

Journal of the House

FORTY-SIXTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, March 17, 2004, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 123 members present.
Reps. O'Neal and Osborne were excused on excused absence by the Speaker.
Present later: Rep. Osborne.

Prayer by guest chaplain, the Rev. Paul Oborny, St. Joseph Catholic Church, McPherson,
and guest of Rep. Shultz:

In 1859 the citizens of Kansas started calling out as we declared in drafting our Constitution, "We, the people of Kansas, grateful To Almighty God for our civil and religious privileges..." O Mighty One, Creator God, earlier, while establishing this nation our ancestors acknowledged You as the Source of "certain unalienable rights." In our treasured founding document are stated "*the right to life, liberty and the pursuit of happiness.*"

We call on You, O Creating One, to visit and inspire this assembled body of elected men and women. We pray that You bless them with Wisdom from on high. So blessed, may they carefully devise legislation that the prudent exercise of these rights may not only continue, but may flourish in this great State.

In their earnest efforts to safeguard these rights may they avoid the danger of creating new pseudo-rights that would threaten the life of some and do grave harm to all others by weakening time-honored sacred institutions. May these blessings come upon this assembly in the power of your Holy Name. Amen.

The Pledge of Allegiance was led by Rep. Feuerborn.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Appropriations: **HB 2938; HR 6027.**

Education: **HB 2937.**

Taxation: **HB 2935, HB 2936.**

MESSAGE FROM THE SENATE

Announcing passage of **SB 32, SB 320, SB 407, SB 546, SB 551, SB 552.**

Announcing passage of **HB 2612.**

Announcing adoption of **HCR 5027.**

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

SB 32, SB 320, SB 407, SB 546, SB 551, SB 552.

CONSENT CALENDAR

No objection was made to **SB 508** appearing on the Consent Calendar for the first day.

No objection was made to **SB 443, SB 452** appearing on the Consent Calendar for the third day. The bills were advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 443. An act concerning the behavioral science regulatory board; relating to disciplinary authority; amending K.S.A. 65-5809, 65-6311, 74-5324, 74-5369, 74-7507 and 74-7508 and repealing the existing sections; also repealing K.S.A. 65-6318, 74-5335 and 74-5343, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 1; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Rehorn.

Present but not voting: None.

Absent or not voting: O'Neal, Osborne.

The bill passed.

SB 452. An act concerning the regulation of psychologists; relating to unlicensed assistants in psychology; amending K.S.A. 2003 Supp. 74-5344 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightn, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: O'Neal, Osborne.

The bill passed.

HB 2484. An act concerning public water supply systems; relating to certain fees and the disposition thereof; amending K.S.A. 2003 Supp. 82a-2101 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 112; Nays 11; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dreher, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Loyd, Mason, Mays, McCreary, McKinney, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Newton, Novascone, O'Malley, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Carter, Dillmore, Edmonds, Howell, Huebert, Kauffman, Long-Mast, McLeland, Neufeld, Powell, Ward.

Present but not voting: None.

Absent or not voting: O'Neal, Osborne.

The bill passed, as amended.

SB 141. An act concerning administrative procedure; concerning presiding officers; amending K.S.A. 2-1208a, 2-3311, 8-2426, 21-3110, 31-140, 36-509, 40-2,137, 44-322a, 44-1005, 49-606, 65-163, 65-163a, 65-525, 65-526, 65-673, 65-780, 65-786, 65-2305, 65-3483, 65-3488, 65-3490, 66-1,117, 74-4904, 74-8804, 74-8816, 74-8817, 74-8837, 75-6207, 76-3110, 77-505, 77-549, 77-550, 77-551, 77-551 as amended by section 42 of this act, 79-3313, 82a-1405, 82a-1501a, 82a-1502 and 82a-1504 and K.S.A. 2003 Supp. 75-37,121, 77-514, 77-514 as amended by section 38 of this act, 82a-1503 and 82a-1901 and repealing the existing sections; also repealing K.S.A. 75-37,122 and 75-5611a, was considered on final action.

On roll call, the vote was: Yeas 111; Nays 12; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightn, Beggs, Bethell, Boyer, Burgess, Burroughs, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kassebaum, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Loyd, Mason, Mays, McKinney, Merrick, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, Owens, Patterson, Pauls, Phelps, Pottorff, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Brunk, Carter, Faber, Huebert, Huy, Kauffman, Long-Mast, McCreary, McLeland, F. Miller, Ostmeyer, Powell.

Present but not voting: None.

Absent or not voting: O'Neal, Osborne.

The bill passed, as amended.

SB 297. An act concerning civil procedure; relating to docket fees; amending K.S.A. 2003 Supp. 20-367, 28-172a, 59-104, 60-1621 and 60-2001 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 72; Nays 51; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Ballou, Beggs, Bethell, Boyer, Campbell, Compton, Cox, Craft, Crow, Davis, Decker, Dreher, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gilbert, Gordon, Hayzlett, Henry, Hill, Holland, Holmes, Horst, Huff, Huntington, Jack, D. Johnson, Kassebaum, Klein, Krehbiel, Kuether, Larkin, Light, Loganbill, M. Long, Loyd, Mason, McCreary, J. Miller, Myers, Neighbor, Neufeld, O'Malley, Owens, Pauls, Phelps, Pottorff, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwartz, B. Sharp, S. Sharp, Showalter,

Shriver, Shultz, Sloan, Svaty, Swenson, Thimesch, Thull, Toelkes, Wilk, J. Williams, Yoder, Yonally.

Nays: Barbieri-Lightner, Brunk, Burgess, Burroughs, Carlin, Carter, Dahl, DeCastro, Dillmore, Edmonds, Faber, Gatewood, Goering, Goico, Grant, Henderson, Howell, Huebert, Humerickhouse, Hutchins, Huy, E. Johnson, Kauffman, Kirk, Landwehr, Lane, Long-Mast, Mays, McKinney, McLeland, Merrick, F. Miller, Minor, Jim Morrison, Judy Morrison, Newton, Novascone, Ostmeyer, Patterson, Powell, Powers, Schwab, Scoggins-Waite, Siegfried, Storm, Tafanelli, Vickrey, Ward, D. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: O'Neal, Osborne.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: I support the work of the Judicial Council, and I agree that the Judicial Council should be funded. But a significant amount of the fees collected under **SB 297** are paid by people who cannot afford to pay their own debts, let alone a surcharge to fund the Judicial Council. The ends do not justify the means. I vote no on **SB 297**. The \$5.00 surcharge should sunset and we should find a better way to fund the Judicial Council.—
JEFF GOERING, ANDREW HOWELL, DAN WILLIAMS, BONNIE HUY, PATRICIA BARBIERI-LIGHTNER

On motion of Rep. Aurand, the House went into Committee of the Whole, with Rep. Vickrey in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that **SB 183** be passed.

On motion of Rep. Goering, **SB 321** be amended on page 2, after line 37, by inserting the following:

“New Sec. 3. (a) As used in this section: (1) “Beneficiary under an order of restitution” means the victim or victims of a crime to whom a municipal court has ordered restitution be paid.

(2) “Contracting agent” means a person, firm, agency or other entity who contracts as provided in this section to provide collection services.

(3) “Cost of collection” means the fee specified in contracts as provided in this section to be paid to or retained by a contracting agent for collection services. Cost of collection also includes any filing fee required under K.S.A. 60-4303, and amendments thereto, or administrative costs prescribed by the clerk of the municipal court.

(4) “Debts owed to the court” means any assessment of court costs, fines, fees or moneys expended by the municipality in providing counsel and other defense services to indigent defendants or other charges which a municipal court judge has ordered to be paid to the court, and which remain unpaid in whole or in part. Such debts include any interest or penalties on such unpaid amounts as provided for in the judgment or by law and the cost of collection when collection services of a contracting agent as provided in this section are utilized.

(b) The clerk of the municipal court is authorized to enter into contracts in accordance with this section for collection services for debts owed to the court or restitution owed under an order of restitution. The cost of collections shall be paid by the defendant as an additional court cost in all criminal and traffic cases where the defendant fails to pay any amount ordered by the court and the court utilizes the services of a contracting agent pursuant to this section. The cost of collection shall be deemed an administrative fee to pay the actual costs of collection made necessary by the defendant's failure to pay the court a debt or restitution. Any fine, penalty, or any part of any fine or penalty assessed by a municipal court which remains unpaid shall be a debt due and owing to the municipality. Such debts shall be a judgment against the defendant which may be enforced as judgments for payment of money in civil cases.

(c) Each contract entered pursuant to this section shall provide for a fee to be paid to or retained by the contracting agent for collection services. Such fee shall be designated as the

cost of collection as provided in this section, and shall not exceed 33% of the amount collected. The cost of collection shall be paid from the amount collected, but shall not be deducted from the debts owed to courts or restitution.

(d) On and after July 1, 2004, any beneficiary, under an order of restitution entered by a court, is authorized to utilize the collection services of contracting agents pursuant to this section for the purpose of collecting all outstanding amounts owed under such order of restitution.

(e) Contracts entered as provided in this section shall provide for the payment of any amounts collected to the clerk of the municipal court for the court in which the debt being collected originated, after first deducting the collection fee. In accounting for amounts collected from any person pursuant to this section, the municipal court clerk shall credit the person's amount owed in the amount of the net proceeds collected and shall not reduce the amount owed by any person by that portion of any payment which constitutes the cost of collection pursuant to this section.

