

Journal of the Senate

FIFTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 26, 2003—10:00 a.m.

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

Heavenly Father,

These people are faced with a daunting task
And they must find a workable solution.
And there are limits on what they can do
As defined by our Constitution.

Each of these people represent
Over 60,000 constituents.
The responsibilities they must bear
Are nothing short of immense.

Not many of us understand
The pressure they are under.
How they accomplish all they do
Is in itself a wonder.

No other people I know receive
So much condemnation.
Even the name: "Politician"
Has a negative connotation.

"Then why on earth do they choose to be
a politician?" some ask.
Why submit to all the abuse
That's inherent in their task?

There are several ways to answer that,
But there's just one which gets my nod.
You have told us in Your Holy Word,
"All authorities are ordained by God." (Romans 13:1b)

Since politicians are Your idea,
I ask You to bless them all,
And under all the pressure they have, O God,
Give them wisdom and strength to stand tall.

I ask this in the Name of Christ,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: **SB 272, SB 273, SB 274.**

Judiciary: **HB 2404.**

Utilities: **HB 2448.**

Ways and Means: **HB 2241.**

MESSAGE FROM THE GOVERNOR

March 24, 2003

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Order No. 2003-08 for your information.

KATHLEEN SEBELIUS
Governor

The President announced Executive Order No. 03-08, Establishing Cellular Phone Policies, 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, the House accedes to the request of the Senate for a conference on **SB 15** and has appointed Representatives O'Neal, Patterson and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 82** and has appointed Representatives Decker, Beggs and Reardon as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 134** and has appointed Representatives Hutchins, Judy Morrison and Peterson as conferees on the part of the House.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Umbarger moved the Senate concur in house amendments to **SB 74.**

SB 74. An act concerning schools; relating to the powers and duties of the state board of education; relating to personal financial literacy programs.

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

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

The Senate concurred.

Senator Wagle moved the Senate concur in house amendments to **SB 132.**

SB 132. An act concerning automated external defibrillators; amending K.S.A. 65-6149a and repealing the existing section.

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

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

The Senate concurred.

Senator Barnett moved the Senate concur in house amendments to **SB 151.**

SB 151. An act concerning county and district hospitals; amending K.S.A. 19-4601, 19-4608, 80-2501 and 80-2518 and repealing the existing sections.

On roll call, the vote was: Yeas 39, Nays 1, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Schmidt.

The Senate concurred.

Senator Wagle moved the Senate concur in house amendments to **SB 199**.

SB 199, An act concerning the fitting and dispensing of hearing aids; amending K.S.A. 74-5810 and repealing the existing section.

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

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

The Senate concurred.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2208**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2208," as follows:

"SENATE Substitute for HOUSE BILL No. 2208

By Committee on Commerce

"AN ACT concerning tax increment financing and sales tax revenue bonds; relating to re-development of certain property located throughout the state; amending K.S.A. 12-1770a, 12-1774 and 74-8017 and K.S.A. 2002 Supp. 79-3620 and 79-3710 and repealing the existing sections.";

and the substitute bill be passed.

Committee on **Elections and Local Government** recommends **HB 2212**, as amended by House Committee of the Whole, be amended on page 2, following line 14, by inserting the following:

"New Sec. 4. If any provision of this act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the act and the application of such provision to other persons and circumstances shall not be affected thereby.";

By renumbering the remaining sections accordingly; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 29, SB 136, SB 197, SB 239 reported correctly engrossed March 26, 2003.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 29, An act concerning business entities; amending K.S.A. 17-6102, 17-6201, 17-6202, 17-6301, 17-6302, 17-6305, 17-6402, 17-6407, 17-6408, 17-6410, 17-6412, 17-6417, 17-6418, 17-6420, 17-6422, 17-6423, 17-6424, 17-6425, 17-6426, 17-6501, 17-6503, 17-6504, 17-6505, 17-6506, 17-6507, 17-6508, 17-6509, 17-6510, 17-6511, 17-6512, 17-6513, 17-6514, 17-6517, 17-6518, 17-6519, 17-6520, 17-6604, 17-6801, 17-6805a, 17-6808, 17-6810, 17-6811, 17-6902, 17-6903, 17-6904, 17-6905, 17-6906, 17-6907, 17-6908, 17-6909, 17-6910, 17-6911, 17-7003, 17-7103, 17-7104, 17-7202, 17-7303, 17-7304, 17-7510, 17-7512 and 17-7514 and K.S.A. 2002 Supp. 17-6002, 17-6003, 17-6205, 17-6206, 17-6401, 17-6502, 17-6605, 17-6701, 17-6702, 17-6703, 17-6704, 17-6705, 17-6706, 17-6707, 17-6712, 17-6804, 17-7001, 17-7301, 17-7302, 17-7306, 17-7503, 17-7504, 17-7505, 17-7506, 17-7507 and 17-7508 and repealing the existing sections; also repealing K.S.A. 17-7513 and K.S.A. 2002 Supp. 17-7502, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 7, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Adkins, Donovan, Harrington, Huelskamp, Lyon, Schmidt, Umbarger.
The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 29** because of what it omits. This bill should have been used to ease the burden imposed on small businesses by last year's increase in the franchise fee.

However, our efforts to accomplish that in this bill were unsuccessful. Therefore, I vote against this missed opportunity.—DEREK SCHMIDT

SB 136, An act concerning campus police officers; relating to powers and duties thereof; relating to crimes committed against such officers; amending K.S.A. 21-3110, 21-3409, 21-3411 and 72-8222 and K.S.A. 2002 Supp. 21-3413, 21-3415, 23-2401a and 76-726 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 1, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Pugh.

The bill passed, as amended.

SB 197, An act concerning alcoholic beverages; concerning minors; amending K.S.A. 2002 Supp. 21-3610 and 41-727 and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

SB 239, An act concerning the secretary of state; relating to fees for certain services and publications provided by the secretary of state; amending K.S.A. 2002 Supp. 75-438 and repealing the existing section, was considered on final action.

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

Yeas: Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gooch, Goodwin, Hensley, Jackson, Jordan, Kerr, Lee, Lyon, Morris, Oleen, Salmans, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Adkins, Gilstrap, Haley, Harrington, Huelskamp, O'Connor, Pugh, Schmidt.

The bill passed, as amended.

SB 259, An act concerning courts; relating to the court of appeals; amending K.S.A. 2002 Supp. 20-3002 and 20-3006 and repealing the existing sections; also repealing K.S.A. 2002 Supp. 20-3005, was considered on final action.

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

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

The bill passed.

SR 1827. A resolution memorializing the Congress of the United States to amend the constitution to protect the pledge of allegiance and our national motto, was considered on final action.

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

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

The resolution was adopted, as amended.

HB 2015. An act concerning juvenile offenders; relating to the Kansas juvenile justice code; relating to modification of sentence; also relating to confidential information of a treatment facility patient; relating to information given to the juvenile justice authority; amending K.S.A. 38-1609, 38-1665 and 65-5603 and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

HB 2034. An act concerning the Kansas power of attorney act; amending K.S.A. 2002 Supp. 58a-602 and repealing the existing section; also repealing K.S.A. 58-601, 58-602, 58-610, 58-611, 58-612, 58-613, 58-614, 58-615, 58-616 and 58-617, was considered on final action.

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

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

The bill passed, as amended.

HB 2038. An act creating the Kansas propane education and research council; providing for the powers, duties and functions thereof; providing for certain assessments, was considered on final action.

On roll call, the vote was: Yeas 28, Nays 12, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Buhler, Donovan, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Kerr, Lee, Lyon, Morris, Oleen, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

Nays: Brownlee, Bunten, Clark, Corbin, Emler, Huelskamp, Jordan, O'Connor, Pugh, Salmans, Tyson, Wagle.

The bill passed, as amended.

HB 2055. An act concerning agriculture; relating to agricultural production loan deposit agreements; interest rate; amending K.S.A. 2002 Supp. 75-4272 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 2, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Buhler, Corbin.

The bill passed.

HB 2068, An act concerning certain municipalities; relating to the Kansas tort claims act; amending K.S.A. 2002 Supp. 75-6102 and 75-6104 and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

HB 2088, An act concerning the department of corrections; relating to inmate assistance upon release; requiring certain inmates to pay for public transportation costs; amending K.S.A. 75-5211 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 10, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Barone, Feleciano, Gooch, Goodwin, Haley, Hensley, Lee, Pugh, Steineger, Wagle.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote NO on **HB 2088**. **HB 2088** coming to this Chamber proposed to add \$100 to the \$500 gate fee (release money) threshold of offenders leaving our prisons but to take away paying for their bus ticket for departure, so to speak. It is unconscionable to take so tiny an increase in cash to reintegrate an ex-offender into society *and* to take away their bus ticket, too. People without living resources to survive become a burden on their families; their friends. This same offender might turn again to crime just to feed or house him or herself. I pray the Legislature will adjust this error in conference.—DAVID HALEY

HB 2113, An act regulating traffic; concerning the maximum speed limit; amending K.S.A. 8-1558, 8-1560c and 8-1560d and repealing the existing sections, was considered on final action.

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

Yeas: Barone, Brownlee, Brungardt, Bunten, Clark, Emler, Gooch, Harrington, Huelskamp, Jackson, Jordan, Lyon, Morris, O'Connor, Pugh, Salmans, Steineger, Taddiken, Tyson, Wagle.

Nays: Adkins, Allen, Barnett, Buhler, Corbin, Donovan, Downey, Feleciano, Gilstrap, Goodwin, Haley, Hensley, Kerr, Lee, Oleen, Schmidt, Schodorf, Teichman, Umbarger, Vratil.

A constitutional majority having failed to vote in favor of the bill, **HB 2113** did not pass.

