carrier is fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability and cargo insurance requirements and other applicable state laws, the commission may issue that motor carrier a 30-day interim certificate of public service, signed and approved by the commission's executive director.* A list of applications received shall be published ~~bimonthly in the first and third issues of the Kansas register~~, but in no case shall notice of the receipt of an application be published no more than 30 days after the application is filed. ~~If the commission finds that the public motor carrier is fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability and cargo insurance requirements and other applicable state laws, the commission shall issue the certificate, signed and approved by the commission's executive director, authorizing the public motor carrier to transport such property statewide electronically on the commission's web site, and shall state whether an interim certificate has been granted to the applicant. Any person who opposes the grant of a certificate of public service to a motor carrier applicant shall have 30 days from the commission's grant of an interim certificate to file a written protest with the commission. If no protest against a motor carrier applicant is filed before the expiration of the 30-day interim certificate, the commission may issue the motor carrier applicant a permanent certificate, signed and approved by the commission's executive director.~~ If the commission finds that ~~the public motor carrier~~ an applicant is not fit, knowledgeable, or in compliance with the commission's safety rules and regulations, liability and cargo insurance requirements and other applicable state laws, an order shall be issued denying the application. *If the commission deems it necessary, a hearing may be held on any application, and any commission decision on such application shall be issued by order.*

(c) Motor carriers holding a certificate of convenience and necessity to transport property other than household goods or a local wrecker permit shall be considered as holding a

certificate of public service to transport that property originally granted by the commission as a public motor carrier of property. Pursuant to federal law those motor carriers may transport that property originally granted by the commission statewide.

(d) Within 12 months of the issuance to a public motor carrier of a certificate of public service to transport property other than household goods or passengers, the commission shall verify that such public motor carrier continues to be fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability and cargo insurance requirements and other applicable state laws.

Sec. 22. K.S.A. 66-1,115 is hereby amended to read as follows: 66-1,115. It shall be unlawful for any ~~“contract motor carrier of property or passengers” or “private motor carrier of property”~~ private motor carrier to operate as a carrier of property or passengers within this state either in intrastate commerce or in interstate commerce without first having obtained from the ~~corporation~~ commission a license or permit or registered pursuant to 49 U.S.C. 14504. An application shall be made to the ~~corporation~~ commission in writing stating such information as the commission may request. Upon receipt of such information and on compliance with the *rules and regulations* and payment of fees, the ~~corporation~~ commission shall issue a license or permit to such applicant.

Sec. 23. K.S.A. 66-1,115a is hereby amended to read as follows: 66-1,115a. Notwithstanding the provisions of K.S.A. ~~66-1,112b and~~ 66-1,114, and amendments thereto, the commission may issue or grant ~~contract carrier permits and common~~ public motor carrier certificates or abandonments thereof without a formal hearing when the request for such issuance, grant or abandonment is made by verified application, and proper notice has been given in accordance with K.S.A. ~~66-1,112b and~~ 66-1,114, and amendments thereto, if no protests are lodged against the granting of the application and if the applicant demonstrates the applicant is fit, willing and able to perform such service and is in compliance with the commission's safety rules and regulations. For applications of public motor carriers transporting household goods or passengers, if the commission finds that evidence shows that the proposed service is inconsistent with the public convenience and necessity, the commission shall not grant the application.

Sec. 24. K.S.A. 66-1,116 is hereby amended to read as follows: 66-1,116. (a) It shall be unlawful for a public motor carrier of property, of household goods or of passengers, ~~or a contract motor carrier of property or of passengers,~~ to operate in interstate commerce regulated by the relevant federal agency without registering its motor vehicles in its base state pursuant to 49 U.S.C. 14504 in order to operate in Kansas.

(b) It shall be unlawful for a public motor carrier of property, of household goods or of passengers, ~~a contract motor carrier of property or of passengers,~~ or a private motor carrier of property which is exempt from federal regulations, to operate in interstate commerce within this state, without having furnished the ~~corporation~~ commission, in writing such information as the commission may request covering observance of state police regulations and the payments of the fees. This act shall apply to all persons and motor vehicles engaged in interstate commerce only to the extent permitted by the constitution and laws of the United States.