(f) With the appropriate cost of collection paid to the contracting agent as agreed upon in the contract, the clerk shall then distribute amounts collected as provided in this section as follows: (1) When collection services are utilized pursuant to subsection (b), all amounts shall be applied against the debts owed to the court as specified in the original judgment creating the debt; or

(2) when collection services are utilized pursuant to subsection (d), all amounts shall be paid to the beneficiary under an order of restitution designated to receive such restitution, except that where the beneficiary has received recovery from the Kansas crime victims compensation board and such board has subrogation rights pursuant to K.S.A. 74-7312, and amendments thereto, all amounts shall be paid to the board until the board's subrogation lien is satisfied.

(g) Whenever collection services are being utilized against the same debtor pursuant to both subparagraphs (f)(1) and (f)(2), any amounts collected by any contracting agent shall be first applied to satisfy debts owed to courts as provided under subsection (f)(1). Upon satisfaction of all such debts, amounts received from the same debtor shall then be applied to satisfy debts owed to pursuant to an order of restitution as provided under subsection (f)(2).

(h) Any collection for debt or restitution may be enforced pursuant to the code of civil procedure for limited actions.

(i) The collection services authorized by this section shall not be utilized until the debt or restitution remains unpaid for more than 180 days.

(j) The provisions of this act shall be part of and supplemental to the Kansas code of procedure for municipal courts.”;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 10, by striking “court judges” and inserting “courts”; in line 11, before the semicolon by inserting “of municipal court judges; relating to the collection of fines and court costs”;

Also, on motion of Rep. Mason, **SB 321** be amended on page 2, after line 37, by inserting:

“Sec. 3. K.S.A. 2003 Supp. 79-3322 is hereby amended to read as follows: 79-3322. (a) Any person who violates any of the provisions of the Kansas cigarette and tobacco products act, except as otherwise provided in this act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment for not more than one year, or by both. In addition thereto any person found liable for any license fee or tax imposed under the provisions of this act shall be personally liable for such license fee or tax plus a penalty in an amount equal to 100% thereof.

(b) (1) It is a class B person misdemeanor punishable by a minimum fine of \$200 for any person to: (A) Sell, give or furnish any cigarettes or tobacco products to any person under 18 years of age; or (B) buy any cigarettes or tobacco products for any person under 18 years of age.

(2) It shall be a defense to a prosecution under this subsection if: (A) The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples; (B) the defendant sold, furnished or distributed the cigarettes or tobacco products to the person under 18 years of age with reasonable cause to believe the person was of legal

age to purchase or receive cigarettes or tobacco products; and (C) to purchase or receive the cigarettes or tobacco products, the person under 18 years of age exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes or tobacco products.

(3) It shall be a defense to a prosecution under this subsection if: (A) The defendant engages in the lawful sale, furnishing or distribution of cigarettes or tobacco products by mail; and (B) the defendant sold, furnished or distributed the cigarettes or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601, and amendments thereto, that the person was 18 or more years of age.

(4) For purposes of this subsection the person who violates this subsection shall be the individual directly selling, furnishing or distributing the cigarettes or tobacco products to any person under 18 years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.

(c) Violation of subsection (m) or (n) of K.S.A. 79-3321, and amendments thereto, is a cigarette or tobacco infraction for which the fine is \$25. In addition, the judge may require the juvenile to appear in court with a parent or legal guardian *and may require the juvenile to attend a tobacco education program.*

(d) Any agent, employees or others who aid, abet or otherwise participate in any way in the violation of the Kansas cigarette and tobacco products act or in any of the offenses hereunder punishable shall be guilty and punished as principals to the same extent as any person violating this act.”;

Also on page 2, by renumbering the remaining sections; in line 38, before “are” by inserting “and 79-3322”;

In the title, in line 10, by striking “municipal court” and inserting “certain”; also in line 10, by striking “contempt” and inserting “certain”; in line 12, before the second “and” by inserting “and 79-3322”;

Also, on motion to recommend **SB 321** favorably for passage, the motion did not prevail.

Committee report to **SB 312** be adopted; and the bill be passed as amended.

Committee report to **HB 2544** be adopted; also, roll call was demanded on motion of Rep. Schwab to amend on page 1, after line 14, by inserting the following:

“Section 1. K.S.A. 2003 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3% on and after July 1, 2002, and before July 1, ~~2004~~, ~~5.2% on and after July 1, 2004, and before July 1, 2005~~ 2006, and 5% on and after July 1, ~~2005~~ 2006, and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

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

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service

that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001; and (3) the gross receipts from the provision of services taxable under this subsection which are billed on a combined basis with nontaxable services, shall be accounted for and the tax remitted as follows: The taxable portion of the selling price of those combined services shall include only those charges for taxable services if the selling price for the taxable services can be readily distinguishable in the retailer's books and records from the selling price for the nontaxable services. Otherwise, the gross receipts from the sale of both taxable and nontaxable services billed on a combined basis shall be deemed attributable to the taxable services included therein. Within 90 days of billing taxable services on a combined basis with nontaxable services, the retailer shall enter into a written agreement with the secretary identifying the methodology to be used in determining the taxable portion of the selling price of those combined services. The burden of proving that any receipt or charge is not taxable shall be upon the retailer. Upon request from the customer, the retailer shall disclose to the customer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on a combined basis;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

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

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

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

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

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

to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

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

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

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

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

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

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

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

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

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

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

For the purposes of this subsection:

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

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

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

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

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

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

(s) *on and after July 1, 2004*, the gross receipts received from the sale of *prewritten* computer software, ~~the sale of the service of providing computer software other than prewritten computer software~~ and the sale of the services of modifying, altering, updating or maintaining *prewritten* computer software, whether the *prewritten* computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services, mobile telecommunication services, beeper services and other similar services. On and after August 1, 2002, the provisions of the federal mobile telecommunications sourcing act as in effect on January 1, 2002, shall be applicable to all sales of mobile telecommunication services taxable pursuant to this subsection. The secretary of revenue is hereby authorized and directed to perform any act deemed necessary to properly implement such provisions;

(u) the gross receipts received from the sale of prepaid calling service as defined in K.S.A. 2003 Supp. 79-3673, and amendments thereto; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*, and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*, and amendments thereto, shall be exempt from taxes imposed pursuant to this section.";

And by renumbering sections accordingly;

On page 20, in line 35, after "Supp." by inserting "79-3603, 79-3603c and"; also in line 35, by striking "is" and inserting "are";

On page 1, in the title, in line 10, after "to" by inserting "computer software;"; in line 11, after "Supp." by inserting "79-3603 and"; in line 12, by striking "section" and inserting "sections; also repealing K.S.A. 2003 Supp. 79-3603c";

On roll call, the vote was: Yeas 59; Nays 64; Present but not voting: 1; Absent or not voting: 1.

Yeas: Barbieri-Lightner, Boyer, Brunk, Burgess, Campbell, Carter, Dahl, DeCastro, Decker, Faber, Goering, Goico, Gordon, Hayzlett, Holland, Holmes, Howell, Huebert, Humerickhouse, Huntington, Hutchins, Huy, Jack, E. Johnson, Kauffman, Landwehr, Long-Mast, Mason, Mays, McCreary, McLeland, Merrick, F. Miller, J. Miller, Jim Morrison, Judy Morrison, Neighbor, Neufeld, Newton, Novascone, O'Malley, Osborne, Ostmeyer, Owens, Patterson, Pottorff, Powell, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Sloan, Tafanelli, Vickrey, D. Williams, Wilson, Yoder, Yonally.

Nays: Aurand, Ballard, Ballou, Beggs, Bethell, Burroughs, Carlin, Compton, Cox, Craft, Crow, Davis, Dillmore, Dreher, Edmonds, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Grant, Henderson, Henry, Hill, Horst, Huff, D. Johnson, Kassebaum, Kirk, Klein, Kuether, Lane, Larkin, Light, Loganbill, M. Long, Loyd, McKinney, Minor, Myers, Pauls, Phelps, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Scoggins-Waite, B. Sharp, Showalter, Shriver, Storm, Svaty, Swenson, Thimesch, Thull, Toelkes, Ward, Wilk, J. Williams, Winn.

Present but not voting: Krehbiel.

Absent or not voting: O'Neal.

The motion of Rep. Schwab did not prevail.

Also, roll call was demanded on motion of Rep. Goico to amend **HB 2544** on page 4, in line 23, by striking the comma; by striking all in lines 24 and 25; in line 26, by striking "craft"; in line 27, by striking "and aircraft repair, modification and replacement parts"; in line 31, by striking ", aircraft parts,."; in line 32, by striking "replacement parts and services employed"; in line 33, after "States" by inserting "and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft";

On roll call, the vote was: Yeas 77; Nays 41; Present but not voting: 0; Absent or not voting: 7.

Yeas: Aurand, Barbieri-Lightner, Beggs, Boyer, Brunk, Burgess, Carter, Dahl, DeCastro, Decker, Dillmore, Faust-Goudeau, Flaharty, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Hayzlett, Holland, Holmes, Horst, Howell, Huebert, Humerickhouse, Huntington, Huy, Jack, D. Johnson, E. Johnson, Kirk, Klein, Landwehr, Light, Loganbill, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, Osborne, Ostmeyer, Owens, Patterson, Pauls, Pottorff, Powell, Powers, Sawyer, Schwab, Schwartz, Scoggins-Waite, Showalter, Shriver, Shultz, Siegfried, Swenson, Tafanelli, Thimesch, Thull, Ward, D. Williams, Wilson, Winn, Yoder.