HB 2118, An act relating to antique vehicles; concerning the registration thereof; amending K.S.A. 8-172 and K.S.A. 2002 Supp. 8-170 and repealing the existing sections, was considered on final action.

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

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

The bill passed.

HB 2155, An act concerning dentists and dentistry, regarding temporary licensure of out-of-state dentists and dental hygienists; amending K.S.A. 65-1426 and 65-1455 and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

HB 2161, An act regarding dentists and dentistry; relating to dental hygienists; amending K.S.A. 65-1456 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

HB 2182, An act concerning the Kansas board of barbering; relating to certain fees; amending K.S.A. 65-1817 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 29, Nays 11, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Jackson, Jordan, Kerr, Morris, Oleen, Salmans, Schodorf, Teichman, Tyson, Vratil, Wagle.

Nays: Adkins, Harrington, Huelskamp, Lee, Lyon, O'Connor, Pugh, Schmidt, Steineger, Taddiken, Umbarger.

The bill passed.

HB 2189, An act relating to motor vehicles; concerning the registration thereof; amending K.S.A. 8-134 and 8-143a and K.S.A. 2002 Supp. 8-143 and repealing the existing sections, was considered on final action.

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

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

The bill passed.

HB 2224, An act relating to banking; concerning certain powers; amending K.S.A. 9-1101 and 9-1713 and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

HB 2233, An act enacting the uniform prescription drug information card act, was considered on final action.

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

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

The bill passed, as amended.

HB 2343, An act concerning financing of certain post secondary educational institutions; related to out-district tuition; amending K.S.A. 71-301a, 71-304, 71-305, 71-306, 71-308, 71-401, 71-402, 71-403, 71-610 and 71-1705 and K.S.A. 2002 Supp. 13-13a25, 13-13a26, 13-13a27, 13-13a29, 13-13a31, 13-13a32, 13-13a33, 13-13a34 and 19-101a and repealing the existing sections, was considered on final action.

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

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

The bill passed.

HCR 5008, A Concurrent Resolution urging the designation of school nurses as first responders, was considered on final action.

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

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

The resolution was adopted.

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 Corbin in the chair.

The Committee considered **SB 263**.

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

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2444**.

The House concurs in Senate amendments to **Substitute HB 2064**.

The House concurs in Senate amendments to **HB 2158**.

The House concurs in Senate amendments to **HB 2169**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2444 was thereupon introduced and read by title.

On motion of Senator Donovan, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

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

COMMITTEE OF THE WHOLE

The Senate resolved itself into Committee of the Whole for further consideration of bills on the calendar under the heading of General Orders with Senator Corbin in the chair.

On motion of Senator Corbin the following report was adopted:

The Committee resumed consideration of **SB 263**.

SB 263 be amended by adoption of the committee amendments, be further amended by motion of Senator Morris as amended by Senate Committee, on page 28, following line 13, by inserting the following:

*“Provided, That the state treasurer is hereby authorized to fix, charge and collect a cash management fee for services provided by the state treasurer for banking services and for processing warrants and direct deposits except that payroll warrants shall not be subject to any fee prescribed by this section: *Provided further, That such fees shall be fixed to recover all or part of the operating expenditures incurred in providing such services: And provided further, That fees fixed by the state treasurer for services provided by the state treasurer in providing banking services shall be fixed to collect an estimated aggregate amount not to exceed \$340,000 for the fiscal year ending June 30, 2004: And provided further, That fees fixed by the state treasurer for processing warrants and direct deposits shall be fixed to collect an estimated aggregate amount not to exceed \$973,000 for the fiscal year ending June 30, 2004: And provided further, That the state treasurer is hereby authorized to fix, charge and collect a voucher processing fee for services provided by the state treasurer in processing vouchers and maintaining the voucher system: And provided further, That such fees shall be fixed to recover all or part of the operating expenditures incurred in providing such services: And provided further, That fees fixed by the state treasurer for services provided by the state treasurer in processing vouchers and maintaining the voucher system shall be fixed to collect an estimated aggregate amount not to exceed \$180,000 for the fiscal year ending June 30, 2004: And provided further, That all moneys received from such fees shall be deposited in the state treasury and credited to the services reimbursement fund: And provided further, That expenditures from this fund may be made for operating expenditures for the state treasurer’s office.”**

Senator Morris further amended the bill as amended by Senate Committee, on page 71, in line 24 by striking “\$0” and inserting “\$1,892,855”

Senator Morris further amended the bill as amended by Senate Committee, on page 5, in line 4, by striking all following “\$124,594”; by striking all in line 5; in line 6, by striking all preceding the period;

On page 20, in line 35, by subtracting \$1,615 from the dollar amount and by adjusting the dollar amount in line 35 accordingly; in line 40, by subtracting \$5,948 from the dollar amount and by adjusting the dollar amount in line 40 accordingly;

On page 21, in line 1, by subtracting \$4,474 from the dollar amount and by adjusting the dollar amount in line 1 accordingly; in line 9, by subtracting \$16,363 from the dollar amount and by adjusting the dollar amount in line 9 accordingly;

On page 22, in line 40, by subtracting \$3,490 from the dollar amount and by adjusting the dollar amount in line 40 accordingly;

On page 100, in line 5, by adding \$30,761,580 to the dollar amount and by adjusting the dollar amount in line 5 accordingly;

On page 157, following line 27, by inserting new material to read as follows:

“(f) On July 1, 2003, and on January 1, 2004, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$261,595 from the correctional industries fund to the refunding revenue bond issue-principal and interest q bonds fund.

(g) On October 1, 2003, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$378,000 from the correctional industries fund to the department of corrections general fees fund.”;

On page 229, in line 1, by adding \$90,000 to the dollar amount and by adjusting the dollar amount in line 1 accordingly

Senator Morris further amended the bill as amended by Senate Committee, on page 207, in line 32, by striking “July 20” and inserting “June 22”; in line 37, by striking “July 20” and inserting “June 22”;

On page 208, in line 11, by striking "July 20" and inserting "June 22"; in line 16, by striking "July"; in line 17, by striking "20" and inserting "June 22"; in line 35, by striking "July 20" and inserting "June 22"; in line 40, by striking "July"; in line 41, by striking "20" and inserting "June 22";

On page 209, in line 15, by striking "July 20" and inserting "June 22"; in line 20, by striking "July"; in line 21, by striking "20" and inserting "June 22"; in line 37, by striking "July 20" and inserting "June 22"; in line 42, by striking "July 20" and inserting "June 22";

On page 210, in line 17, by striking "July 20" and inserting "June 22"; in line 23, by striking "July 20" and inserting "June 22"; in line 39, by striking "July 20" and inserting "June 22";

On page 211, in line 5, by striking "July 20" and inserting "June 22"; in line 40, by striking "July 20" and inserting "June 22";

On page 212, in line 8, by striking "July"; in line 9, by striking "20" and inserting "June 22"; in line 35, by striking "July 20" and inserting "June 22"; in line 41, by striking "July 20" and inserting "June 22";

On page 213, in line 5, by striking "July 20" and inserting "June 22"; in line 16, by striking "July 20" and inserting "June 22";

On page 214, in line 1, by striking "July 20" and inserting "June 22"; in line 5, by striking "July 20" and inserting "June 22"; in line 14, by striking "July 20" and inserting "June 22"; in line 17, by striking "July 20" and inserting "June 22"; in line 25, by striking "July 20" and inserting "June 22"; in line 29, by striking "July 20" and inserting "June 22"; in line 36, by striking "July 20" and inserting "June 22"; in line 39, by striking "July"; in line 40, by striking "20" and inserting "June 22";

On page 215, in line 3, by striking "July 20" and inserting "June 22"; in line 6, by striking "July"; in line 7, by striking "20" and inserting "June 22"; in line 25, by striking "July 20" and inserting "June 22"; in line 33, by striking "July 20" and inserting "June 22";

On page 216, in line 14, by striking "July 20" and inserting "June 22"; in line 21, by striking "July 20" and inserting "June 22"; in line 33, by striking "July 20" and inserting "June 22"; in line 40, by striking "July 20" and inserting "June 22";

On page 217, in line 21, by striking "July 20" and inserting "June 22"; in line 31, by striking "July 20" and inserting "June 22";

On page 218, in line 2, by striking "July 20" and inserting "June 22"; in line 8, by striking "July 20" and inserting "June 22"; in line 31, by striking "July 20" and inserting "June 22"; in line 43, by striking "July 20" and inserting "June 22";

On page 219, in line 23, by striking "July 20" and inserting "June 22"; in line 39, by striking "July 20" and inserting "June 22";

On page 220, in line 8, by striking "\$12,268,926" and inserting "\$11,319,927"; in line 14, by striking "July 20" and inserting "June 22";

On page 221, in line 18, by striking "\$9,984" and inserting "\$8,758"; in line 19, by striking "\$31,161" and inserting "\$32,560"; in line 20, by striking "\$19,023" and inserting "\$24,364"; in line 25, by striking "\$63,638" and inserting "\$97,602"; in line 31, by striking "\$17,757" and inserting "\$18,956"; by striking all in lines 33 through 37; in line 41, by striking "\$1,086,028" and inserting "\$1,143,366";

Senator Allen moved to amend the bill as amended by Senate Committee, on page 106, in line 31, by adding \$15,588,531 to the dollar amount and adjusting the dollar amount in line 21 accordingly

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

On roll call, the vote was: Yeas 13, Nays 23, Present and Passing 4, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Buhler, Downey, Goodwin, Jordan, Schmidt, Teichman, Umbarger, Vratil.