Sec. 25. K.S.A. 66-1,119 is hereby amended to read as follows: 66-1,119. No public motor carrier authorized by this act to operate shall change, abandon or discontinue any service established by this act or operations under any certificate of convenience and necessity issued for carriers of household goods or passengers without consent of the commission after written application. *Failure of any motor carrier to annually renew its authority, certificate or permit in a timely manner shall result in a termination of that motor carrier's authority by operation of law. A list of applications for changes to, abandonments of or discontinuances of any authority, as well as any abandonments of authority by operation of law for failure to renew, shall be published on the commission's web site.*

Sec. 26. K.S.A. 66-1,126 is hereby amended to read as follows: 66-1,126. Any person who shall operate as any carrier to which this act applies without first obtaining a certificate, permit or license or in violation of any of the terms thereof, or who fails to make any return or report required by this act or by the commission, or who denies to the commission access to such carrier's books or records, *or who fails to comply with any commission order requiring the payment of a penalty, orders requiring the cease and desist of certain operations*

or orders placing a motor carrier out of service, shall be guilty of a misdemeanor and shall be punished as provided in K.S.A. 66-1,130, and amendments thereto.

Sec. 27. K.S.A. 66-1,128 is hereby amended to read as follows: 66-1,128. (a) Except as provided in subsection (c) or pursuant to 49 U.S.C. 14504, no certificate, permit, or license shall be issued by the ~~state corporation~~ commission to any public motor carrier of property, household goods or passengers, ~~contract motor carrier of property or passengers~~ or private motor carrier of property, until the applicant has filed with the commission a liability insurance policy approved by the commission, in such reasonable amounts as the commission determines by rules and regulations is necessary to adequately protect the interest of the public with due regard to the number of persons and amount of property involved. Such amounts shall not be less than \$100,000 for personal injury or death to any one person in any one accident, \$300,000 for injury or death to two or more persons in any one accident and \$50,000 for loss to property of others in any one accident, which liability insurance shall bind the obligors to pay compensation for injuries to persons and loss of or damage to property resulting from the negligent operation of such carrier.

(b) The liability insurance policy required to be filed by any resident applicant shall be in an insurance company or association authorized to transact business in this state. Such policy of any nonresident applicant may be afforded by an insurance company not authorized to do business in this state which has given the commissioner of insurance of this state a power of attorney authorizing such commissioner to accept service on its behalf of notice or process in any action upon such policy. Such company not authorized to do business in this state shall have on file with such commissioner a form as prescribed by subsection (b) of K.S.A. 40-3106, and amendments thereto. A certificate of any insurance company or association, in a form approved by the ~~state corporation~~ commission certifying that there is in effect the liability insurance required by this section, may be filed in lieu of the insurance policy itself. In the event such certificate is filed, such company shall furnish to the commission upon its request a duplicate original of the insurance policy and all endorsements thereon. No other or additional bonds or licenses than those prescribed in this act shall be required of any motor carrier by any city or town or other agency of the state.

(c) Any public motor carrier of property, household goods or passengers, ~~contract motor carrier of property or passengers~~ or private motor carrier of property in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner of insurance. Upon application of any such carrier, the commissioner of insurance may issue a certificate of self-insurance, if the commissioner is satisfied that such carrier is possessed and will continue to be possessed of ability to pay any judgment obtained against such carrier arising out of the ownership, operation, maintenance or use of any motor vehicle registered in such carrier's name.

(d) Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds. Failure to pay any judgment against a self-insurer, arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, within 30 days after such judgment shall have become final, shall constitute reasonable grounds for the cancellation of a certificate of self-insurance.

Sec. 28. K.S.A. 66-1,129 is hereby amended to read as follows: 66-1,129. (a) The commission shall adopt rules and regulations necessary to carry out the provisions of this act. No public motor carrier of property, household goods or passengers, ~~contract motor carrier of property or passengers~~ or private motor carrier of property shall operate or allow the operation of any motor vehicle on any public highway in this state except within the provisions of the rules and regulations adopted by the commission. Rules and regulations adopted by the commission shall include:

(1) Every vehicle unit shall be maintained in a safe and sanitary condition at all times.

(2) Every driver of a public motor carrier, operating as a carrier of intrastate commerce within this state, shall be at least 18 years of age. Every driver of a ~~contract motor carrier~~ or private motor carrier, operating as a carrier of intrastate commerce within this state, shall be at least 16 years of age. All such drivers shall be competent to operate the motor vehicle under such driver's charge.

(3) Minimum age requirements for every driver of a motor carrier, operating as a carrier of interstate commerce, shall be consistent with federal motor carrier regulations.

(4) Hours of service for operators of all motor carriers to which this act applies shall be fixed by the commission.

(5) Accidents arising from or in connection with the operation of motor carriers shall be reported to the commission within the time, in the detail and in the manner as the commission requires.