Nays: Ballard, Bethell, Burroughs, Campbell, Carlin, Compton, Cox, Craft, Crow, Davis, Dreher, Edmonds, Feuerborn, Flora, Grant, Henderson, Henry, Hill, Huff, Hutchins, Kassebaum, Kauffman, Krehbiel, Kuether, Lane, Larkin, Minor, O'Malley, Phelps, Reardon, Rehorn, Reitz, Ruff, S. Sharp, Sloan, Storm, Svaty, Vickrey, Wilk, J. Williams, Yonally.

Present but not voting: None.

Absent or not voting: Ballou, Faber, M. Long, Neighbor, O'Neal, B. Sharp, Toelkes.

The motion of Rep. Goico prevailed.

Also, on motion of Rep. Gatewood, **HB 2544** be amended on page 9, in line 35, after "thereto" by inserting "and all sales of tangible personal property or services purchased by contractors during the time period from July, 2003, through June, 2004, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based mental retardation facility or mental health center located in Riverton, Cherokee County, Kansas, which would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center";

Also, on motion of Rep. Powers to amend **HB 2544**, the motion did not prevail.

Also, on motion of Rep. Larkin to amend **HB 2544**, Rep. Siegfried requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. The question reverted back to the motion of Rep. Larkin to amend. Rep. Howell requested the question be divided. The request was subsequently withdrawn. The question

then reverted back to the motion of Rep. Larkin to amend on page 20, by striking all in line 35 and inserting the following:

“Sec. 2. K.S.A. 2003 Supp. 79-3607 is hereby amended to read as follows: 79-3607. (a) Retailers shall make returns to the director at the times prescribed by this section upon forms prescribed and furnished by the director stating: (1) The name and address of the retailer; (2) the total amount of gross sales of all tangible personal property and taxable services rendered by the retailer during the period for which the return is made; (3) the total amount received during the period for which the return is made on charge and time sales of tangible personal property made and taxable services rendered prior to the period for which the return is made; (4) deductions allowed by law from such total amount of gross sales and from total amount received during the period for which the return is made on such charge and time sales; (5) receipts during the period for which the return is made from the total amount of sales of tangible personal property and taxable services rendered during such period in the course of such business, after deductions allowed by law have been made; (6) receipts during the period for which the return is made from charge and time sales of tangible personal property made and taxable services rendered prior to such period in the course of such business, after deductions allowed by law have been made; (7) gross receipts during the period for which the return is made from sales of tangible personal property and taxable services rendered in the course of such business upon the basis of which the tax is imposed. The return shall include such other pertinent information as the director may require. In making such return, the retailer shall determine the market value of any consideration, other than money, received in connection with the sale of any tangible personal property in the course of the business and shall include such value in the return. Such value shall be subject to review and revision by the director as hereinafter provided. Refunds made by the retailer during the period for which the return is made on account of tangible personal property returned to the retailer shall be allowed as a deduction under subdivision (4) of this section in case the retailer has theretofore included the receipts from such sale in a return made by such retailer and paid taxes therein imposed by this act. The retailer shall, at the time of making such return, pay to the director the amount of tax herein imposed, except as otherwise provided in this section. The director may extend the time for making returns and paying the tax required by this act for any period not to exceed 60 days under such rules and regulations as the secretary of revenue may prescribe. When the total tax for which any retailer is liable under this act, does not exceed the sum of \$80 in any calendar year, the retailer shall file an annual return on or before January 25 of the following year. When the total tax liability does not exceed ~~\$1,600~~ \$3,200 in any calendar year, the retailer shall file returns quarterly on or before the 25th day of the month following the end of each calendar quarter. When the total tax liability exceeds ~~\$1,600~~ \$3,200 in any calendar year, the retailer shall file a return for each month on or before the 25th day of the following month. When the total tax liability exceeds \$32,000 in any calendar year, the retailer shall be required to pay the sales tax liability for the first 15 days of each month to the director on or before the 25th day of that month. Any such payment shall accompany the return filed for the preceding month. A retailer will be considered to have complied with the requirements to pay the first 15 days' liability for any month if, on or before the 25th day of that month, the retailer paid 90% of the liability for that fifteen-day period, or 50% of such retailer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs computed at the rate applicable in the month in which the fifteen-day period occurs, and, in either case, paid any underpayment with the payment required on or before the 25th day of the following month. Such retailers shall pay their sales tax liabilities for the remainder of each such month at the time of filing the return for such month. Determinations of amounts of liability in a calendar year for purposes of determining filing requirements shall be made by the director upon the basis of amounts of liability by those retailers during the preceding calendar year or by estimates in cases of retailers having no previous sales tax histories. The director is hereby authorized to modify the filing schedule for any retailer when it is apparent that the original determination was inaccurate.

(b) All model 1, model 2 and model 3 sellers are required to file returns electronically. Any model 1, model 2 or model 3 seller may submit its sales and use tax returns in a

simplified format approved by the director. Any seller that is registered under the agreement, which does not have a legal requirement to register in this state, and is not a model 1, model 2 or model 3 seller, may submit its sales and use tax returns as follows: (1) Upon registration, the director shall provide to the seller the returns required;

(2) seller shall file a return anytime within one year of the month of initial registration, and future returns are required on an annual basis in succeeding years; and

(3) in addition to the returns required in subsection (b)(2), sellers are required to submit returns in the month following any month in which they have accumulated state and local sales tax funds for this state in the amount of \$1,600 or more.

New Sec. 3. (a) (1) For any foreign or domestic for profit corporation, or professional corporation or association, duly registered and authorized to do business in Kansas by the secretary of state, if such entity has total assets valued in excess of \$1,000,000 according to such entity's books and records as of the last day of such entity's most recent taxable year, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .1% of such entity's taxable equity attributable to Kansas, except that such annual franchise tax for such entity shall not exceed \$36,000.

(2) For any foreign or domestic limited liability company, foreign or domestic limited partnership or foreign or domestic limited liability partnership duly registered and authorized to do business by the secretary of state, if such entity has total assets valued in excess of \$1,000,000 according to such entity's books and records as of the last day of such entity's most recent taxable year, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .1% of the adjusted net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, or for a one-member LLC taxed as a sole proprietorship, .1% of adjusted net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the preceding taxable year, except that such annual franchise tax for such entity shall not exceed \$36,000.

(3) For any business trust duly registered and authorized to do business in Kansas by the secretary of state, if such entity has total assets valued in excess of \$1,000,000 according to such entity's books and records as of the last day of such entity's most recent taxable year, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .1% of the adjusted corpus as shown on its balance sheet at the end of the preceding taxable year as required to be reported on its annual report filed with the secretary of state pursuant to K.S.A. 17-2036, and amendments thereto, or in the case of a foreign business trust, .1% of the adjusted corpus which is located in or which it uses or intends to use in this state as shown on its balance sheet at the end of the preceding taxable year as required to be reported on the annual report filed with the secretary of state pursuant to K.S.A. 17-2036, and amendments thereto, except that the annual franchise tax for such entity shall not exceed \$36,000. For purposes of this subsection, "adjusted corpus" shall mean the corpus less \$1,000,000.

(b) (1) Every corporation or association, business trust, limited liability company, limited partnership or limited liability partnership subject to taxation under this act, shall make a return, stating specifically such information as may be required by the forms, rules and regulations of the secretary of revenue, which return shall include a balance sheet listing all assets and liabilities as of the end of the tax year, as reported with the federal income tax return or as otherwise required by the secretary, and such further information showing the allocation or apportionment of such assets and liabilities to Kansas used in computing the amount of the franchise tax. The return of a corporation or association shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer so authorized to act. The fact that an individual's name is signed on a return shall be *prima facie* evidence that such individual is authorized to sign such return on behalf of such corporation. In cases where receivers, trustees in bankruptcy or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns shall be collected in the same manner as if collected from the corporation for which the return is made. The returns of a limited liability partnership shall be signed by a partner of the limited liability

partnership. The returns of a limited liability company shall be signed by a member of the limited liability partnership.

(2) All returns shall be filed in the office of the director of taxation on or before the 15th day of the fourth month following the close of the taxable year, except as provided in subsection (b) (3).

(3) The director of taxation may grant a reasonable extension of time for filing returns in accordance with rules and regulations of the secretary of revenue. Whenever any such extension of time to file is requested by a taxpayer and granted by the director, no penalty authorized by K.S.A. 79-3228, and amendments thereto, shall be imposed if 90% of the liability is paid on or before the original due date.

(c) (1) All taxes imposed under the provisions of the Kansas franchise tax act shall be paid on the 15th day of the fourth month following the close of the taxable year. When the tax as shown to be due on a return is less than \$5, such tax shall be canceled and no payment need be remitted by the taxpayer.

(2) The director of taxation may extend the time for payment of the tax, or any installment thereof, for a reasonable period of time not to exceed six months from the date fixed for payment thereof. Such extension may exceed six months in the case of a taxpayer who is abroad. Interest shall be charged at the rate prescribed by K.S.A. 79-2968, and amendments thereto, for the period of such extension.

(d) The provisions of K.S.A. 79-3226, 79-3228, 79-3228a, 79-3229, 79-3230, 79-3233, 79-3233a, 79-3233b, 79-3233g, 79-3233h, 79-3233i, 79-3234, 79-3235 and 79-3236, and amendments thereto, shall apply to the administration and enforcement of this section.