Nays: Barone, Buntten, Clark, Corbin, Donovan, Emler, Feleciano, Gilstrap, Hensley, Huelskamp, Jackson, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schodorf, Taddiken, Tyson, Wagle.

Present and Passing: Gooch, Haley, Harrington, Steineger.

The motion failed and the amendment was rejected.

Senator Wagle amended the bill as amended by Senate Committee, on page 151, following line 30, by inserting the following:

“(i) During the fiscal year ending June 30, 2004, no department or division within any university under the jurisdiction and control of the state board of regents or any such university shall expend any moneys as part of a human sexuality class or other similar class for undergraduate students for the purchase or display of any videos as part of or incident to such a class which are obscene as defined by K.S.A. 21-4301 and amendments thereto: *Provided*, That upon any violation of this subsection the state board of regents shall direct the immediate termination of the expenditure of moneys for any such department or division within such university.”

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

On roll call, the vote was: Yeas 24, Nays 13, Present and Passing 2, Absent or Not Voting 1.

Yeas: Allen, Barnett, Brownlee, Bunten, Clark, Donovan, Emler, Gilstrap, Harrington, Hensley, Huelskamp, Jackson, Jordan, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Tyson, Umbarger, Wagle.

Nays: Barone, Brungardt, Buhler, Corbin, Feleciano, Gooch, Goodwin, Haley, Kerr, Oleen, Steineger, Teichman, Vratil.

Present and Passing: Downey, Lee.

Absent or Not Voting: Adkins.

The motion carried and the amendment was adopted.

Senator Huelskamp amended the bill as amended by Senate Committee, on page 234, following line 8, by inserting the following:

“Sec. 126. No moneys appropriated for the fiscal year ending June 30, 2004, by this act or any other appropriations act of the 2003 regular session of the legislature shall be expended for the purpose of acquiring or modifying information technology hardware, software and network resources, until the director of the budget certifies to the director of accounts and reports that each state agency has complied with the provisions of K.S.A. 75-7209 and amendments thereto and also has complied with any other procedures for reporting established by the director of the budget, and that such documentation also has been submitted to the legislative information technology officer who shall present a summary of such material to the joint committee on information technology in performing the statutory duties assigned in K.S.A. 46-2102 and amendments thereto.”;

And by renumbering sections accordingly

Senator Barnett amended the bill as amended by Senate Committee, on page 130, following line 21, by inserting the following:

“(j) There is appropriated for the above agency from the children’s initiative fund for the fiscal year ending June 30, 2004, the following:

Future teacher academy / national board certification program..... \$250,000”;

On page 159, in line 18, by subtracting \$250,000 from the dollar amount and by adjusting the dollar amount in line 18 accordingly

Senator Umbarger amended the bill as amended by Senate Committee, on page 38, following line 16, by inserting the following:

“(h) During the fiscal year ending June 30, 2004, no expenditures shall be made for any purpose that supercedes those specified by K.S.A. 74-4921 *et seq.*, and amendments thereto, or any other statute pertaining to investments made by the Kansas public employees retirement system board of trustees in fulfilling their fiduciary duties as required in subsection (4) of K.S.A. 74-4921 and amendments thereto: *Provided*, That any changes proposed or mandated by appropriations acts in the current investment portfolio that supercede the investment choices made by the board, which are based upon lawfully delegated statutory authority, shall be reviewed by the joint committee on pensions, investments and benefits prior to being implemented by the board of trustees.”

Senator Schodorf amended the bill as amended by Senate Committee of the Whole, on page 211, in line 4, by striking “\$79.93” and inserting “\$78.75”;

On page 212, in line 7, by striking “\$79.93” and inserting “\$78.75”; in line 39, by striking “\$79.93” and inserting “\$78.75”;

On page 213, in line 14, by striking “\$79.93” and inserting “\$78.75”;

On page 214, in line 2, by striking "\$486.79" and inserting "\$479.60"; in line 14, by striking "\$248.46" and inserting "\$244.79"; in line 26, by striking "\$391.48" and inserting "\$385.69"; in line 37, by striking "\$439.17" and inserting "\$432.68";

On page 215, in line 4, by striking "\$439.17" and inserting "\$432.68"; in line 31, by striking "\$79.93" and inserting "\$78.75";

On page 216, in line 20, by striking "\$79.93" and inserting "\$78.75"; in line 39, by striking "\$79.93" and inserting "\$78.75";

On page 217, in line 29, by striking "\$79.93" and inserting "\$78.75";

On page 218, in line 5, by striking "\$79.93" and inserting "\$78.75"; in line 40, by striking "\$79.93" and inserting "\$78.75";

On page 221, in line 25, by striking "\$97,602" and inserting "\$42,388"

Senator Kerr amended the bill as amended by Senate Committee, on page 26, following line 31, by inserting the following:

"(d) Notwithstanding the provisions of K.S.A. 75-3726a or any other statutes to the contrary, during the fiscal year ending June 30, 2004, the governor may not authorize the transfers of moneys between one item of appropriation and another item of appropriation in the budget of the attorney general."

Senator Huelskamp amended the bill as amended by Senate Committee, on page 242, following line 30, by inserting new material to read as follows:

"Sec. 136. During the fiscal year ending June 30, 2004, the director of the division of personnel services of the department of administration shall monthly submit to the director of the budget and to the director of the legislative research department a report which shall include the number of state employees for each state agency laid off during each month of the fiscal year ending June 30, 2004.";

And by renumbering remaining sections accordingly

Senator Kerr amended the bill as amended by Senate Committee, on page 94, after line 36, by inserting the following:

"*Provided*, That expenditures shall continue to be made from the mental health and retardation services aid and assistance account for quality enhancement coordinators; *Provided further*, That the above agency shall report to the legislative budget committee during the 2003 interim on federal requirements related to quality enhancement programs."

Senator Morris amended the bill as amended by Senate Committee, on page 188, in line 12, by striking "or Missouri river"

Senator Pugh moved to amend the bill as amended by Senate Committee, on page 242, following line 30, by inserting the following:

"Sec. 136. (a) Except as otherwise provided under subsection (b), on the effective date of this act, of the amount of each appropriation and reappropriation from the state general fund for the fiscal year ending June 30, 2004, made by any appropriation act of the 2003 regular session of the legislature, the sum equal to 5.1% of the total of each such appropriation and reappropriation is hereby lapsed.

(b) The following shall not be subject to the provisions of subsection (a):

(1) Any item of appropriation or reappropriation from the state general fund for employer contributions for the employers who are eligible employers as specified in subsection (1), (2) and (3) of K.S.A. 74-4931, and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto; and

(2) any item of appropriation or reappropriation from the state general fund for debt service for payments pursuant to contractual bond obligations.";

And by renumbering the remaining sections accordingly

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

On roll call, the vote was: Yeas 12, Nays 26, Present and Passing 1, Absent or Not Voting 1.

Yeas: Brownlee, Clark, Donovan, Harrington, Huelskamp, Jackson, Lyon, O'Connor, Pugh, Schmidt, Tyson, Wagle.

Nays: Adkins, Allen, Barnett, Barone, Brungardt, Buhler, Bunten, Corbin, Downey, Em-ler, Feleciano, Gilstrap, Gooch, Goodwin, Hensley, Kerr, Lee, Morris, Oleen, Salmans, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

Present and Passing: Haley.

Absent or Not Voting: Jordan.

The motion failed and the amendment was rejected.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote for and support this amendment, not as the final budget for fiscal year 2004, but to match tax receipts with budget expenditures. It sets the stage for a genuine discussion to finalize this budget. Nothing will concentrate our attention as much as passage of this amendment.

This amendment brings into focus all aspects of the budget, the recent solutions proposed by the governor, and all other ideas. It puts everything on the table and engages the Ways and Means and the Tax Committees as nothing else can with the final solution to be agreed upon at Omnibus.—STAN CLARK

Senators Brownlee, Harrington, Huelskamp, Jackson, O'Connor, Schmidt and Tyson request the record to show they concur with the "Explanation of Vote" offered by Senator Clark on **SB 263**.

MR. PRESIDENT: I vote for this 5.1 percent across-the-board cut in state spending because, if implemented, it would create a baseline state budget that is balanced. We then would add back funding in the Omnibus appropriations bill, on a pay-as-we-go basis, for those programs such as K-12 education that have such broad support that most Kansans are willing to pay the price to adequately fund them.—DEREK SCHMIDT

MR. PRESIDENT: I vote yes. A 5% cut in the state budget is far less than the cuts my constituents have taken in their personal pocket books in recent months as a result of layoffs and cut-backs in aircraft and other industries. To continue the state spending spree during a time of war and during a downturn in the economy is an insult to them.—SUSAN WAGLE

Senators Donovan and Harrington request the record to show they concur with the "Explanation of Vote" offered by Senator Wagle on **SB 263**.

Senator Clark amended the bill as amended by Senate Committee, on page 97, in line 37, following the period, by inserting "": *Provided further*, That expenditures shall be made from this account to apply for a federal cash and counsel waiver under the federal social security act"

Senator Brownlee moved to amend the bill as amended by Senate Committee, on page 54, following line 35 by inserting the following:

"(q) In addition to the other purposes for which expenditures may be made by the department of administration from the moneys appropriated from the state general fund or any special revenue fund for the fiscal year ending June 30, 2004, by this or other appropriation act of the 2003 regular session of the legislature, expenditures shall be made by the above agency from the moneys appropriated from the state general fund or any special revenue fund for the fiscal year 2004 for the secretary of administration to adopt and implement all requirements, policies and procedures for the direct electronic deposit of all compensation payments each payroll period for each state officer and employee, who shall be deemed to have given the required authorization and direction to receive such compensation each payroll period by direct electronic deposit, notwithstanding K.S.A. 75-5540 and 44-314, and amendments thereto."