(6) Every motor carrier shall have attached to each unit or vehicle distinctive marking adopted by the commission.

(7) Motor carrier transportation requirements that are consistent with continuation of the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous materials.

(b) No rules and regulations adopted by the commission pursuant to this section shall require the operator of any motor vehicle having a gross vehicle weight rating or gross combination weight rating of not more than 10,000 pounds to submit to a physical examination, unless required by federal laws or regulations.

(c) Any rules and regulations of the commission, adopted pursuant to this section, shall not apply to the following, while engaged in the carriage of intrastate commerce in this state:

(1) The owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment.

(2) The transportation of children to and from school, or to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities.

(3) ~~Motor~~ (A) ~~Except for motor vehicles under subparagraph (B), motor vehicles, with a gross vehicle weight rating, as defined in subsection (s) of K.S.A. 66-1,109, and amendments thereto, of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards.~~

(B) *Except vehicles transporting hazardous materials which require placards, motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work and such tools, property or material are being transported to or from an active construction site located within a radius of 25 miles of the principal place of business of the motor carrier.*

(4) Persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles.

(5) The operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers.

(6) Motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivisions of this state.

(7) Any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work.

(8) Motor vehicles used to transport water for domestic purposes or livestock consumption.

(9) The operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state, *unless the implement of husbandry is transported on a commercial motor vehicle.*

Sec. 29. K.S.A. 66-1,129a is hereby amended to read as follows: 66-1,129a. (a) The commission, at any time for good cause shown, may suspend the operation of any motor carrier subject to economic or safety rules and regulations adopted by the commission. Upon notice and an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act, the commission may revoke, amend, initiate sanctions or fine any motor carrier who has a certificate, license or permit issued by the commission or is subject to the safety rules and regulations adopted by the commission. Any motor carrier suspended prior to a hearing must be afforded the opportunity of a hearing on the matter. If such a hearing is requested, the hearing shall be held within 10 days of the request.

(b) *The director of the commission's transportation division, at any time for good cause shown, may request the Kansas highway patrol to impound a motor carrier's vehicle or vehicles when that motor carrier has:*

- (1) *Failed to comply with an out-of-service order;*
- (2) *failed to comply with a cease or desist order;*
- (3) *failed to obtain commission authority to operate;*
- (4) *failed to pay a commission-assessed civil penalty; or*
- (5) *has otherwise failed to comply with a commission order. Any motor carrier whose vehicle is impounded prior to a hearing must be afforded the opportunity of a hearing on the matter. If such a hearing is requested, the hearing shall be held within 10 days of the request.*

(c) *The commission is authorized to enter into any contracts or agreements necessary with the superintendent of the Kansas highway patrol, in order to provide facilities and personnel to accomplish the impounding of vehicles.*

Sec. 30. K.S.A. 66-1,130 is hereby amended to read as follows: 66-1,130. Every carrier to which this act applies and every person who violates or who procures, aids or abets in the violating of any provision of this act, or who fails to obey any order, decision or *rule and* regulation of the commission, or who procures or aids or abets any person in his failure to obey such order, decision or *rule and* regulation, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not exceeding \$500. ~~The inspectors designated by the commission shall have all the lawful powers of peace officers to enforce this act in any county or city of this state.~~

Sec. 31. K.S.A. 66-1,139 is hereby amended to read as follows: 66-1,139. (a) All interstate regulated public motor carriers of property, of household goods or of passengers ~~or contract motor carriers of property or of passengers~~ who operate a motor vehicle in Kansas shall register their motor vehicles in their base state pursuant to 49 U.S.C. 14504, unless exempted under the provision of K.S.A. 66-1,109, and amendments thereto.

(b) All intrastate public motor carriers of property, household goods or passengers; ~~contract motor carriers of property or passengers;~~ and private motor carriers of property shall register with the ~~state corporation~~ commission all trucks or truck tractors as defined by K.S.A. 8-126, and amendments thereto, and all other passenger vehicles used to transport persons for hire, used in the operation of their business as such, except those used in operations exempted under the provisions of K.S.A. 66-1,109, and amendments thereto.