(e) All taxes paid pursuant to the provisions of this act shall be rounded off to the nearest \$1, and unless other disposition is specifically provided by law, the taxes collected under the provisions of this act and all overpayments which may not be refunded under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. The secretary of revenue shall not refund any overpayment of franchise taxes which is equal to \$5 or less, shall not credit any domestic corporation or foreign corporation with any amount which may not be refunded under this section, and shall not require reimbursement for any underpayment of franchise taxes which is less than \$5.

(f) As used in this section: (1) "Act" means the Kansas franchise tax act;

(2) "adjusted net book value of an LLC as calculated on an income tax basis located in or used in this state" means the net book value of an LLC as calculated on an income tax basis located in or used in this state less \$1,000,000;

(3) "adjusted net capital accounts located in or used in this state" means the net capital accounts located in or used in this state less \$1,000,000;

(4) "net book value as calculated on an income tax basis located in or used in this state" means the net book value of a limited liability company multiplied by a percentage which is the average of the following three percentages: (A) The average value of the limited liability company's real and tangible personal property owned or rented and used in this state during the next preceding tax period divided by the average total value of the limited liability company's real and tangible personal property owned or rented and used during the next preceding tax period; (B) the total amount of compensation paid by the limited liability company in this state during the next preceding tax period divided by the total amount of compensation paid everywhere by the limited liability company during the next preceding tax period; and (C) the total sales of the limited liability company in this state during the next preceding tax period divided by the total sales of the limited liability company everywhere during the next preceding tax period. If a limited liability company has no property or activity mentioned in one of the above factors, the appropriate percentage for that factor is 100%;

(5) "net capital accounts located in or used in this state" means the net capital accounts of a limited partnership or limited liability partnership as stated on the federal income tax return multiplied by a percentage which is the average of the following three percentages: (A) The average value of such entity's real and tangible personal property owned or rented and used in this state during the next preceding tax period divided by the average total value

of such entity's real and tangible personal property owned or rented and used during the next preceding tax period; (B) the total amount of compensation paid by such entity in this state during the next preceding tax period divided by the total amount of compensation paid everywhere by such entity during the next preceding tax period; and (C) the total sales of such entity in this state during the next preceding tax period divided by the total sales of such entity everywhere during the next preceding tax period. If such entity has no property or activity mentioned in one of the about factors, the appropriate percentage for that factor is 100%;

(6) "shareholder's equity" means the sum of: (1) Paid-in capital stock, except that paid-in capital stock shall not include any capital stock issued by a corporation and reacquired by such corporation through gift, purchase or otherwise and available for resale or retirement; (2) capital paid in, in excess of par; and (3) retained earnings, all as stated on such corporation's federal income tax return; and

(7) "taxable equity attributable to Kansas" means shareholder's equity attributable to Kansas, minus \$1,000,000.

(g) The provisions of this section shall be known and may be cited as the Kansas franchise tax act.

Sec. 4. K.S.A. 17-1513 is hereby amended to read as follows: 17-1513. Each corporation organized under the provisions of this act shall make an annual report to the secretary of state, and pay the annual franchise ~~tax~~ fee, as prescribed by K.S.A. 17-7503 *and amendments thereto*.

Sec. 5. K.S.A. 17-1618 is hereby amended to read as follows: 17-1618. Each association formed under this act, or acts amendatory thereto, shall prepare and make an annual report to the secretary of state, and pay the annual franchise ~~tax~~ fee, as prescribed by K.S.A. 17-7504 and amendments thereto, except that the report shall be filed at the time prescribed by law for filing the association's annual Kansas income tax return. If any such association shall apply for an extension of time for filing its annual income tax return pursuant to the internal revenue code or subsection (c) of K.S.A. 79-3221 and amendments thereto, such association shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of time for filing the annual report. Such application for an extension of time for filing the annual report shall include a copy of the application for extension for filing its annual income tax return filed pursuant to the internal revenue code or K.S.A. 79-3221 and amendments thereto.

Sec. 6. K.S.A. 2003 Supp. 17-2036 is hereby amended to read as follows: 17-2036. Every business trust shall make an annual report in writing to the secretary of state, showing its financial condition at the close of business on the last day of its tax period under the Kansas income tax act next preceding the date of filing, but if a business trust's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms provided by the secretary of state and shall be filed at the time prescribed by law for filing the business trust's annual Kansas income tax return, except that if any such business trust shall receive an extension of time for filing its annual income tax return from the internal revenue service or pursuant to subsection (c) of K.S.A. 79-3221, and amendments thereto, the time for filing the report hereunder shall be extended, correspondingly, upon filing with the secretary of state a copy of the extension granted by the internal revenue service or the director of taxation. The report shall contain the following:

(a) Executed copies of all amendments to the instrument by which the business trust was created, or to prior amendments thereto, which have been adopted and have not theretofore been filed under K.S.A. 17-2033, and amendments thereto, and accompanied by the fee prescribed therein for each such amendment;

(b) a verified list of the names and addresses of its trustees as of the end of its tax period; and

(c) a balance sheet as of the end of its tax period, certified by the trustee, fairly and truly reflecting its assets and liabilities and specifically setting out its corpus, and, in the case of a foreign business trust, fairly and truly reflecting an allocation of its moneys and other assets as between those located, used, or to be used in this state and those located, used or to be used elsewhere.

At the time of filing its annual report, the business trust shall pay to the secretary of state an annual franchise ~~tax fee~~ in an amount equal to \$2 for each \$1,000 of its corpus as shown by its balance sheet, or, in the case of a foreign business trust, in an amount equal to \$2 for each \$1,000 of that portion of its corpus which is located in or which it uses or intends to use in this state as shown by its balance sheet, except that in any case no such tax shall be less than \$40 nor more than \$5,000 not to exceed \$40.

The failure of any domestic or foreign business trust to file its annual report and pay its annual franchise ~~tax fee~~ within 90 days from the date on which they are due, as aforesaid, shall work a forfeiture of its authority to transact business in this state and all of the remedies, procedures, and penalties specified in K.S.A. 17-7509 and 17-7510, and amendments thereto, with respect to a corporation which fails to file its annual report or pay its annual franchise ~~tax fee~~ within 90 days after they are due, shall be applicable to such business trust.

Sec. 7. K.S.A. 2003 Supp. 17-2718 is hereby amended to read as follows: 17-2718. (a) Each professional corporation organized under the laws of this state shall file with the secretary of state an annual report in writing and a copy or duplicate thereof, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return, except that such corporation may apply to the secretary of state not more than 90 days after the due date of its annual report for an extension of the time for filing the report, and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221, and amendments thereto. The report shall be made on a form provided by the secretary of state, containing the following information:

- (1) The names and residence addresses of all officers, directors and shareholders of the professional corporation;
- (2) a statement that each officer, director and shareholder is or is not a qualified person as defined in K.S.A. 17-2707, and amendments thereto, and setting forth the date on which any shares of the corporation were no longer owned by a qualified person; and
- (3) the amount of capital stock issued.

(b) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report will be dated and subscribed by the person as true, under penalty of perjury. The copy of the annual report or the duplicate original copy of the annual report shall be forwarded to the regulatory board which licenses the shareholders described in the report. At the time of filing its annual report, each professional corporation shall pay the annual franchise ~~tax fee~~ prescribed by K.S.A. 17-7503, and amendments thereto.

Sec. 8. K.S.A. 2003 Supp. 17-4634 is hereby amended to read as follows: 17-4634. (a) Every corporation organized under the electric cooperative act of this state shall make an annual report in writing to the secretary of state, showing the financial condition of the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The report shall be filed on or before the fifteenth day of the fourth month following the close of the tax year of the electric cooperative. An extension for filing the annual report may be granted upon the filing of a written application with the secretary of state prior to the due date of the report, except that no such extension may be granted for a period of more than ~~ninety (90)~~ 90 days. The report shall be made on a form provided by the secretary of state, containing the following information:

- (1) The name of the corporation;
- (2) the location of the principal office;

(3) the name of the president, secretary and treasurer and the names of directors with the residence address of each;

(4) the number of memberships issued;

(5) a balance sheet showing the financial condition of the corporation at the close of business on the last day of its tax period next preceding the date of filing; and

(6) the change or changes, if any, in the particulars made since the last annual report.

(b) Such reports shall be signed by the president, vice-president or secretary of the corporation, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing such annual report, each such corporation shall pay an annual franchise ~~tax of~~ *fee in an amount not to exceed \$40.*

Sec. 9. K.S.A. 2003 Supp. 17-4677 is hereby amended to read as follows: 17-4677. (a) Every cooperative organized under the renewable energy electric generation cooperative act shall make an annual report in writing to the secretary of state, showing the financial condition of the cooperative at the close of business on the last day of its tax period next preceding the date of filing, but if any such cooperative's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The report shall be filed on or before the 15th day of the fourth month following the close of the tax year of the electric cooperative. An extension for filing the annual report may be granted upon the filing of a written application with the secretary of state prior to the due date of the report, except that no such extension may be granted for a period of more than 90 days. The report shall be made on a form provided by the secretary of state, containing the following information:

(1) The name of the cooperative;

(2) the location of the principal office of the cooperative;

(3) the names and addresses of the president, secretary, treasurer and directors of the cooperative;

(4) the number of members of the cooperative;

(5) a balance sheet showing the financial condition of the cooperative at the close of business on the last day of its tax period next preceding the date of filing; and

(6) the change or changes, if any, in the particulars made since the last annual report.