The motion failed and the amendment was rejected.

Senator Brownlee amended the bill as amended by Senate Committee, on page 159, in line 16, before the period, by inserting "": *And provided further*, That, in any case where an allotment system has been applied during fiscal year 2004 to appropriations of the juvenile justice authority for intervention and graduated sanctions community grants, pursuant to K.S.A. 75-3722 and amendments thereto, and any local district receiving an intervention and graduated sanctions community grant has such grant reduced under such allotment which causes any reduction in the core programing of such local district, such local district may make expenditures for such core programing from moneys received from moneys appropriated for fiscal year 2004 for the juvenile justice authority for prevention program grants, notwithstanding any provision of any statute or any grant agreement to the contrary."

Senator Feleciano moved to amend the bill as amended by Senate Committee, on page 60, after line 16, by inserting the following:

“(d) Notwithstanding the provisions of K.S.A. 74-8720 and amendments thereto or any other statute, any unclaimed prize money accruing in the fiscal year ending June 30, 2004, shall be deposited in the lottery prize payment fund, and on or after July 15, 2003, and monthly thereafter until June 15, 2004, the director of accounts and reports shall transfer monthly any amounts of unclaimed prize money certified by the director of the Kansas lottery for the following purposes: (1) An amount of not to exceed an aggregate of \$500,000 to the soldiers’ home fee fund of the Kansas commission on veterans’ affairs for the purpose of providing for the welfare and benefit of veterans and for the operations and administration of the Kansas soldier’s home; (2) an amount of not to exceed an aggregate of \$500,000 to the veterans’ home fee fund of the Kansas commission on veterans’ affairs for the purpose of providing for the welfare and benefit of veterans and for the operations and administration of the Kansas veterans’ home; (3) an amount of not to exceed an aggregate of \$1,200,000 to the mental health and retardation services aid and assistance account of the department of social and rehabilitation services; and (4) an amount not to exceed an aggregate of \$700,000 to the senior care act fund of the department on aging to reduce waiting lists for services.”;

On page 89, in line 36, by adding \$700,000 to the dollar amount and by adjusting the dollar amount in line 36 accordingly;

On page 94, in line 36, by adding \$1,200,000 to the dollar amount and by adjusting the dollar amount in line 36 accordingly

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

On roll call, the vote was: Yeas 13, Nays 24, Present and Passing 1, Absent or Not Voting 2.

Yeas: Barnett, Barone, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Huelskamp, Lee, Salmans, Steineger.

Nays: Adkins, Allen, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Harrington, Jordan, Kerr, Lyon, Morris, O’Connor, Oleen, Pugh, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Present and Passing: Jackson.

Absent or Not Voting: Brownlee, Emler.

The motion failed and the amendment was rejected.

Senator Morris amended the bill as amended by Senate Committee, on page 97, in line 37, preceding the period, by inserting: “: *Provided further*, That the department of social and rehabilitation services shall report to the legislative budget committee during the 2003 interim on the impact during fiscal year 2003 of the dispense as written provision”, and **SB 263** be passed as further amended.

Sub HB 2073; HB 2214, HB 2220 be passed.

HB 2032, HB 2122, HB 2131 be amended by adoption of the committee amendments, and the bills be passed as amended.

HB 2003 be amended by adoption of the committee amendments, be further amended by motion of Senator Clark as amended by Senate Committee, on page 2, in line 22, following “(e)” by inserting “Notwithstanding the provisions of subsections (b) and (c), no agreement made pursuant to this section shall become effective unless prior to entering into such agreement, the rural water district purchases from the municipality the water distributed by such district.

(f)”, and **HB 2003** be passed as further amended.

HB 2135 be amended by adoption of the committee amendments, be further amended by motion of Senator Huelskamp as amended by Senate Committee, on page 2, following line 6, by inserting the following:

“Sec. 3. K.S.A. 68-1029 is hereby amended to read as follows: 68-1029. (a) Except where designated by another name, the entire length of United States highway 54 in the state of Kansas is hereby designated ~~and shall be called “the Yellow Brick Road.”~~ as “*The Yellow Brick Road.*” The secretary of transportation, ~~with the advice of the travel, tourism and film services division of the department of economic development, may designate short parts of highways which begin, end or cross United States highway 54, as “the Yellow Brick~~

Road" in conjunction with the tourism program of the department of economic development shall place signs along the highway right-of-way at proper intervals to indicate that the highway is "The Yellow Brick Road," except that any additional signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining suitable highway signs bearing the proper approved inscription.

(b) The city of Liberal is hereby designated as "The Land of Oz" and "The Home of Dorothy of the Wizard of Oz.";

By renumbering sections accordingly;

Also on page 2, in line 8, by striking "and 68-166" and by inserting ", 68-166 and 68-1029";

In the title, in line 10, by striking "des-"; in line 11, by striking all preceding "amending" and inserting "making certain designations;"; in line 12, before "repealing" by inserting "68-1029 and", and **HB 2135** be passed as further amended.

HB 2288 be amended by adoption of the committee amendments.

Senator Huelskamp moved to amend the bill as amended by Senate Committee, on page 3, by striking lines 16 through 43;

On page 4, by striking lines 1 through 6;

By renumbering the remaining sections;

On page 6, in line 1, after "voting" by inserting "unless such applicant is a HAVA voter who has previously submitted the last four digits of such applicant's social security number, such applicant's current driver's license number or a form of identification specified in paragraph (2) of subsection (b) of section 7, and amendments thereto, with such person's voter registration application;";

On page 7, after line 40, by inserting:

"(1) For the purposes of this section, "HAVA voter" shall have the meaning ascribed to it in section 7 and amendments thereto.";

On page 9, in line 3, by striking "A" and inserting "(1) Except as provided in paragraph (2), a"; in line 5, by striking "(1)" and inserting "(A)"; in line 6, by striking "(2)" and inserting "(B)"; by striking all in lines 7 through 11; in line 12, by striking "107-252;"; in line 13, by striking "(4)" and inserting "(C)"; following line 13, by inserting:

"(2) If the person desiring to vote is a HAVA voter, such person shall provide to the election board the voter's current and valid driver's license or other form of photo identification, or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and current address of such person unless such person has previously submitted such form of identification with such person's voter registration application.";

Also on page 9, in line 18, by striking all following "(2)"; in line 19, by striking "(3)"; in line 20, by striking "(4)" and inserting "(3)"; in line 24, by striking "(5)" and inserting "(4)"; in line 27, by striking "(6)" and inserting "(5)"; in line 29, by striking "the" and inserting "a HAVA"; in line 30, by striking "the" where it appears for the second time and inserting "such HAVA"; by striking all in lines 32 through 43;

On page 10, by striking lines 1 through 11; in line 26, by striking all following "(g)"; by striking all in lines 27 and 28 and inserting: "For the purposes of this section, "HAVA voter" means an individual who registers by mail to vote in a county and such individual:

(1) Has not previously voted in an election for federal office in this state; or

(2) has not previously voted in an election for federal office in such county whenever this state does not have a computerized list that complies with the requirements of subsection (a) of section 303 of the Help America Vote Act of 2002, public law 107-252.";

On page 12, in line 31, by striking "25-1122d,";

In the title, in line 16, by striking "25-1122d."

The motion failed and the amendment was rejected.

Consideration of **HB 2288** will resume on Thursday, March 27, 2003.

HB 2374 be passed over and retain a place on the calendar.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 170** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 170," as follows:

"Substitute for SENATE BILL No. 170

By Committee on Assessment and Taxation

"AN ACT concerning the Kansas withholding tax act; amending K.S.A. 2002 Supp. 79-3295, 79-3298, 79-3299, 79-32,100, 79-32,100a, 79-32,100b and 79-32,100c and repealing the existing sections.";

and the substitute bill be passed.

Also **SB 94** be amended on page 1, after line 14, by inserting the following:

"Section 1. K.S.A. 2002 Supp. 79-15,101 is hereby amended to read as follows: 79-15,101. As used in this act unless the context otherwise requires:

(a) Any term used in this act shall have the same meaning as when used in a comparable context in the internal revenue code. Any reference in this act to the "internal revenue code" shall mean the provisions of the United States internal revenue code of 1986, as such code exists on December 31, 1997. Any reference in this act to a specific provision of the internal revenue code shall be to such provision as it exists on December 31, 1997.

(b) "Decedent" includes the testator, intestate, grantor, bargainer, venter or donor.

(c) "Deemed executor" includes any person in actual or constructive possession of any property of the decedent.

(d) "Director" means the director of taxation.

(e) "Distributee" means a beneficiary, legatee, devisee, heir, next of kin, grantee, donee, vendee, joint tenant or successor.

(f) "Domicile" refers to that place where a person resides, has an intention to remain and to which they intend to return following any absence.

(g) "Estate" and "property" shall mean the real, personal and mixed property or interest therein of the testator, intestate, grantor, bargainer, vendor or donor which shall pass or be transferred to legatees, devisees, heirs, next of kin, grantees, donees, vendees, or successors and shall include all personal property within or without the state.

(h) "Executor" and "administrator" mean the duly appointed, qualified and acting executor or administrator of the decedent in this state.

(i) "Nonresident decedent" means a decedent who was not a resident decedent at the time of death.

(j) "Personal representative" means the executor, administrator or deemed executor of the decedent.

(k) "Resident decedent" means a decedent who was domiciled in this state at the time of death. *A person who spent in the aggregate more than six months of the calendar year immediately preceding such person's death within this state shall be presumed to have been a resident for purposes of this act, in the absence of proof to the contrary.*

(l) "Secretary" means the secretary of revenue, or the secretary's designee.

(m) "Tax" includes tax, penalty and interest, unless the context of a particular section otherwise requires.