(c) Interstate motor carriers which have been granted authority by the commission to transport commodities exempt from the jurisdiction of the relevant federal authority and who operate for hire or who operate as private motor carriers shall register all trucks or truck tractors as defined by K.S.A. 8-126, and amendments thereto, and all other passenger vehicles used to transport persons for hire, used in the operation of their business as such, except those used in operations exempted under the provisions of K.S.A. 66-1,109, and amendments thereto. For the purpose of assisting in paying the cost of supervision and regulation of motor carriers, every such carrier shall annually pay to the commission for each calendar year a regulatory fee of \$10 for each truck, truck tractor or passenger vehicle registered with the commission. No fee shall be charged for a trailer or semitrailer. Interstate

motor carriers that are already registered pursuant to subsection (a), shall not be required to register under this subsection.

(d) All applications for registration shall be made on forms furnished by the commission. Applications for registration of interstate common or contract motor carriers shall include on the application the quantity of trucks, truck tractors or passenger vehicles used by the motor carriers on which a fee is required to be paid. Applications for registration of intrastate common ~~or contract~~ motor carriers, private motor carriers, and interstate exempt motor carriers shall include the complete vehicle identification numbers and the year and make of all trucks, truck tractors or passenger vehicles used by the motor carrier, on which a fee is required to be paid, and the application shall be accompanied by the required fee. The fees shall be due January 1 and shall be paid not later than January 15. Upon receipt of the application and fee, the commission shall issue to the carrier appropriate credentials for each vehicle registered.

(e) The commission shall remit all moneys received by it or for it in payment of fees imposed under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the motor carrier license fees fund.

Sec. 32. K.S.A. 66-1,140 is hereby amended to read as follows: 66-1,140. (a) The commission shall make reasonable rules and regulations specifying circumstances under which substitute or extra trucks, truck tractors or passenger vehicles to be used temporarily in cases of emergency or for special occasional trips by carriers currently licensed by the commission may be registered and shall prescribe and collect a reasonable registration fee therefor, not exceeding ~~\$2.50~~ \$10 for each truck, truck tractor or passenger vehicle. The term of such registration shall be for such period of time as the commission shall prescribe by rules and regulations.

(b) The commission shall also provide for special registration for trucks, truck tractors or passenger vehicles not registered under the provisions of K.S.A. 66-1,139, and amendments thereto, which enter the state only on an occasional trip or in temporary service and shall collect ~~\$5~~ \$15 as a fee therefor.

(c) By contract entered into by the commission ~~and~~ the superintendent of the Kansas highway patrol ~~and the secretary of the department of revenue~~, the commission may designate the superintendent ~~as the agent and secretary as agents authorized~~ to provide the special registrations under either subsection (a) or (b) so that such registrations will be obtainable at motor carrier inspection stations ~~and department of revenue offices~~. In such event, the superintendent ~~of the Kansas highway patrol~~ or the superintendent's designee ~~and the secretary or the secretary's designee~~ may provide such special registrations pursuant to the terms and conditions of the *applicable* contract. The commission or its designated agent shall acknowledge special registration under either subsection (a) or (b), which acknowledgment shall accompany the vehicle and be used and accepted as evidence of such registration; and when necessary, such acknowledgment shall be by telegram.

Sec. 33. K.S.A. 66-1313a is hereby amended to read as follows: 66-1313a. Except as otherwise authorized under other laws of this state, a motor carrier who holds a certificate of convenience and necessity, a certificate of public service, ~~a contract carrier permit~~, a private carrier permit or an interstate license from the state corporation commission, upon application to the commission, may be designated to establish an authorized inspection station for the inspection of the motor vehicles, trailers and semitrailers operated in this state by such motor carrier for compliance with the equipment statutes and rules and regulations of this state. Such inspection station shall be located in Kansas. If the condition of the motor vehicle, trailer or semitrailer is found to be in compliance with the laws of this state, the authorized inspection station shall issue a certificate of inspection stating its approval and the date of the inspection. No certificate shall be issued unless equipment not in compliance is first repaired or corrected and records of such repairs or corrections are maintained by the authorized inspection station. Certificates issued under this section shall be valid for 12 months from the date of issue. Every certificate of approval issued pursuant to this section shall be issued in triplicate. One copy of such certificate shall be carried in the motor vehicle of the combination of vehicles of which a trailer or semitrailer is a part

or in the motor vehicle if applicable to the motor vehicle, during the time such certificate is valid or in effect, one copy shall be retained by the authorized inspection station as prescribed by rules and regulations of the commission and the third copy shall be returned to the commission. Such equipment inspection records shall be made available to the commission upon request. The commission shall adopt rules and regulations for the administration of this section and shall establish a schedule of fees and charges governing the cost of administration of such authorized inspections.