(b) The annual report shall be signed by the president, vice-president or secretary of the cooperative, sworn to before an officer duly authorized to administer oaths, and forwarded to the secretary of state. At the time of filing such annual report, the cooperative shall pay an annual franchise ~~tax of \$20~~ *fee in an amount not to exceed \$40.*

Sec. 10. K.S.A. 2003 Supp. 17-7503 is hereby amended to read as follows: 17-7503. (a) Every domestic corporation organized for profit shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms prescribed by the secretary of state. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return, except that if any such corporation shall apply for an extension of time for filing its annual income tax return under the internal revenue service or under subsection (c) of K.S.A. 79-3221, and amendments thereto, such corporation shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing the report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221, and amendments thereto. Such application shall include a copy of the application to income tax authorities. The report shall contain the following information:

(1) The name of the corporation;

(2) the location of the principal office;

(3) the names of the president, secretary, treasurer and members of the board of directors, with the residence address of each;

(4) the number of shares of capital stock issued and the amount of capital stock paid up;

(5) the nature and kind of business in which the corporation is engaged; and

(6) a list of stockholders owning at least 5% of the capital stock of the corporation, with the post office address of each.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under provision (5), state separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(c) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report will be dated and subscribed by the person as true, under penalty of perjury. At the time of filing such annual report it shall be the duty of each domestic corporation organized for profit to pay to the secretary of state an annual franchise tax fee in an amount equal to \$2 for each \$1,000 of the corporation's shareholder's equity attributable to Kansas, except that no such tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the corporation to the secretary as provided by this subsection shall not be disclosed by the secretary not to exceed \$40.

Sec. 11. K.S.A. 2003 Supp. 17-7504 is hereby amended to read as follows: 17-7504. (a) Every corporation organized not for profit shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms prescribed by the secretary of state. The report shall be filed on the 15th day of the sixth month following the close of the taxable year, except that such corporation may apply to the secretary of state not more than 90 days after the due date of its annual report for an extension of the time for filing the report, and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221, and amendments thereto. The report shall contain the following information:

(1) The name of the corporation;

(2) the location of the principal office;

(3) the names of the president, secretary and treasurer, and the members of the board of directors, with the residence address of each;

(4) the number of memberships or the number of shares of capital stock issued and the amount of capital stock paid up.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5) of this subsection (b), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(c) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report will be dated and subscribed by the person as true, under penalty of perjury. At the time of filing such report, each nonprofit corporation shall pay an annual ~~privilege franchise fee of \$40~~ *in an amount not to exceed \$20* for all tax years commencing after December 31, ~~2001~~ 2003.

Sec. 12. K.S.A. 2003 Supp. 17-7505 is hereby amended to read as follows: 17-7505. (a) Every foreign corporation organized for profit, or organized under the cooperative type statutes of the state, territory or foreign country of incorporation, now or hereafter doing business in this state, and owning or using a part or all of its capital in this state, and subject to compliance with the laws relating to the admission of foreign corporations to do business in Kansas, shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation operates on a fiscal year other than the calendar year it shall give written notice thereof to the secretary of state prior to December 31 of the year commencing such fiscal year. The report shall be made on a form prescribed by the secretary of state. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return, except that if any such corporation shall apply for an extension of time for filing its annual income tax return under the internal revenue service or under subsection (c) of K.S.A. 79-3221, and amendments thereto, such corporation shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing the report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221, and amendments thereto. Such application shall include a copy of the application to income tax authorities. The report shall contain the following facts:

(1) The name of the corporation and under the laws of what state or country organized;

(2) the location of its principal office;

(3) the names of the president, secretary, treasurer and members of the board of directors, with the residence address of each;

(4) the number of shares of capital stock issued and the amount of capital stock paid up;

(5) the nature and kind of business in which the company is engaged and its place or places of business both within and without the state of Kansas;

(6) the value of the property owned and used by the company in Kansas, where situated, and the value of the property owned and used outside of Kansas and where situated; and

(7) the corporation's shareholder's equity attributable to Kansas.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5) of this subsection (b), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report will be dated and subscribed by the person as true, under penalty of perjury. At the time of filing its annual report, each such foreign corporation shall pay to the secretary of state an annual franchise tax fee in an amount equal to \$2 for each \$1,000 of the corporation's shareholder's equity attributable to Kansas, except that no such tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the foreign corporation to the secretary as provided by this subsection shall not be disclosed by the secretary *not to exceed \$40*.

Sec. 13. K.S.A. 2003 Supp. 17-7507 is hereby amended to read as follows: 17-7507. No corporation shall be required to file its first annual report under this act, or pay any annual franchise tax fee required to accompany such report, unless such corporation has filed its articles of incorporation or certificate of good standing at least six months prior to the last day of its tax period. ~~If any corporation shall file with the secretary of state a notice of change in its tax period, and the next annual report filed by such corporation subsequent to such notice is based on a tax period of less than 12 months. The annual tax liability shall be determined by multiplying the annual franchise tax liability for such year by a fraction the numerator of which is the number of months, or any portion thereof, covered by the annual report and the denominator of which is 12. Notwithstanding the foregoing, the minimum annual franchise tax shall be \$40.~~

Sec. 14. K.S.A. 2003 Supp. 17-7509 is hereby amended to read as follows: 17-7509. (a) In case any corporation organized for profit which is required to file an annual report and pay the annual franchise tax fee prescribed by this act shall fail or neglect to make such report at the time prescribed, such corporation shall be subject to a penalty of \$75. Such penalty and the annual ~~tax or taxes~~ fee or fees required to be paid by this act may be recovered by an action in the name of the state, and all moneys recovered shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

~~(b) On complaint of the secretary of state that any corporation has failed to pay the annual taxes prescribed by this act, it shall be the duty of the county or district attorney, or the attorney general, to institute such action in the district court of Shawnee county, Kansas, or of any county in which such corporation has an office or place of business.~~

~~(c) The penalties provided for in subsection (a) also may be assessed against any corporation for the reason that such corporation has been canceled or its existence forfeited pursuant to the Kansas general corporation code. No penalty shall be charged pursuant to this subsection, if a corporation is assessed penalties pursuant to grounds specified in subsection (a).~~

Sec. 15. K.S.A. 17-7510 is hereby amended to read as follows: 17-7510. (a) In addition to any other penalties, the failure of any domestic corporation to file the annual report in accordance with the provisions of this act or to pay the annual ~~taxes herein~~ franchise fee provided for within 90 days of the time for filing and paying the same shall work the forfeiture of the articles of incorporation of such domestic corporation. Within 60 days after the date such annual report and ~~taxes~~ fee are due, the secretary of state, by mail, shall notify

any corporation that has failed to submit such report and ~~taxes fee~~ when due that its articles of incorporation shall be forfeited unless the annual report is filed and the ~~taxes thereon are fee~~ is paid within 90 days from the date such report and ~~taxes fee~~ were due. Any corporation that fails to submit such report and ~~taxes fee~~ within such time shall forfeit its articles of incorporation, and the secretary of state shall notify the attorney general that the articles of incorporation of such corporation have been forfeited.

(b) In addition to any other penalties, the failure of any foreign corporation to file the annual report or pay the annual franchise ~~taxes fee~~ prescribed by this act within 90 days from the time provided for filing and paying the same shall work a forfeiture of its right or authority to do business in this state. Within 60 days after the date such annual report and ~~taxes fee~~ are due, the secretary of state, by mail, shall notify any corporation that has failed to submit such report and ~~taxes fee~~ when due that its authority to do business in this state shall be forfeited unless the annual report and ~~taxes thereon are fee~~ is paid within 90 days from the date such report and ~~taxes fee~~ were due. Any corporation that fails to submit such report and ~~taxes fees~~ within such time shall forfeit its authority to do business in this state, and the secretary of state shall publish a notice of such forfeiture in the Kansas register.

This section shall not be construed to restrict the state from invoking any other remedies provided by law.

Sec. 16. K.S.A. 17-7511 is hereby amended to read as follows: 17-7511. Pursuant to the authority granted by subsection (c) of K.S.A. 79-3234, the secretary of state, as a legal representative of the state, may inspect the annual Kansas income tax return of any corporation for the purpose of verifying any information contained in the annual report filed by such corporation with the secretary of state pursuant to this act. The secretary of state shall not disclose any information obtained from any such return, except as may be necessary to commence an appropriate administrative or judicial proceeding against the corporation filing the same, *and shall disclose to the secretary of revenue any information and allow the secretary to inspect as necessary the annual report for purposes of verifying any information contained on the franchise tax return as provided in section 1 and amendments thereto.*

Sec. 17. K.S.A. 17-7512 is hereby amended to read as follows: 17-7512. The provisions of this act relating to the filing of annual reports and the payment of franchise ~~taxes fees~~ shall not apply to banking, insurance or savings and loan corporations or associations or to credit unions or any firemen's relief association under the jurisdiction and supervision of the insurance commissioner or to Kansas Venture Capital, Inc. or to venture capital companies certified by the secretary of commerce pursuant to article 83 of chapter 74 of the Kansas Statutes Annotated and amendments thereto.

Sec. 18. K.S.A. 2003 Supp. 17-76,125 is hereby amended to read as follows: 17-76,125. A foreign limited liability company may cancel its registration by filing with the secretary of state a certificate of cancellation executed by the members, together with the fee required by this act and the annual report and franchise ~~tax fee~~ for any tax period which has ended. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited liability company with respect to causes of action arising out of the doing of business in the state of Kansas.