(n) "Tax situs" relates to location of property for the purpose of imposing tax. *Real estate or tangible personal property reflected in the Kansas gross estate shall be considered to have a tax situs within Kansas if, at the time of the decedent's death, the property was physically located within the state of Kansas. Oil and gas leases on lands in this state and all interests created thereby, or arising therefrom, shall be considered as tangible personal property having an actual situs in this state. Intangible property reflected in the Kansas gross estate, including moneys on deposit with financial institutions, shall be presumed to have a tax situs within Kansas if the decedent was a resident decedent at the time of death.*

(o) "Transfer" shall include the passing of property or any interest therein in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift or appointment in the manner herein prescribed.

Sec. 2. K.S.A. 2002 Supp. 79-15,102 is hereby amended to read as follows: 79-15,102.

(a) A tax is hereby imposed on the estate of every resident decedent, and every nonresident decedent who died holding an interest in property with a Kansas tax situs, whose estate is

required by federal law to file a return for federal estate taxes. The amount of such tax shall be equal to the amount of the maximum credit allowable by section 2011 of the internal revenue code against the tax imposed on the transfer of the estate of the decedent by section 2001 of the internal revenue code.

~~(b) When the estate of a resident decedent consists of property within and without the state, or in the case of the estate of a nonresident decedent who died holding an interest in property with a Kansas tax situs, the tax imposed under subsection (a) shall be the percentage thereof that the gross estate for federal estate tax purposes less the value of all property included therein having a tax situs which is not within the jurisdiction of the state of Kansas, bears to the total gross estate for federal estate tax purposes shall consist of property with a tax situs in Kansas and property with a tax situs outside Kansas, the tax imposed by subsection (a) shall be multiplied by the percentage determined by dividing the value of all property included in the gross estate which is within the jurisdiction of the state of Kansas by the value of all property included in the gross estate.~~

Sec. 3. K.S.A. 2002 Supp. 79-15,103 is hereby amended to read as follows: 79-15,103.

(a) *Except as otherwise provided*, the personal representative of every estate subject to the tax imposed by K.S.A. 2002 Supp. 79-15,102 and amendments thereto who is required by federal law to file a return for federal estate taxes shall *make and* file in the office of the director a return on forms prepared and furnished by the secretary together with a copy of the federal estate tax return on or before the date the federal estate tax return is required to be filed. The personal representative of any decedent whose estate is not taxable under the provisions of this act, may obtain a determination of the director that no tax liability exists on such estate by filing a return on forms prepared and furnished by the secretary stating that such estate is not taxable.

~~(b) The taxes imposed under the provisions of this act shall be paid by the personal representative to the director at the expiration of nine months after the death of the decedent.~~

~~(c) If the taxes contemplated by this act are not paid when due, interest at the rate prescribed by subsection (b) of K.S.A. 79-2968, and amendments thereto, shall be charged and collected commencing at the time the same become payable.~~

(b) In those estates in which no executor or administrator has been appointed, the deemed executor shall make and file such return. In the event there is more than one deemed executor, all deemed executors shall be jointly responsible for completing and filing one return reporting all of the assets of the estate except as hereinafter provided.

(c) If, after exercising due diligence, the personal representative making and filing such return is unable to make a complete return as to any part of the gross estate of the decedent, the personal representative shall make and file a return reporting all information as to the estate assets, including a description thereof and the name of any person holding a legal or beneficial interest in the assets, to the best of such personal representative's knowledge.

Sec. 4. K.S.A. 2002 Supp. 79-15,109 is hereby amended to read as follows: 79-15,109.

(a) As soon as practicable after the return is filed and the taxes paid, the director shall issue a closing letter. Such closing letter shall be issued to the personal representative upon the director being satisfied that there has been a final determination of all taxes due and that all such taxes have been paid.

(b) The closing letter shall be applicable only to assets reported in the return filed with the director. To the extent the gross assets of the decedent were reported, the issuance of a closing letter shall be conclusive evidence that all taxes have been determined and paid and shall release any lien which attached to the decedent's property, or the property of any personal representative or distributee, unless notice of such lien has been filed under section 17, and amendments thereto."

Also on page 1, in line 15, by striking "Section 1." and inserting "New Sec. 5.;" after line 25, by inserting the following:

"New Sec. 6. Returns made in accordance with the provisions of this act shall be filed on or before the date the federal estate tax return is required to be filed.

New Sec. 7. (a) Upon a showing of good cause the director may grant a reasonable extension of time for filing a return.

(b) A request for an extension of time to file shall be made in the manner and form prescribed by the secretary. No such extension shall be for more than six months, except in the event of litigation directly involving the estate.

(c) Notwithstanding a grant of an extension of time to file, the taxes shall be due and payable at the same time and in the same manner as if no such extension had been granted.

New Sec. 8. All returns, statements or other documents required to be filed under any provision of this act shall be filed with the office of the director of taxation, or at such other place as the secretary may by rule or regulation prescribe.

New Sec. 9. (a) Any return, statement or other document required to be made under any provision of this act shall be signed in accordance with forms or regulations prescribed by the secretary.

(b) The fact that an individual's name is signed to a return, statement or other document shall be prima facie evidence for all purposes that the return, statement or other document was actually signed by the individual.

(c) Except as otherwise provided by the secretary, any return, declaration, statement or other document required to be made under any provision of this act shall contain or be verified by a written declaration that it is made under penalties of perjury.

New Sec. 10. If any person fails to make a return required by this act or by regulations prescribed thereunder, but consents to disclose all information necessary for the preparation thereof, the director may prepare such return. After such return is signed by the person, such return may be received by the director as the return of the person.

New Sec. 11. (a) The director is authorized to provide with respect to any amount required to be shown on a return, statement or any other document, that if the amount of such item is other than a whole-dollar amount either:

(1) The fractional part of a dollar shall be disregarded; or

(2) the fractional part of a dollar shall be disregarded unless it amounts to \$.50 or more, in which case the amount, to be determined without regard to the fractional part of a dollar, shall be increased by \$1.

(b) Any person making a return, statement or other document shall be allowed, under regulations prescribed by the secretary, to make such return, statement or other document without regard to subsection (a).

(c) The provisions of subsections (a) and (b) shall not be applicable to items which must be taken into account in making the computations necessary to determine the amount required to be shown on a form, but shall be applicable only to such final amount.

New Sec. 12. (a) The tax imposed under the provisions of this act shall be paid by the personal representative.

(b) The personal representative, or each personal representative if there is more than one, shall be personally liable for the tax to the extent of the property in the personal representative's actual or constructive possession which has a Kansas tax situs, less any amounts the personal representative is required to pay to third parties who have a legally enforceable claim to the property that has priority under state or federal law over the tax imposed by this act.

New Sec. 13. (a) The tax imposed under the provisions of this act shall be paid at the expiration of nine months after the death of the decedent.

(b) The person required to make the return, without assessment or notice and demand from the director, shall pay such tax to the office of the director of taxation, or at such other place as the secretary may by rule or regulation prescribe.

New Sec. 14. (a) If any personal representative fails to file a return or pay the tax if one is due, at the time required by or under the provisions of this act, there shall be added to the tax an additional amount equal to 1% of the unpaid balance of the tax due for each month or fraction thereof during which such failure continues, not exceeding 24% in the aggregate, plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid.

(b) If after review of a return the director determines that the underpayment of tax was due to the failure of the personal representative to make a reasonable attempt to comply with the provisions of this act, a penalty shall be imposed in the amount of 25% of the unpaid balance of tax due.

(c) If any personal representative has failed to file a return or has filed an incorrect or insufficient return, and after notice from the director refuses or neglects within 20 days to file a proper return, the director shall determine the value of the taxable estate according to the best available information and assess the tax together with a penalty of 50% of the unpaid balance of tax due plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was originally due to the date of payment.

(d) Any personal representative who, with fraudulent intent, fails to pay any tax or to make, render or sign any return, or to supply any information, within the time required by or under the provisions of this act, shall be assessed a penalty equal to the amount of the unpaid balance of tax due plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was originally due to the date of payment. Such person shall also be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or be imprisoned in the county jail not less than 30 days nor more than one year, or both such fine and imprisonment.

(e) Any personal representative who intentionally signs a fraudulent return shall be guilty of a felony, and upon conviction shall be punished by imprisonment for a term not exceeding five years.

(f) (1) Whenever the director determines that the failure of the personal representative to comply with the provisions of subsection (a), (b) or (c) was due to reasonable causes, the director may waive or reduce any of the penalties upon making a record of the reasons therefor.

(2) No penalty shall be assessed hereunder with respect to any underpayment of estate tax liability reported on any amended return filed by any personal representative who at the time of filing pays such underpayment and where the return is not being examined at the time of filing.

(3) No penalty assessed hereunder shall be collected if the personal representative has had the tax abated on appeal, and any penalty collected upon such tax shall be refunded.

New Sec. 15. Whenever the director has reason to believe that a personal representative may be unwilling or unable to fulfill the filing requirements of K.S.A. 79-15,103, and amendments thereto, relating to the filing of a return, or of section 12, and amendments thereto, relating to the payment of the tax, or that a distributee receiving property liable for the payment of tax is about to depart from the state or to remove any property which is subject to tax, including proceeds from the sale or disposal of such property, or to conceal themselves or such property, or to transfer, commingle, disburse or otherwise manipulate such property in order to frustrate or preclude the calculation of tax due thereon or collection of tax due therefrom, or to do any other act tending to prejudice, jeopardize or render wholly or partially ineffective the determination or collection of tax unless proceedings are brought without delay, the director shall immediately make an assessment for all such taxes due, noting such finding on the assessment. Thereupon notices of lien may be filed in accordance with section 17, and amendments thereto, or, in the director's discretion, a warrant may be issued for the collection of tax as provided in section 18, and amendments thereto. Any person liable for tax, within 30 days from the date of filing of such notice of lien or warrant, may request review in the manner prescribed by K.S.A. 79-3226, and amendments thereto, on the correctness of the jeopardy assessment. If the director finds that in certain cases collection of the tax may be jeopardized by delay, the director, in the exercise of discretion, immediately may issue notice and demand for payment of tax found to be due. In such cases, collection may be stayed by the giving of such security as the director may consider adequate.