Sec. 34. K.S.A. 79-6a01 is hereby amended to read as follows: 79-6a01. The director of property valuation shall value and assess annually the over-the-road motor vehicles and rolling equipment of motor carriers described in this act. The local deputy assessor shall value and assess within the taxing district where located all other property, real and personal, belonging to such motor carriers.

As used in this act, "over-the-road motor vehicles and rolling equipment" shall include all motor-driven vehicles, trailers, semitrailers, buses and trucks owned, used or operated in the state of Kansas by such motor carriers in the transportation of persons or property other than motor vehicles and rolling equipment used solely or mainly for local transportation in a particular community or local area, or for local pickup and delivery, or passenger automobiles used for purposes other than transportation of persons or property for hire. "Motor carriers" as used in this act shall include every person, firm or corporation who or which holds a certificate of convenience and necessity, a certificate of public service, a ~~contract carrier permit~~, or an interstate license as a common, ~~contract~~ or exempt carrier from the corporation commission of the state of Kansas or is required to register motor carrier equipment pursuant to 49 U.S.C. 11506.

Sec. 35. K.S.A. 79-6a02 is hereby amended to read as follows: 79-6a02. On or before ~~the twentieth day of~~ March 20 in each year every person, firm or corporation which was a motor carrier on ~~the first day of~~ January 1 of ~~said~~ such year and who or which owned, used or operated any over-the-road motor vehicles or rolling equipment in the state of Kansas during the preceding year shall (if a firm or corporation by its president, secretary or principal acting officer or agent) return to the director of property valuation, upon forms furnished by ~~said~~ the director, a sworn statement or schedule as follows:

1. A list of all certificates, licenses and permits which have been issued to the operator as a motor carrier by the Kansas state corporation commission.

2. The total number of miles for which all over-the-road motor vehicles used in the state of Kansas were operated in Kansas and everywhere during the calendar year prior to making such report.

3. The complete list of over-the-road vehicles and rolling equipment owned, used or operated in the state of Kansas by ~~said~~ such motor carrier during the preceding calendar year and giving the name and number, model and value of the same. ~~Provided, except~~ that interchange equipment and trip-leased equipment shall be listed only by the owner.

4. In case any motor carrier holding a certificate of convenience and necessity, a ~~contract carrier permit~~ or an interstate license as a common, ~~contract~~ or exempt carrier from the corporation commission of the state of Kansas between January 1 and March 1 of any year did not own, use or operate any over-the-road motor vehicle or rolling equipment in the state of Kansas during the preceding calendar year ~~he or she~~ such motor carrier shall on or before ~~the twentieth day of~~ March 20 of such year file with the director of property valuation a complete list and number of over-the-road motor vehicles and rolling equipment owned, used or operated by ~~him or her~~ such motor carrier in the state of Kansas between January 1 and March 1 of the year in which such list is filed together with a verified statement estimating the number of miles ~~he or she~~ such motor carrier expects such equipment to be operated in the state of Kansas and everywhere during such year.

5. In case any motor carrier required to file a statement under the provisions of this act fails to make and file such statement on or before ~~the twentieth day of~~ March 20, the director of property valuation shall, after ~~he or she~~ the director has ascertained the value of the property, of such motor carrier from any other sources available to ~~him or her~~ the director, add ~~fifty percent (50%)~~ 50% additional value as a penalty for failure to file a report, but such assessment shall not relieve the motor carrier from the duty to file such report or statement. ~~Provided, except~~ that for good cause shown the director of property valuation

may extend the time in which to make and file such statement. ~~Provided further,~~ *except* that whenever, in the judgment of the director of property valuation the failure of any motor carrier to comply with this provision is due to a good and reasonable cause, the director of property valuation may at ~~his or her~~ *the director's* discretion waive or reduce any of the penalty herein provided upon making a record of ~~his or her~~ *the director's* reason therefor. In the event a motor carrier shall file a statement for any year within one year after such statement was due, the director of property valuation shall recompute the assessment, tax and penalty on the basis of ~~said~~ *such* statement.