Sec. 19. K.S.A. 2003 Supp. 17-76,139 is hereby amended to read as follows: 17-76,139. (a) Every limited liability company organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax

authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

- (1) The name of the limited liability company; and
- (2) a list of the members owning at least 5% of the capital of the company, with the post office address of each.

(b) Every foreign limited liability company shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company also shall apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited liability company.

(c) The annual report required by this section shall be signed by a member of the limited liability company and forwarded to the secretary of state. At the time of filing the report, the limited liability company shall pay to the secretary of state an annual franchise ~~tax fee~~ in an amount equal to ~~\$2 for each \$1,000 of the net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, or for a one-member LLC taxed as a sole proprietorship, \$2 for each \$1,000 of net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the preceding taxable year, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited liability company to the secretary as provided by this subsection shall not be disclosed by the secretary not to exceed \$40.~~

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, shall be applicable to the articles of organization of any domestic limited liability company or to the authority of any foreign limited liability company which fails to file its annual report or pay the franchise ~~tax fee~~ within 90 days of the time prescribed in this section for filing and paying the same. Whenever the articles of organization of a domestic limited liability company or the authority of any foreign limited liability company are forfeited for failure to file an annual report or to pay the required franchise ~~tax fee~~, the domestic limited liability company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees ~~and taxes~~, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

(e) When reinstatement is effective, it relates back to and takes effect as of the effective date of the forfeiture and the company may resume its business as if the forfeiture had never occurred.

(f) No limited liability company shall be required to file its first annual report under this act, or pay any annual franchise ~~tax fee~~ required to accompany such report, unless such limited liability company has filed its articles of organization or application for authority at least six months prior to the last day of its tax period. ~~If any limited liability company files with the secretary of state a notice of change in its tax period and the next annual report filed by such limited liability company subsequent to such notice is based on a tax period~~

~~of less than 12 months, the annual tax liability shall be determined by multiplying the annual franchise tax liability for such year by a fraction, the numerator of which is the number of months or any portion thereof covered by the annual report and the denominator of which is 12, except that the tax shall not be less than \$40.~~

Sec. 20. K.S.A. 2003 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except that the district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination

relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting;

or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting;

or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office

maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the ombudsman of corrections, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901, *et seq.*, and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 *et seq.* and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20 and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the *secretary of revenue or the secretary of state* by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; or (B) sewer or wastewater treatment systems, facilities or equipment. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping.

(46) Any information or material received by the secretary of state pursuant to subsection (b) of K.S.A. 2003 Supp. 44-1518, and amendments thereto, except when such information is required to be submitted in an application pursuant to K.S.A. 2003 Supp. 44-1520, and amendments thereto.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

Sec. 21. K.S.A. 2003 Supp. 56-1a606 is hereby amended to read as follows: 56-1a606. (a) Every limited partnership organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return. If the limited partnership applies for an extension of time for filing its annual income tax return under the internal revenue code or under K.S.A. 79-3221 and amendments thereto, the limited partnership shall also apply, not more than 90 days after the due date of its annual report,

to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221 and amendments thereto. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

- (1) The name of the limited partnership; and
- (2) a list of the partners owning at least 5% of the capital of the partnership, with the post office address of each.

(c) Every limited partnership subject to the provisions of this section which is a limited corporate partnership, as defined in K.S.A. 17-5903 and amendments thereto, and which holds agricultural land, as defined in K.S.A. 17-5903 and amendments thereto, within this state shall show the following additional information on the report:

- (1) The number of acres and location, listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by the limited partnership; and
- (2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.

(d) The annual report shall be signed by the general partner or partners of the limited partnership, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing the report, the limited partnership shall pay to the secretary of state an annual franchise ~~tax fee~~ in an amount equal to \$2 for each ~~\$1,000~~ of the partners' net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited partnership to the secretary as provided by this subsection shall not be disclosed by the secretary ~~not to exceed \$40~~.

(e) The provisions of K.S.A. 17-7509 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a domestic corporation's articles of incorporation for failure to file an annual report or pay the required franchise ~~tax fee~~, shall be applicable to the certificate of partnership of any limited partnership which fails to file its annual report or pay the franchise ~~tax fee~~ within 90 days of the time prescribed in this section for filing and paying the same. Whenever the certificate of partnership of a limited partnership is forfeited for failure to file an annual report or to pay the required franchise ~~tax fee~~, the limited partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees ~~and taxes~~, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506 and amendments thereto for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 22. K.S.A. 2003 Supp. 56-1a607 is hereby amended to read as follows: 56-1a607. (a) Every foreign limited partnership shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return. If the limited partnership applies for an extension of time for filing its annual income tax return under the internal revenue code or under K.S.A. 79-3221 and amendments thereto, the limited partnership shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221 and amendments thereto. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited partnership.

(c) Every foreign limited partnership subject to the provisions of this section which is a limited corporate partnership, as defined in K.S.A. 17-5903 and amendments thereto, and which holds agricultural land, as defined in K.S.A. 17-5903 and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and location, listed by section, range, township and county of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.

(d) The annual report shall be signed by the general partner or partners of the limited partnership, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing the report, the foreign limited partnership shall pay to the secretary of state an annual franchise ~~tax fee~~ in an amount ~~equal to \$2 for each \$1,000 of the partners' net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited partnership to the secretary as provided by this subsection shall not be disclosed by the secretary~~ *not to exceed \$40.*

(e) The provisions of K.S.A. 17-7509 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, and the provisions of subsection (b) of K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a foreign corporation's authority to do business in this state for failure to file an annual report or pay the required franchise ~~tax fee~~, shall be applicable to the authority of any foreign limited partnership which fails to file its annual report or pay the franchise ~~tax fee~~ within 90 days of the time prescribed in this section for filing and paying the same. Whenever the authority of a foreign limited partnership to do business in this state is forfeited for failure to file an annual report or to pay the required franchise ~~tax fee~~, the foreign limited partnership's authority to do business in this state may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees ~~and taxes~~, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506 and amendments thereto for filing a certificate of extension, restoration or revival of a corporation's articles of incorporation.

Sec. 23. K.S.A. 56-1a608 is hereby amended to read as follows: 56-1a608. No limited partnership shall be required to file its first annual report under this act, or pay any annual franchise ~~tax fee~~ required to accompany such report, unless such limited partnership has filed its certificate of limited partnership or certificate of good standing at least six months prior to the last day of its tax period. ~~If any limited partnership files with the secretary of state a notice of change in its tax period and the next annual report filed by such limited partnership subsequent to such notice is based on a tax period of less than 12 months, there shall be no reduction or proration of the annual tax required to accompany such report.~~

Sec. 24. K.S.A. 2003 Supp. 56a-1201 is hereby amended to read as follows: 56a-1201. (a) Every limited liability partnership organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability partnership's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability partnership's annual Kansas income tax return. If the limited liability partnership applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability partnership shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

- (1) The name of the limited liability partnership; and
- (2) a list of the partners owning at least 5% of the capital of the partnership, with the post office address of each.

(c) The annual report shall be signed by a partner of the limited liability partnership and forwarded to the secretary of state. At the time of filing the report, the limited liability partnership shall pay to the secretary of state an annual franchise ~~tax fee~~ in an amount ~~equal to \$2 for each \$1,000 of the net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited liability partnership to the secretary as provided by this subsection shall not be disclosed by the secretary not to exceed \$40.~~

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, shall be applicable to the statement of qualification of any limited liability partnership which fails to file its annual report or pay the franchise ~~tax fee~~ within 90 days of the time prescribed in this section for filing and paying the same. Whenever the statement of qualification of a limited liability partnership is forfeited for failure to file an annual report or to pay the required franchise ~~tax fee~~, the limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees ~~and taxes~~, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 25. K.S.A. 2003 Supp. 56a-1202 is hereby amended to read as follows: 56a-1202. (a) Every foreign limited liability partnership shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the foreign limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the foreign limited liability partnership's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the foreign limited liability partnership's annual Kansas income tax return. If the foreign limited liability partnership applies for an extension of time for filing its annual income tax return under the internal revenue code, the foreign limited liability partnership shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the foreign limited liability partnership.