New Sec. 16. (a) The property of the estate of every decedent whose estate is required to file an estate tax return pursuant to K.S.A. 79-15,103, and amendments thereto, in whatever form of investment it may happen to be, shall be charged with a lien for all taxes, penalties and interest thereon which are or may become due on such property.

(b) Unless the estate tax imposed by this act is sooner paid in full, it shall be a lien upon the gross estate of the decedent for 10 years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of

its administration, allowed by any court having jurisdiction therefor, shall be divested of such lien.

(c) Except as otherwise provided, if the taxes imposed under this act are not paid when due, the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise or release of a power of appointment or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate, to the extent of the value of such property at the time of the decedent's death, shall be personally liable for such tax. The provisions of this subsection shall not apply to the trustee of an employee's trust which meets the requirements of section 401(a) of the federal internal revenue code. Any part of such property transferred by, or transferred by a transferee of such spouse, transferee, trustee, surviving tenant, person in possession or beneficiary to a purchaser or holder of a security interest shall be divested of the lien provided for in subsection (a) and a similar lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession or beneficiary or transferee of any such person, except any part transferred to a purchaser or a holder of a security interest.

New Sec. 17. (a) Whenever the director has reason to believe that any property which is subject to tax, including proceeds from the sale or disposal of such property, may be transferred, commingled, disbursed, concealed within or removed from the state, or otherwise manipulated in order to frustrate or preclude the collection of tax from such property, the director may file against such property written notice of the lien imposed by section 16, and amendments thereto.

(b) A notice of lien shall be filed with the register of deeds in any county where any property subject to tax is located, upon forms prescribed by the secretary. In the event an exact tax liability has been determined, the notice may recite the amount of such liability.

(c) Upon satisfaction of the lien, or upon its release or divestiture in accordance with section 20, and amendments thereto, the director shall issue notice of the release of such lien, on forms prescribed by the director.

New Sec. 18. (a) If the personal representative fails to timely pay the taxes imposed by this act, the director may enforce the director's lien by the issuance of a warrant under the director's hand and official seal, directed to the sheriff of any county of the state, commanding such sheriff to levy upon and sell the real and personal property of the distributee found within the sheriff's county for the payment of the amount thereof, with the added penalty, interest and the cost of executing the warrant, and to return such warrant to the director and pay to the director the money collected by virtue thereof not more than 60 days from the date of the warrant. The sheriff, within five days after the receipt of the warrant, shall file with the clerk of the district court of the sheriff's county a copy thereof, and thereupon the clerk shall enter in the appearance docket in appropriate columns, the name of the distributee named in the warrant, the amount of the tax or portion thereof and interest for which the warrant is issued and the date such copy is filed. The amount of such warrant docketed shall thereupon become a lien upon the title to, and interest in, the real property of the distributee against whom it is issued in the same manner, as a judgment duly docketed in the office of such clerk. The sheriff shall proceed in the same manner and with like effect as prescribed by law with respect to executions issued against property upon judgments of a court of record and shall be entitled to the same fees for the sheriff's services to be collected in the same manner.

(b) The court in which the warrant is docketed shall have jurisdiction over all subsequent proceedings as fully as though a judgment had been rendered in the court. In the discretion of the director, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the director, and in the execution thereof such officer or employee shall have all the powers conferred by laws upon sheriffs, and the subsequent proceedings thereunder shall be the same as provided where the warrant is issued directly to the sheriff. The distributee shall have the right to redeem the real estate within a period of 18 months from the date of such sale. If a warrant is returned, unsatisfied in full, the director shall have the same remedies to enforce the claim for taxes as if the state of Kansas had recovered judgment against the distributee for the amount of the tax. No law exempting any goods and chattels, land and tenements from forced sale under execution shall apply to a levy and sale under any such warrants or upon any execution issued upon any judgment rendered in

any action for estate taxes. The director shall have the right at any time after the warrant has been returned unsatisfied or satisfied only in part, to issue alias warrants until the full amount of the tax is collected.

New Sec. 19. In cases where the tax is due and payable, the director of taxation may bring an action for collection. All actions shall be prosecuted by the attorney for the director in the name of the state, and such actions may be brought in the same courts as other actions for money.

New Sec. 20. The lien imposed by section 16, and amendments thereto, shall be divested or released only in accordance with the following provisions:

(a) The lien shall be divested upon the payment of all taxes, penalty and interest due;
 (b) the lien shall be divested after 10 years from the date of the decedent's death;
 (c) that portion of the decedent's property which is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien;
 (d) the lien shall not affect any property after it has been sold or disposed of for value by the executors or administrators in accordance with K.S.A. 59-1410 and 59-1413, and amendments thereto, or otherwise in accordance with law, but in all such cases a lien shall attach to the proceeds realized from any such sale or other disposition for all taxes and interest thereon which are or may be due on such property. Tax due or payable from the proceeds of such sale or disposal of such property shall be collected by the personal representative in accordance with the provisions of section 12, and amendments thereto, or by the director in accordance with the provisions of section 18 or 19, and amendments thereto; and

(e) that portion of the decedent's property which must be sold, transferred or disposed of for the payment of taxes against the estate shall be divested of the lien, but only to the extent a specific release of has been granted by the director.

New Sec. 21. (a) Whenever the lien imposed by section 16, and amendments thereto, has been released in accordance with the provisions of section 20, and amendments thereto, and the personal representative makes written request for proof of such release, the director shall furnish such personal representative with notice of release. Any such notice of release shall be in such form as prescribed by the director and may include use of or reference to the closing letter issued by the director or may be included as part of that closing letter.

(b) When the notice of release applies to real property, such notice may be filed in the office of the register of deeds in any county where any such real property included in the gross estate is located or, when the estate is involved in proceedings before the district court, with the court. At the discretion of the director, such notice of release may be filed by the director or may be provided to the personal representative for filing.

New Sec. 22. The provisions of sections 6 through 22 and amendments thereto shall be part of and supplemental to the Kansas estate tax act.”;

And by renumbering sections accordingly;

Also on page 1, in line 26, after “Supp.” by inserting “79-15,101, 79-15,102, 79-15,103, 79-15,106, 79-15,107, 79-15,108, 79-15,109, 79-15,114, 79-15,115 and”; also in line 26, by striking “is” and inserting “are”;

Also on page 1, in the title, in line 10, after “concerning” by inserting “estate”; in line 11, after the semicolon, by inserting “amending K.S.A. 2002 Supp. 79-15,101, 79-15,102, 79-15,103 and 79-15,109 and repealing the existing sections; also”; in line 12, after “Supp.” by inserting “79-15,106, 79-15,107, 79-15,108, 79-15,114, 79-15,115 and”; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 269** be amended On page 2, in line 13, following the period by inserting “One week of additional benefits will be payable to claimants who exhaust regular benefits and any benefits under any other federal or state extended benefits program during the period July 1, 2003 through June 30, 2004. The benefit eligibility and disqualification provisions of K.S.A. 44-705 and 44-706 shall apply to the additional benefits program.”;

On page 7, in line 25, by striking all after “that”; by striking all in lines 26 through 28; in line 29, by striking all before the period and inserting “one week of additional benefits shall be payable to claimants who exhaust regular benefits and any benefits under any other

federal or state extended benefits program during the period July 1, 2003 through June 30, 2004"; following line 37, by inserting the following:

"Sec. 3. K.S.A. 2002 Supp. 44-710 is hereby amended to read as follows: 44-710. (a) *Payment.* Contributions shall accrue and become payable by each contributing employer for each calendar year in which the contributing employer is subject to the employment security law with respect to wages paid for employment. Such contributions shall become due and be paid by each contributing employer to the secretary for the employment security fund in accordance with such rules and regulations as the secretary may adopt and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ. In the payment of any contributions, a fractional part of \$.01 shall be disregarded unless it amounts to \$.005 or more, in which case it shall be increased to \$.01. Should contributions for any calendar quarter be less than \$1, no payment shall be required.

(b) *Rates and base of contributions.* (1) Except as provided in paragraph (2) of this subsection, each contributing employer shall pay contributions on wages paid by the contributing employer during each calendar year with respect to employment as provided in K.S.A. 44-710a and amendments thereto.

(2) (A) If the congress of the United States either amends or repeals the Wagner-Peyser act, the federal unemployment tax act, the federal social security act, or subtitle C of chapter 23 of the federal internal revenue code of 1986, or any act or acts supplemental to or in lieu thereof, or any part or parts of any such law, or if any such law, or any part or parts thereof, are held invalid with the effect that appropriations of funds by congress and grants thereof to the state of Kansas for the payment of costs of administration of the employment security law are no longer available for such purposes, or (B) if employers in Kansas subject to the payment of tax under the federal unemployment tax act are granted full credit against such tax for contributions or taxes paid to the secretary of human resources, then, and in either such case, beginning with the year in which the unavailability of federal appropriations and grants for such purpose occurs or in which such change in liability for payment of such federal tax occurs and for each year thereafter, the rate of contributions of each contributing employer shall be equal to the total of .5% and the rate of contributions as determined for such contributing employer under K.S.A. 44-710a and amendments thereto. The amount of contributions which each contributing employer becomes liable to pay under this paragraph (2) over the amount of contributions which such contributing employer would be otherwise liable to pay shall be credited to the employment security administration fund to be disbursed and paid out under the same conditions and for the same purposes as other moneys are authorized to be paid from the employment security administration fund, except that, if the secretary determines that as of the first day of January of any year there is an excess in the employment security administration fund over the amount required to be disbursed during such year, an amount equal to such excess as determined by the secretary shall be transferred to the employment security fund.