Sec. 36. K.S.A. 79-6a03 is hereby amended to read as follows: 79-6a03. The director of property valuation shall value and assess all over-the-road motor vehicles owned, used and operated in the state of Kansas during the preceding calendar year by every motor carrier for the purpose of taxation by the state of Kansas in an amount to be determined in the following manner and according to the following method:

(1) The true value of all over-the-road motor vehicles and rolling equipment operated in the state of Kansas shall be determined;

(2) the ratio which the total number of miles of the equipment listed operated in the state of Kansas bears to the total number of miles operated everywhere by such equipment shall be determined;

(3) the assessed value of all over-the-road motor vehicles and rolling equipment owned, used or operated in the state of Kansas by ~~said~~ *such* motor carrier shall be determined by multiplying the true value by the mileage ratio;

(4) the amount so determined shall be the value and assessment of all over-the-road motor vehicles and rolling equipment owned, used or operated in the state of Kansas by ~~said~~ *such* motor carrier in the state of Kansas. ~~Provided,~~ *except* that if any motor carrier who or which holds a certificate of convenience and necessity, ~~a contract carrier permit,~~ or an interstate license as a common, ~~contract~~ or exempt carrier from the corporation commission of the state of Kansas between January 1 and March 1 of any year did not own, use or operate any over-the-road motor vehicles or rolling equipment in Kansas during the preceding calendar year, the director of property valuation shall determine the mileage ratio of miles operated in the state of Kansas to miles operated everywhere by use of the estimate of mileage furnished by such motor carrier, and apply the same to the assessed valuation of the equipment listed by ~~said~~ *such* motor carrier to determine the assessed value of such equipment and the tax due thereon; and in any such case, when the carrier files ~~his or her~~ *such carrier's* return the following year, showing the actual mileage of such vehicles in the state of Kansas and everywhere during such year, the director of property valuation shall recompute the tax and refund any excess tax paid by such carrier, or if an additional amount of tax is determined to be due from the taxpayer, ~~said~~ *such* additional amount shall become due upon mailing of notice of such additional tax to the motor carrier by the director of property valuation, which additional tax may be collected as provided in K.S.A. 79-6a07 and 79-6a11, *and amendments thereto.*

Sec. 37. K.S.A. 8-142, 8-2107, 32-1009, 44-503c, 60-305a, 65-1626, 65-4101, 65-4116, 65-7004, 66-1,105, 66-1,108, 66-1,109, 66-1,111, 66-1,112, 66-1,112a, 66-1,112b, 66-1,112c, 66-1,112d, 66-1,112e, 66-1,112f, 66-1,112h, 66-1,114, 66-1,114b, 66-1,115, 66-1,115a, 66-1,116, 66-1,119, 66-1,126, 66-1,128, 66-1,129, 66-1,129a, 66-1,130, 66-1,139, 66-1,140, 66-1a01, 66-1313a, 79-6a01, 79-6a02 and 79-6a03 and K.S.A. 2002 Supp. 8-2,127 are hereby repealed.”;

By renumbering the remaining section accordingly;

In the title, by striking all in lines 9 and 10 and inserting:

“AN ACT relating to the state corporation commission; concerning motor carriers and railroads; relating to certain fees; amending K.S.A. 8-142, 8-2107, 32-1009, 44-503c, 60-305a, 65-1626, 65-4101, 65-4116, 65-7004, 66-1,105, 66-1,108, 66-1,109, 66-1,111, 66-1,112, 66-1,112h, 66-1,114, 66-1,114b, 66-1,115, 66-1,115a, 66-1,116, 66-1,119, 66-1,126, 66-1,128, 66-1,129, 66-1,129a, 66-1,130, 66-1,139, 66-1,140, 66-1a01, 66-1313a, 79-6a01, 79-6a02 and 79-6a03 and K.S.A. 2002 Supp. 8-2,127 and repealing the existing sections; also repealing K.S.A. 66-1,112a, 66-1,112b, 66-1,112c, 66-1,112d, 66-1,112e and 66-1,112f.”;

and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 49; HB 2367**, as amended by House Committee of the Whole, be passed.

Also **HB 2369** be amended on page 2, in line 19, before "cost" by inserting "documented"; in line 25, following the stricken material by inserting "Upon adoption of the suggestion by the agency, the employee who made the suggestion shall be paid an advance on the employee suggestion bonus in an amount equal to 1% of the estimated cost reduction of the suggestion, as certified by the chief fiscal officer and agency appointing authority, except that no such payment shall exceed \$1,000. The remainder of the employee's suggestion bonus shall be based solely upon the documented cost reductions in the first 12 months following the implementation of the suggestion as documented to the division of the budget, less the advance payment the employee received upon the adoption of the suggestion. In no case shall an employee be required to repay any such advance payment received under this section."; and the bill be passed as amended.

#### REPORT ON ENGROSSED BILLS

**Sub SB 181** reported correctly engrossed March 25, 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 Allen in the chair.

On motion of Senator Allen the following report was adopted:

Recommended **SB 259; HB 2055, HB 2118, HB 2182, HB 2189, HB 2343** be passed.  
**HCR 5008** be adopted.