(c) The annual report shall be signed by a partner of the foreign limited liability partnership and forwarded to the secretary of state. At the time of filing the report, the foreign limited liability partnership shall pay to the secretary of state an annual franchise ~~tax fee~~ in an amount ~~equal to \$2 for each \$1,000 of the net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the foreign limited liability partnership to the secretary as provided by this subsection shall not be disclosed by the secretary not to exceed \$40.~~

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, and the provisions of subsection (a) of K.S.A. 17-7510, and amendments thereto, relating to

penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, shall be applicable to the statement of foreign qualification of any foreign limited liability partnership which fails to file its annual report or pay the franchise ~~tax fee~~ within 90 days of the time prescribed in this section for filing and paying the same. Whenever the statement of foreign qualification of a foreign limited liability partnership is forfeited for failure to file an annual report or to pay the required franchise ~~tax fee~~, the statement of foreign qualification of the foreign limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees ~~and taxes~~, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 26. K.S.A. 2003 Supp. 56a-1203 is hereby amended to read as follows: 56a-1203. No limited liability partnership or foreign limited liability partnership shall be required to file its first annual report under this act, or pay any annual franchise ~~tax fee~~ required to accompany such report, unless such partnership has filed its statement of qualification or foreign qualification at least six months prior to the last day of its tax period. ~~If any such partnership files with the secretary of state a notice of change in its tax period and the next annual report filed by such partnership subsequent to such notice is based on a tax period of less than 12 months, the annual tax liability shall be determined by multiplying the annual franchise tax liability for such year by a fraction, the numerator of which is the number of months or any portion thereof covered by the annual report and the denominator of which is 12, except that the tax shall not be less than \$40.~~

New Sec. 27. The secretary of state shall remit all moneys received from franchise fees, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 28. K.S.A. 17-1513, 17-1618, 17-7510, 17-7511, 17-7512 and 56-1a608 and K.S.A. 2003 Supp. 17-2036, 17-2718, 17-4634, 17-4677, 17-7503, 17-7504, 17-7505, 17-7507, 17-7508, 17-7509, 17-76,125, 17-76,139, 45-221, 56-1a606, 56-1a607, 56a-1201, 56a-1202, 56a-1203, 79-3606 and 79-3607 are hereby repealed.”;

And by renumbering sections accordingly;

On page 1, in the title, in line 11, after the semicolon, by inserting “time for returns and payment of sales tax; franchise tax and franchise fees.”; also in line 11, after “amending” by inserting “K.S.A. 17-1513, 17-1618, 17-7510, 17-7511, 17-7512 and 56-1a608 and”; also in line 11, after “Supp.” by inserting “17-2036, 17-2718, 17-4634, 17-4677, 17-7503, 17-7504, 17-7505, 17-7507, 17-7509, 17-76,125, 17-76,139, 45-221, 56-1a606, 56-1a607, 56a-1201, 56a-1202, 56a-1203.”; also in line 11, after “79-3606” by inserting “and 79-3607”; in line 12, after “sections” by inserting “; also repealing K.S.A. 2003 Supp. 17-7508”;

Roll call was demanded.

On roll call, the vote was: Yeas 57; Nays 61; Present but not voting: 0; Absent or not voting: 7.

Yeas: Ballard, Burroughs, Campbell, Carlin, Crow, Davis, Edmonds, Faust-Goudeau, Feuerborn, Flaharty, Flora, Gatewood, Gilbert, Grant, Henderson, Henry, Holland, Humerickhouse, Jack, D. Johnson, Kauffman, Kirk, Klein, Kuether, Lane, Larkin, Loganbill, M. Long, McKinney, J. Miller, Minor, Jim Morrison, Osborne, Ostmeyer, Pauls, Phelps, Powers, Reardon, Rehorn, Ruff, Sawyer, Scoggins-Waite, B. Sharp, Showalter, Shriver, Sloan, Storm, Svaty, Swenson, Thimesch, Thull, Toelkes, Vickrey, Ward, J. Williams, Wilson, Winn.

Nays: Aurand, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Carter, Compton, Cox, Craft, Dahl, DeCastro, Decker, Dreher, Goering, Goico, Gordon, Hill, Holmes, Horst, Howell, Huebert, Huff, Huntington, Hutchins, Huy, E. Johnson, Kassebaum, Krehbiel, Landwehr, Light, Long-Mast, Loyd, Mason, Mays, McCreary, McLeland, Merrick, F. Miller, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, Owens, Patterson, Pottorff, Powell, Reitz, Schwab, Schwartz, S. Sharp, Siegfried, Tafanelli, Wilk, D. Williams, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Ballou, Dillmore, Faber, Freeborn, Hayzlett, O'Neal, Shultz.
The motion of Rep. Larkin did not prevail.

Also, rose and reported progress (see Committee of the Whole, Early Evening Session).

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2705, HB 2748, HB 2752, HB 2902** be passed.

Committee on **Appropriations** recommends **HB 2571** be amended on page 3, in line 3, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Appropriations** recommends **HB 2734** be amended on page 5, following line 7 by inserting:

"New Sec. 3. (a) State educational institutions under the control and supervision of the state board of regents shall provide a waiver of all tuition and fees required as a condition of enrollment for each person who was a prisoner of war while serving in any military service of the United States of America, who is a resident of Kansas, and who is enrolled at a state educational institution. The waiver shall be provided for not more than 12 semesters of instruction, or the equivalent thereof.

(b) Prior to providing this waiver, each state educational institution shall require each person applying for this waiver to provide official documentation verifying the person's military service and prisoner of war status.

(c) As used in this section: (1) "Military service" means any active service in any armed service of the United States and any active federal service in the Kansas army or air national guard;

(2) "prisoner of war" means a person who was a prisoner of war under Article 4 of the third Geneva Convention and any individual who was in military service in an armed conflict and who was taken prisoner by opposing forces, whether or not under an official declaration of war; and

(3) "resident of Kansas" means a person who is determined by the state educational institution to be a resident for tuition purposes at the time the person became a prisoner of war.";

And by renumbering sections accordingly;

On page 1, in the title, in line 10, before the semicolon, by inserting "and former prisoners of war"; and the bill be passed as amended.

Committee on **Appropriations** recommends **HB 2749** be amended on page 3, in line 2, by striking "of the state historical society"; in line 38, by striking all after "officer"; in line 39, by striking all before "and"; in line 40, after the stricken material, by inserting "of facilities management of the department of administration."; in line 41, after the stricken material, by striking the period;

On page 4, in line 5, after "director", by inserting "of facilities management of the department of administration"; and the bill be passed as amended.

Committee on **Appropriations** recommends **HB 2901** be amended on page 1, in line 35, by striking "a" and inserting "an equipment"; in line 37, by striking "final priority"; in line 38, following "purchased" by inserting "by such grant"; in line 41, by striking "The" and inserting "Such lien shall be subject and subordinate to any priority lien granted to the United States pursuant to the public television act of 1992, as amended, (47 U.S.C. 390 *et seq.*) Such"; and the bill be passed as amended.

Committee on **Commerce and Labor** recommends **SB 440** be amended on page 3, in line 28, after the period, by inserting: "Failure to return to work after expiration of approved personal or medical leave, or both, shall be considered a voluntary resignation.";

On page 6, in line 28, after the period, by inserting: "Failure of the employee to notify the employer of an absence shall be considered prima facie evidence of a violation of a duty or obligation reasonably owed the employer as a condition of employment.";

On page 8, in line 16, after "(3)" by inserting "(A)"; also in line 16, by striking "(d)" and inserting "(b)"; in line 17, after "including" by inserting: "incarceration, resulting in absence from work of three days or longer, excluding Saturdays, Sundays and legal holidays, and"; in line 19, by striking "(A)" and inserting "(i)"; in line 20, by striking "(B)" and inserting

“(ii)”; in line 22, by striking “(C)” and inserting “(iii)”; in line 24, after the semicolon, by inserting “and”; in line 25, by striking “(D)” and inserting “(iv)”; in line 26, by striking “; and” and inserting in lieu thereof a period; in line 27, by striking “(E)” and inserting the following:

“(B) For the purposes of this subsection (b),”; in line 29, after the period, by inserting: “If the employee alleges that the employee’s repeated absences were the result of health related issues, such evidence shall include documentation from a licensed and practicing health care provider as defined in subsection (a)(1).”;

On page 14, after line 16, by inserting the following:

“(t) If the individual has been discharged for failing a pre-employment drug screen required by the employer and if such discharge occurs not later than seven days after the employer is notified of the results of such drug screen.”;

On page 42, after line 13, by inserting the following:

“Sec. 6. K.S.A. 2003 Supp. 44-703 is hereby amended to read as follows: 44-703. As used in this act, unless the context clearly requires otherwise:

(a) (1) “Annual payroll” means the total amount of wages paid or payable by an employer during the calendar year.

(2) “Average annual payroll” means the average of the annual payrolls of any employer for the last three calendar years immediately preceding the computation date as hereinafter defined if the employer has been continuously subject to contributions during those three calendar years and has paid some wages for employment during each of such years. In determining contribution rates for the calendar year, if an employer has not been continuously subject to contribution for the three calendar years immediately preceding the computation date but has paid wages subject to contributions during only the two calendar years immediately preceding the computation date, such employer’s “average annual payroll” shall be the average of the payrolls for those two calendar years.

(3) “Total wages” means the total amount of wages paid or payable by an employer during the calendar year, including that part of remuneration in excess of the limitation prescribed as provided in subsection (o)(1) of this section.

(b) “Base period” means the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year, except that the base period in respect to combined wage claims means the base period as defined in the law of the paying state.

(1) If an individual lacks sufficient base period wages in order to establish a benefit year in the matter set forth above and satisfies the requirements of subsection (g) of K.S.A. 44-705 and subsection (hh) of K.S.A. 44-703, and amendments thereto, the claimant shall have an alternative base period substituted for the current base period so as not to prevent establishment of a valid claim. For the purposes of this subsection, “alternative base period” means the last four completed quarters immediately preceding the date the qualifying injury occurred. In the event the wages in the alternative base period have been used on a prior claim, then they shall be excluded from the new alternative base period.

(2) For the purposes of this chapter, the term “base period” includes the alternative base period.

(c) (1) “Benefits” means the money payments payable to an individual, as provided in this act, with respect to such individual’s unemployment.

(2) “Regular benefits” means benefits payable to an individual under this act or under any other state law, including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85, other than extended benefits.