(c) *Charging of benefit payments.* (1) The secretary shall maintain a separate account for each contributing employer, and shall credit the contributing employer's account with all the contributions paid on the contributing employer's own behalf. Nothing in the employment security law shall be construed to grant any employer or individuals in such employer's service prior claims or rights to the amounts paid by such employer into the employment security fund either on such employer's own behalf or on behalf of such individuals. Benefits paid shall be charged against the accounts of each base period employer in the proportion that the base period wages paid to an eligible individual by each such employer bears to the total wages in the base period. Benefits shall be charged to contributing employers' accounts and rated governmental employers' accounts upon the basis of benefits paid during each twelve-month period ending on the computation date.

(2) (A) Benefits paid in benefit years established by valid new claims shall not be charged to the account of a contributing employer or rated governmental employer who is a base period employer if the examiner finds that claimant was separated from the claimant's most recent employment with such employer under any of the following conditions: (i) Discharged for misconduct or gross misconduct connected with the individual's work; or (ii) leaving work voluntarily without good cause attributable to the claimant's work or the employer.

(B) Where base period wage credits of a contributing employer or rated governmental employer represent part-time employment and the claimant continues in that part-time employment with that employer during the period for which benefits are paid, then that employer's account shall not be charged with any part of the benefits paid if the employer provides the secretary with information as required by rules and regulations. For the purposes of this subsection (c)(2)(B), "part-time employment" means any employment when an individual works concurrently for two or more employers and also works less than full-time for at least one of those employers because the individual's services are not required for the customary, scheduled full-time hours prevailing at the work place or the individual does not customarily work the regularly scheduled full-time hours due to personal choice or circumstances.

(C) No contributing employer or rated governmental employer's account shall be charged with any extended or *additional* benefits paid in accordance with the employment security law, except for weeks of unemployment beginning after December 31, 1978, all contributing governmental employers and governmental rated employers shall be charged an amount equal to all extended benefits paid.

(D) No contributing employer or rated governmental employer's account will be charged for benefits paid a claimant while pursuing an approved training course as defined in subsection (s) of K.S.A. 44-703 and amendments thereto.

(E) No contributing employer or rated governmental employer's account shall be charged with respect to the benefits paid to any individual whose base period wages include wages for services not covered by the employment security law prior to January 1, 1978, to the extent that the employment security fund is reimbursed for such benefits pursuant to section 121 of public law 94-566 (90 Stat. 2673).

(F) With respect to weeks of unemployment beginning after December 31, 1977, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection (c)(2)(F), the term "previously uncovered services" means services which were not covered employment, at any time during the one-year period ending December 31, 1975, except to the extent that assistance under title II of the federal emergency jobs and unemployment assistance act of 1974 was paid on the basis of such services, and which:

(i) Are agricultural labor as defined in subsection (w) of K.S.A. 44-703 and amendments thereto or domestic service as defined in subsection (aa) of K.S.A. 44-703 and amendments thereto, or

(ii) are services performed by an employee of this state or a political subdivision thereof, as provided in subsection (i)(3)(E) of K.S.A. 44-703 and amendments thereto, or

(iii) are services performed by an employee of a nonprofit educational institution which is not an institution of higher education.

(G) No contributing employer or rated governmental employer's account shall be charged with respect to their pro rata share of benefit charges if such charges are of \$100 or less.

(3) The examiner shall notify any base period employer whose account will be charged with benefits paid following the filing of a valid new claim and a determination by the examiner based on all information relating to the claim contained in the records of the division of employment. Such notice shall become final and benefits charged to the base period employer's account in accordance with the claim unless within 10 calendar days from the date the notice was sent, the base period employer requests in writing that the examiner reconsider the determination and furnishes any required information in accordance with the secretary's rules and regulations. In a similar manner, a notice of an additional claim followed by the first payment of benefits with respect to the benefit year, filed by an individual during a benefit year after a period in such year during which such individual was employed, shall be given to any base period employer of the individual who has requested such a notice within 10 calendar days from the date the notice of the valid new claim was sent to such base period employer. For purposes of this subsection (c)(3), if the required information is not submitted or postmarked within a response time limit of 10 days after the base period employer notice was sent, the base period employer shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be

barred from protesting any subsequent decisions about the claim by the secretary, a referee, the board of review or any court, except that the base period employer's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. The examiner shall notify the employer of the reconsidered determination which shall be subject to appeal, or further reconsideration, in accordance with the provisions of K.S.A. 44-709 and amendments thereto.

(4) *Time, computation and extension.* In computing the period of time for a base period employer response or appeals under this section from the examiner's or the special examiner's determination or from the referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

(d) *Pooled fund.* All contributions and payments in lieu of contributions and benefit cost payments to the employment security fund shall be pooled and available to pay benefits to any individual entitled thereto under the employment security law, regardless of the source of such contributions or payments in lieu of contributions or benefit cost payments.

(e) *Election to become reimbursing employer; payment in lieu of contributions.* (1) Any governmental entity, Indian tribes or tribal units, (subdivisions, subsidiaries or business enterprises wholly owned by such Indian tribes), for which services are performed as described in subsection (i)(3)(E) of K.S.A. 44-703 and amendments thereto or any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income tax under section 501(a) of such code, that becomes subject to the employment security law may elect to become a reimbursing employer under this subsection (e)(1) and agree to pay the secretary for the employment security fund an amount equal to the amount of regular benefits and $\frac{1}{2}$ of the extended benefits paid that are attributable to service in the employ of such reimbursing employer, except that each reimbursing governmental employer, Indian tribes or tribal units shall pay an amount equal to the amount of regular benefits and extended benefits paid for weeks of unemployment beginning after December 31, 1978, for governmental employers and December 21, 2000, for Indian tribes or tribal units to individuals for weeks of unemployment which begin during the effective period of such election.

(A) Any employer identified in this subsection (e)(1) may elect to become a reimbursing employer for a period encompassing not less than four complete calendar years if such employer files with the secretary a written notice of such election within the thirty-day period immediately following January 1 of any calendar year or within the thirty-day period immediately following the date on which a determination of subjectivity to the employment security law is issued, whichever occurs later.

(B) Any employer which makes an election to become a reimbursing employer in accordance with subparagraph (A) of this subsection (e)(1) will continue to be liable for payments in lieu of contributions until such employer files with the secretary a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which such termination shall first be effective.

(C) Any employer identified in this subsection (e)(1) which has remained a contributing employer and has been paying contributions under the employment security law for a period subsequent to January 1, 1972, may change to a reimbursing employer by filing with the secretary not later than 30 days prior to the beginning of any calendar year a written notice of election to become a reimbursing employer. Such election shall not be terminable by the employer for four complete calendar years.

(D) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after January 1 of the year such election is received.

(E) The secretary, in accordance with such rules and regulations as the secretary may adopt, shall notify each employer identified in subsection (e)(1) of any determination which the secretary may make of its status as an employer and of the effective date of any election which it makes to become a reimbursing employer and of any termination of such election.

Such determinations shall be subject to reconsideration, appeal and review in accordance with the provisions of K.S.A. 44-710b and amendments thereto.

(2) *Reimbursement reports and payments.* Payments in lieu of contributions shall be made in accordance with the provisions of paragraph (A) of this subsection (e)(2) by all reimbursing employers except the state of Kansas. Each reimbursing employer shall report total wages paid during each calendar quarter by filing quarterly wage reports with the secretary which shall be filed by the last day of the month following the close of each calendar quarter. Wage reports are deemed filed as of the date they are placed in the United States mail.

(A) At the end of each calendar quarter, or at the end of any other period as determined by the secretary, the secretary shall bill each reimbursing employer, except the state of Kansas, (i) an amount to be paid which is equal to the full amount of regular benefits plus $\frac{1}{2}$ of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing employer; and (ii) for weeks of unemployment beginning after December 31, 1978, each reimbursing governmental employer and December 21, 2000, for Indian tribes or tribal units shall be certified an amount to be paid which is equal to the full amount of regular benefits and extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing governmental employer.

(B) Payment of any bill rendered under paragraph (A) of this subsection (e)(2) shall be made not later than 30 days after such bill was mailed to the last known address of the reimbursing employer, or otherwise was delivered to such reimbursing employer, unless there has been an application for review and redetermination in accordance with paragraph (D) of this subsection (e)(2).

(C) Payments made by any reimbursing employer under the provisions of this subsection (e)(2) shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of such employer.

(D) The amount due specified in any bill from the secretary shall be conclusive on the reimbursing employer, unless, not later than 15 days after the bill was mailed to the last known address of such employer, or was otherwise delivered to such employer, the reimbursing employer files an application for redetermination in accordance with K.S.A. 44-710b and amendments thereto.

(E) Past due payments of amounts certified by the secretary under this section shall be subject to the same interest, penalties and actions required by K.S.A. 44-717 and amendments thereto. (1) If any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 or governmental reimbursing employer is delinquent in making payments of amounts certified by the secretary under this section, the secretary may terminate such employer's election to make payments in lieu of contributions as of the beginning of the next calendar year and such termination shall be effective for such next calendar year and the calendar year thereafter so that the termination is effective for two complete calendar years. (2) Failure of the Indian tribe or tribal unit to make required payments, including assessment of interest and penalty within 90 days of receipt of the bill will cause the Indian tribe to lose the option to make payments in lieu of contributions as described pursuant to paragraph (e)(1) for the following tax year unless payment in full is received before contribution rates for the next tax year are calculated. (3) Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in paragraph (2), shall have such option reinstated, if after a period of one year, all contributions have been made on time and no contributions, payments in lieu of contributions for benefits paid, penalties or interest remain outstanding.