**SB 29, SB 136, SB 239; HB 2034, HB 2038, HB 2068, HB 2088, HB 2155, HB 2161, HB 2224, HB 2233** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SR 1827** be amended by adoption of the committee amendments, and the resolution be adopted as amended.

**HB 2113** be amended by motion of Senator Tyson as amended by House Committee of the Whole, on page 1, in line 24, by striking "70" and inserting "75";

On page 2, preceding line 16, by inserting:

"Sec. 2. K.S.A. 8-1560c is hereby amended to read as follows: 8-1560c. Any conviction or forfeiture of bail or bond for violating the maximum posted or authorized speed limit of 55 miles per hour or more but not exceeding ~~70~~ 75 miles per hour on any highway, by not more than 10 miles per hour, shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

Sec. 3. K.S.A. 8-1560d is hereby amended to read as follows: 8-1560d. (a) Convictions for violating a maximum posted speed limit of 55 miles per hour or more but not exceeding ~~70~~ 75 miles per hour, by not more than 10 miles per hour in excess of such maximum speed limit, shall not be a part of the public record and shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy or whether to cancel any such policy under the provisions of subsection (4)(c)(7) of K.S.A. 40-277, and amendments thereto.";

By renumbering the remaining sections accordingly;

Also on page 2, in line 16, by striking "is" and inserting " , 8-1560c and 8-1560d are";

In the title, in line 10, by striking "for"; in line 11, by striking "school buses"; also in line 11, following "8-1558" by inserting " , 8-1560c and 8-1560d"; in line 12, by striking "section" and inserting "sections", and **HB 2113** be passed as amended.

**SB 197** be amended by adoption of the committee amendments, be further amended by motion of Senator O'Connor as amended by Senate Committee, on page 3, after line 9, by inserting the following:

"New Sec. 3. (a) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is permitting a person's premises to be used in such a manner that results in the possession or consumption therein of alcoholic liquor or cereal malt beverages by persons under the age of 21.

(b) A person is deemed to have permitted such person's premises to be used in violation of this section if such person knew that such use would occur.

(c) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is a class B nonperson misdemeanor. In addition to any term of imprisonment which may be imposed, the minimum fine for such violation is \$200.

(d) As used in this section, terms have the meanings provided by K.S.A. 41-102, and amendments thereto, except for the purposes of this section, "premises" means a residence, land, building, structure or room owned, occupied or procured by such person.

(e) This section shall be a part of and supplemental to the Kansas criminal code.;

And by renumbering the remaining sections accordingly, and **SB 197** be passed as further amended.

**HB 2015** be amended by adoption of the committee amendments, be further amended by motion of Senator Goodwin as amended by Senate Committee, on page 2, following line 8, by inserting:

"Sec. 2. K.S.A. 38-1609 is hereby amended to read as follows: 38-1609. (a) The diagnostic, treatment or medical records, *including records subject to K.S.A. 65-5601 to 65-5605, and amendments thereto*, of any juvenile offender shall be privileged and shall not be disclosed except:

(1) Upon the written consent of the former juvenile or, if the juvenile offender is under 18 years of age, by the parent of the juvenile;

(2) upon a determination by the head of the treatment facility *or state hospital*, who has the records, that disclosure is necessary for the further treatment of the juvenile offender;

(3) when any court having jurisdiction of the juvenile offender orders disclosure;

(4) when authorized by K.S.A. 38-1614 and amendments thereto;

(5) when requested orally or in writing by any attorney representing the juvenile offender, but the records shall not be further disclosed by the attorney unless approved by the court or presented as admissible evidence; or

(6) upon a written request of a juvenile intake and assessment worker in regard to an alleged juvenile offender when the information is needed for screening and assessment purposes or placement decisions, but the records shall not be further disclosed by the worker unless approved by the court.

(b) Willful violation of this section is a class C misdemeanor.

(c) Nothing in this section shall operate to extinguish any right of a juvenile offender established by attorney-client, physician-patient, psychologist-client or social worker-client privileges.

(d) Relevant information, reports and records shall be made available to the department of corrections upon request and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of the department of corrections.

Sec. 3. K.S.A. 65-5603 is hereby amended to read as follows: 65-5603. (a) The privilege established by K.S.A. 65-5602 and amendments thereto shall not extend to:

(1) Any communication relevant to an issue in proceedings to involuntarily commit to treatment a patient for mental illness, alcoholism or drug dependency if the treatment personnel in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;

(2) an order for examination of the mental, alcoholic, drug dependency or emotional condition of the patient which is entered by a judge, with respect to the particular purpose for which the examination is ordered;

(3) any proceeding in which the patient relies upon any of the aforementioned conditions as an element of the patient's claim or defense, or, after the patient's death, in any proceeding in which any party relies upon any of the patient's conditions as an element of a claim or defense;

(4) any communication which forms the substance of information which the treatment personnel or the patient is required by law to report to a public official or to be recorded in a public office, unless the statute requiring the report or record specifically provides that the information shall not be disclosed;

(5) any information necessary for the emergency treatment of a patient or former patient if the head of the treatment facility at which the patient is being treated or was treated states

in writing the reasons for disclosure of the communication and makes such statement a part of the treatment or medical record of the patient;

(6) information relevant to protect a person who has been threatened with substantial physical harm by a patient during the course of treatment, when such person has been specifically identified by the patient, the treatment personnel believes there is substantial likelihood that the patient will act on such threat in the reasonable foreseeable future and the head of the treatment facility has concluded that notification should be given. The patient shall be notified that such information has been communicated;

(7) any information from a state psychiatric hospital to appropriate administrative staff of the department of corrections whenever patients have been administratively transferred to a state psychiatric hospital pursuant to the provisions of K.S.A. 75-5209 and amendments thereto;

(8) any information to the patient or former patient, except that the head of the treatment facility at which the patient is being treated or was treated may refuse to disclose portions of such records if the head of the treatment facility states in writing that such disclosure will be injurious to the welfare of the patient or former patient;

(9) any information to any state or national accreditation, certification or licensing authority, or scholarly investigator, but the head of the treatment facility shall require, before such disclosure is made, a pledge that the name of any patient or former patient shall not be disclosed to any person not otherwise authorized by law to receive such information;

(10) any information to Kansas advocacy and protective services, inc. which concerns individuals who reside in a treatment facility and which is required by federal law and federal rules and regulations to be available pursuant to a federal grant-in-aid program;

(11) any information relevant to the collection of a bill for professional services rendered by a treatment facility; or

(12) any information sought by a coroner serving under the laws of Kansas when such information is material to an investigation or proceeding conducted by the coroner in the performance of such coroner's official duties. Information obtained by a coroner under this provision shall be used for official purposes only and shall not be made public unless admitted as evidence by a court or for purposes of performing the coroner's statutory duties;

(13) any communication and information between or among treatment facilities regarding a proposed patient, patient or former patient for purposes of promoting continuity of care between the state psychiatric hospitals and the community mental health centers; the proposed patient, patient, or former patient's consent shall not be necessary to share evaluation and treatment records between or among treatment facilities regarding a proposed patient, patient or former patient; as used in this paragraph (13), "proposed patient" and "patient" shall have the meanings respectively ascribed thereto in K.S.A. 2002 Supp. 59-2946 and amendments thereto; ~~or~~

(14) the name, date of birth, date of death, name of any next of kin and place of residence of a deceased former patient when that information is sought as part of a genealogical study; ~~or~~

(15) *any information concerning a patient or former patient who is a juvenile offender in the custody of the juvenile justice authority when the commissioner of juvenile justice, or the commissioner's designee, requests such information.*

(b) The treatment personnel shall not disclose any information subject to subsection (a)(3) unless a judge has entered an order finding that the patient has made such patient's condition an issue of the patient's claim or defense. The order shall indicate the parties to whom otherwise confidential information must be disclosed.”;

And by renumbering sections accordingly;

Also on page 2, in line 9, after “K.S.A.”, by inserting “38-1609”; also in line 9, by striking “is” and inserting “ and 65-5603 are”;

On page 1, in the title, in line 12, after “concerning”, by inserting “juvenile offenders; relating to”; in line 13, before “amending”, by inserting “also relating to confidential information of a treatment facility patient; relating to information given to the juvenile justice authority;”; also in line 13, before “38-1665”, by inserting “38-1609;”; also in line 13, after “38-1665”, by inserting “and 65-5603”; in line 14, by striking “section” and inserting “sections”, and **HB 2015** be passed as further amended.

**HB 2071, HB 2135** be passed over and retain a place on the calendar.

**CHANGE OF REFERENCE**

The Vice President withdrew **HB 2071** from the calendar under the heading of General Orders and re-referred the bill to the Committee on Financial Institutions and Insurance.

On motion of Senator Oleen the Senate adjourned until 10:00 a.m., Wednesday, March 26, 2003.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.  
PAT SAVILLE, *Secretary of the Senate*.