(F) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalties, after all collection activities deemed necessary by the secretary have been exhausted, will cause services performed by such tribe to not be treated as employment for purposes of subsection (i)(3)(E) of K.S.A. 44-703 and amendments thereto. If an Indian tribe fails to make payments required under this section, including assessments of interest and penalties, within 90 days of a final notice of delinquency, the secretary shall immediately notify the United States internal revenue service

and the United States department of labor. The secretary may determine that any Indian tribe that loses coverage pursuant to this paragraph may have services performed on behalf of such tribe again deemed "employment" if all contributions, payments in lieu of contributions, penalties and interest have been paid.

(G) In the discretion of the secretary, any employer who elects to become liable for payments in lieu of contributions and any nonprofit organization or group of nonprofit organizations described in section 501 (c)(3) of the federal internal revenue code of 1986 or governmental reimbursing employer or Indian tribe or tribal unit who is delinquent in filing reports or in making payments of amounts certified by the secretary under this section shall be required within 60 days after the effective date of such election, in the case of an eligible employer so electing, or after the date of notification to the delinquent employer under this subsection (e)(2)(G), in the case of a delinquent employer, to execute and file with the secretary a surety bond, except that the employer may elect, in lieu of a surety bond, to deposit with the secretary money or securities as approved by the secretary or to purchase and deliver to an escrow agent a certificate of deposit to guarantee payment. The amount of the bond, deposit or escrow agreement required by this subsection (e)(2)(G) shall not exceed 5.4% of the organization's taxable wages paid for employment by the eligible employer during the four calendar quarters immediately preceding the effective date of the election or the date of notification, in the case of a delinquent employer. If the employer did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the secretary. Upon the failure of an employer to comply with this subsection (e)(2)(G) within the time limits imposed or to maintain the required bond or deposit, the secretary may terminate the election of such eligible employer or delinquent employer, as the case may be, to make payments in lieu of contributions, and such termination shall be effective for the current and next calendar year.

(H) The state of Kansas shall make reimbursement payments quarterly at a fiscal year rate which shall be based upon: (i) The available balance in the state's reimbursing account as of December 31 of each calendar year; (ii) the historical unemployment experience of all covered state agencies during prior years; (iii) the estimate of total covered wages to be paid during the ensuing calendar year; (iv) the applicable fiscal year rate of the claims processing and auditing fee under K.S.A. 75-3798 and amendments thereto; and (v) actuarial and other information furnished to the secretary by the secretary of administration. In accordance with K.S.A. 75-3798 and amendments thereto, the claims processing and auditing fees charged to state agencies shall be deducted from the amounts collected for the reimbursement payments under this paragraph (H) prior to making the quarterly reimbursement payments for the state of Kansas. The fiscal year rate shall be expressed as a percentage of covered total wages and shall be the same for all covered state agencies. The fiscal year rate for each fiscal year will be certified in writing by the secretary to the secretary of administration on July 15 of each year and such certified rate shall become effective on the July 1 immediately following the date of certification. A detailed listing of benefit charges applicable to the state's reimbursing account shall be furnished quarterly by the secretary to the secretary of administration and the total amount of charges deducted from previous reimbursing payments made by the state. On January 1 of each year, if it is determined that benefit charges exceed the amount of prior reimbursing payments, an upward adjustment shall be made therefor in the fiscal year rate which will be certified on the ensuing July 15. If total payments exceed benefit charges, all or part of the excess may be refunded, at the discretion of the secretary, from the fund or retained in the fund as part of the payments which may be required for the next fiscal year.

(3) *Allocation of benefit costs.* The reimbursing account of each reimbursing employer shall be charged the full amount of regular benefits and $\frac{1}{2}$ of the amount of extended benefits paid except that each reimbursing governmental employer's account shall be charged the full amount of regular benefits and extended benefits paid for weeks of unemployment beginning after December 31, 1978, to individuals whose entire base period wage credits are from such employer. When benefits received by an individual are based upon base period wage credits from more than one employer then the reimbursing employer's or reimbursing governmental employer's account shall be charged in the same ratio as base period wage credits from such employer bear to the individual's total base period

wage credits. Notwithstanding any other provision of the employment security law, no reimbursing employer's or reimbursing governmental employer's account shall be charged for payments of extended benefits which are wholly reimbursed to the state by the federal government.

(A) *Proportionate allocation (when fewer than all reimbursing base period employers are liable)*. If benefits paid to an individual are based on wages paid by one or more reimbursing employers and on wages paid by one or more contributing employers or rated governmental employers, the amount of benefits payable by each reimbursing employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bears to the total base period wages paid to the individual by all of such individual's base period employers.

(B) *Proportionate allocation (when all base period employers are reimbursing employers)*. If benefits paid to an individual are based on wages paid by two or more reimbursing employers, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of such individual's base period employers.

(4) *Group accounts*. Two or more reimbursing employers may file a joint application to the secretary for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employment of such reimbursing employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection (e)(4). Upon approval of the application, the secretary shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the secretary receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than four years and thereafter such account shall remain in effect until terminated at the discretion of the secretary or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The secretary shall adopt such rules and regulations as the secretary deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection (e)(4), for addition of new members to, and withdrawal of active members from such accounts, and for the determination of the amounts that are payable under this subsection (e)(4) by members of the group and the time and manner of such payments.”;

And by renumbering the remaining sections accordingly;

Also on page 7, in line 38, following “44-757” by inserting “and K.S.A. 2002 Supp. 44-710”;

On page 1, in the title, in line 10, following “and” where it appears for the second time, by inserting “K.S.A. 2002 Supp. 44-710 and”; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **SB 265** be amended on page 2, in line 33, following “2002” by inserting “and such participation did not occur during the 12-month period immediately preceding the date when such state officer or employee is laid off”; in line 37, preceding “being” by inserting “except for those state employees in the unclassified service specified in paragraphs (a) and (e) of subsection (1) of K.S.A. 75-2935, and amendments thereto,”; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2071**, as amended by Senate Committee, be amended on page 1, by striking lines 17 through 43;

On page 2, by striking lines 1 through 43;

On page 3, by striking lines 1 through 43;

On page 4, by striking lines 1 through 43;

On page 5, by striking lines 1 through 43;

On page 6, by striking lines 1 through 43;

On page 7, by striking lines 1 through 43;

On page 8, by striking lines 1 through 43;

On page 9, by striking lines 1 through 43;

On page 10, by striking lines 1 and 2; in line 3, by renumbering Sec. 3 as Section 1;

On page 12, in line 8, by renumbering Sec. 4 as Sec. 2; also in line 8, by striking "K.S.A. 40-216 and"; also in line 8, by striking all after "40-2258"; in line 9, by striking "2404 are" and inserting "is"; in line 10, by renumbering Sec. 5 as Sec. 3;

In the title, in line 12, by striking all after "to"; in line 13, by striking all before the semicolon and inserting "group health policies"; also in line 13, by striking "K.S.A. 40-216 and"; in line 14, by striking "and 40-2404"; also in line 13, by striking "sections" and inserting "section"; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2448** be passed.

Committee on **Ways and Means** recommends **SB 244** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 244," as follows:

"Substitute for SENATE BILL No. 244

By Committee on Ways and Means

"AN ACT concerning district coroners; amending K.S.A. 2002 Supp. 22a-215 and repealing the existing section.";

and the substitute bill be passed.

Also **SB 257** be amended on page 1, in line 20, after "person" by inserting ", an animal breeder, retail breeder or research facility also"; in line 21, by striking "\$225" and inserting "\$188"; preceding line 22, by inserting:

"(2) For a license for the premises of a distributor, an amount not to exceed \$500.";

Also on page 1, in line 22, by striking "(2)" and inserting "(3)"; in line 23, after "premises" by inserting ", a retail breeder or pet shop"; also in line 23, by striking "\$450" and inserting "\$350"; in line 24, by striking "(3)" and inserting "(4)"; in line 25, by striking "\$112.50" and inserting "\$94"; in line 26, by striking "(4)" and inserting "(5)"; in line 28, by striking "(5)" and inserting "(6)"; in line 29, by striking "\$112.50" and inserting "\$94"; in line 30, by striking "(6)" and inserting "(7)"; in line 30, by striking "\$50" and inserting "\$63"; following line 31, by inserting:

"(8) In addition to the fees prescribed by this section, upon application for a license, each animal breeder, retail breeder or hobby breeder shall conduct a full inventory of their premises and pay a fee of \$1.00 for each dog and cat housed on the premise."; and the bill be passed as amended.

MESSAGE FROM THE HOUSE

Announcing, the House nonconcur in Senate amendments to **HB 2015**, requests a conference and has appointed Representatives Loyd, Owens and Ward as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2068**, requests a conference and has appointed Representatives O'Neal, Patterson and Pauls as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2088**, requests a conference and has appointed Representatives Loyd, Owens and Ward as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2155**, requests a conference and has appointed Representatives Jim Morrison, P. Long and Kirk as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2161**, requests a conference and has appointed Representatives Jim Morrison, P. Long and Kirk as conferees on the part of the House.

On motion of Senator Oleen the Senate adjourned until 10:00 a.m., Thursday, March 27, 2003.

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

PAT SAVILLE, *Secretary of the Senate.*