(d) “Benefit year” with respect to any individual, means the period beginning with the first day of the first week for which such individual files a valid claim for benefits, and such benefit year shall continue for one full year. In the case of a combined wage claim, the benefit year shall be the benefit year of the paying state. Following the termination of a benefit year, a subsequent benefit year shall commence on the first day of the first week with respect to which an individual next files a claim for benefits. When such filing occurs with respect to a week which overlaps the preceding benefit year, the subsequent benefit year shall commence on the first day immediately following the expiration date of the preceding benefit year. Any claim for benefits made in accordance with subsection (a) of

K.S.A. 44-709 and amendments thereto shall be deemed to be a "valid claim" for the purposes of this subsection if the individual has been paid wages for insured work as required under subsection (e) of K.S.A. 44-705 and amendments thereto. Whenever a week of unemployment overlaps two benefit years, such week shall, for the purpose of granting waiting-period credit or benefit payment with respect thereto, be deemed to be a week of unemployment within that benefit year in which the greater part of such week occurs.

(e) "Commissioner" or "secretary" means the secretary of human resources.

(f) (1) "Contributions" means the money payments to the state employment security fund which are required to be made by employers on account of employment under K.S.A. 44-710 and amendments thereto, and voluntary payments made by employers pursuant to such statute.

(2) "Payments in lieu of contributions" means the money payments to the state employment security fund from employers which are required to make or which elect to make such payments under subsection (e) of K.S.A. 44-710 and amendments thereto.

(g) "Employing unit" means any individual or type of organization, including any partnership, association, limited liability company, agency or department of the state of Kansas and political subdivisions thereof, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign including nonprofit corporations, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representatives of a deceased person, which has in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the employment.

(h) "Employer" means:

(1) (A) Any employing unit for which agricultural labor as defined in subsection (w) of this section is performed and which during any calendar quarter in either the current or preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor or for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment of time.

(B) For the purpose of this subsection (h)(1), any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader if:

(i) Such crew leader holds a valid certificate of registration under the federal migrant and seasonal agricultural workers protection act or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment or any other mechanized equipment, which is provided by such crew leader; and

(ii) such individual is not in the employment of such other person within the meaning of subsection (i) of this section.

(C) For the purpose of this subsection (h)(1), in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader:

(i) Such other person and not the crew leader shall be treated as the employer of such individual; and

(ii) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on the crew leader's own behalf or on behalf of such other person, for the service in agricultural labor performed for such other person.

(D) For the purposes of this subsection (h)(1) "crew leader" means an individual who:

(i) Furnishes individuals to perform service in agricultural labor for any other person;

(ii) pays, either on such individual's own behalf or on behalf of such other person, the individuals so furnished by such individual for the service in agricultural labor performed by them; and

(iii) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.

(2) (A) Any employing unit which: (i) In any calendar quarter in either the current or preceding calendar year paid for service in employment wages of \$1,500 or more, or (ii) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or preceding calendar year, had in employment at least one individual, whether or not the same individual was in employment in each such day.

(B) Employment of individuals to perform domestic service or agricultural labor and wages paid for such service or labor shall not be considered in determining whether an employing unit meets the criteria of this subsection (h)(2).

(3) Any employing unit for which service is employment as defined in subsection (i)(3)(E) of this section.

(4) (A) Any employing unit, whether or not it is an employing unit under subsection (g) of this section, which acquires or in any manner succeeds to (i) substantially all of the employing enterprises, organization, trade or business, or (ii) substantially all the assets, of another employing unit which at the time of such acquisition was an employer subject to this act:

(B) any employing unit which is controlled substantially, either directly or indirectly by legally enforceable means or otherwise, by the same interest or interests, whether or not such interest or interests are an employing unit under subsection (g) of this section, which acquires or in any manner succeeds to a portion of an employer's annual payroll, which is less than 100% of such employer's annual payroll, and which intends to continue the acquired portion as a going business.

(5) Any employing unit which paid cash remuneration of \$1,000 or more in any calendar quarter in the current or preceding calendar year to individuals employed in domestic service as defined in subsection (aa) of this section.

(6) Any employing unit which having become an employer under this subsection (h) has not, under subsection (b) of K.S.A. 44-711 and amendments thereto, ceased to be an employer subject to this act.

(7) Any employing unit which has elected to become fully subject to this act in accordance with subsection (c) of K.S.A. 44-711 and amendments thereto.

(8) Any employing unit not an employer by reason of any other paragraph of this subsection (h), for which within either the current or preceding calendar year services in employment are or were performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund; or which, as a condition for approval of this act for full tax credit against the tax imposed by the federal unemployment tax act, is required, pursuant to such act, to be an "employer" under this act.

(9) Any employing unit 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 the code that had four or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(i) "Employment" means:

(1) Subject to the other provisions of this subsection, service, including service in interstate commerce, performed by

(A) Any active officer of a corporation; or

(B) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(C) any individual other than an individual who is an employee under subsection (i)(1)(A) or subsection (i)(1)(B) above who performs services for remuneration for any person:

(i) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for such individual's principal; or

(ii) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, a principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

For purposes of subsection (i)(1)(D), the term "employment" shall include services described in paragraphs (i) and (ii) above only if:

(a) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

(b) the individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

(c) the services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(2) The term "employment" shall include an individual's entire service within the United States, even though performed entirely outside this state if,

(A) The service is not localized in any state, and

(B) the individual is one of a class of employees who are required to travel outside this state in performance of their duties, and

(C) the individual's base of operations is in this state, or if there is no base of operations, then the place from which service is directed or controlled is in this state.

(3) The term "employment" shall also include:

(A) Services performed within this state but not covered by the provisions of subsection (i)(1) or subsection (i)(2) shall be deemed to be employment subject to this act if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

(B) Services performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act only if the individual performing such services is a resident of this state and the secretary approved the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

(C) Services covered by an arrangement pursuant to subsection (l) of K.S.A. 44-714 and amendments thereto between the secretary and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state, shall be deemed to be employment if the secretary has approved an election of the employing unit for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.

(D) Services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the secretary that: (i) Such individual has been and will continue to be free from control or direction over the performance of such services, both under the individual's contract of hire and in fact; and (ii) such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed.

(E) Service performed by an individual in the employ of this state or any instrumentality thereof, any political subdivision of this state or any instrumentality thereof, or in the employ of an Indian tribe, as defined pursuant to section 3306(u) of the federal unemployment tax act, any instrumentality of more than one of the foregoing or any instrumentality which is jointly owned by this state or a political subdivision thereof or Indian tribes and one or more other states or political subdivisions of this or other states, provided that such service is excluded from "employment" as defined in the federal unemployment tax act by reason of section 3306(c)(7) of that act and is not excluded from "employment" under subsection

(i)(4)(A) of this section. For purposes of this section, the exclusions from employment in subsections (i)(4)(A) and (i)(4)(L) shall also be applicable to services performed in the employ of an Indian tribe.

(F) Service performed by an individual in the employ of a religious, charitable, educational or other organization which is excluded from the term "employment" as defined in the federal unemployment tax act solely by reason of section 3306(c)(8) of that act, and is not excluded from employment under paragraphs (I) through (M) of subsection (i)(4).

(G) The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States except in Canada, in the employ of an American employer (other than service which is deemed "employment" under the provisions of subsection (i)(2) or subsection (i)(3) or the parallel provisions of another state's law), if:

(i) The employer's principal place of business in the United States is located in this state; or

(ii) the employer has no place of business in the United States, but

(A) The employer is an individual who is a resident of this state; or

(B) the employer is a corporation which is organized under the laws of this state; or

(C) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(iii) none of the criteria of paragraphs (i) and (ii) above of this subsection (i)(3)(G) are met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

(H) An "American employer," for purposes of subsection (i)(3)(G), means a person who is:

(i) An individual who is a resident of the United States; or

(ii) a partnership if $\frac{2}{3}$ or more of the partners are residents of the United States; or

(iii) a trust, if all of the trustees are residents of the United States; or

(iv) a corporation organized under the laws of the United States or of any state.

(I) Notwithstanding subsection (i)(2) of this section, all service performed by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office, from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled is within this state.

(J) Notwithstanding any other provisions of this subsection (i), service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund or which as a condition for full tax credit against the tax imposed by the federal unemployment tax act is required to be covered under this act.

(K) Domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of \$1,000 or more in any calendar quarter in the current calendar year or the preceding calendar year to individuals employed in such domestic service.

(4) The term "employment" shall not include: (A) Service performed in the employ of an employer specified in subsection (h)(3) of this section if such service is performed by an individual in the exercise of duties:

(i) As an elected official;

(ii) as a member of a legislative body, or a member of the judiciary, of a state, political subdivision or of an Indian tribe;

(iii) as a member of the state national guard or air national guard;

(iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) in a position which, under or pursuant to the laws of this state or tribal law, is designated as a major nontenured policymaking or advisory position or as a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week;

(B) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(C) service performed by an individual in the employ of such individual's son, daughter or spouse, and service performed by a child under the age of 21 years in the employ of such individual's father or mother;

(D) service performed in the employ of the United States government or an instrumentality of the United States exempt under the constitution of the United States from the contributions imposed by this act, except that to the extent that the congress of the United States shall permit states to require any instrumentality of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this act shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services. If this state shall not be certified for any year by the federal security agency under section 3304(c) of the federal internal revenue code of 1986, the payments required of such instrumentalities with respect to such year shall be refunded by the secretary from the fund in the same manner and within the same period as is provided in subsection (f) of K.S.A. 44-717 and amendments thereto with respect to contributions erroneously collected;

(E) service covered by an arrangement between the secretary and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election, are deemed to be performed entirely within the jurisdiction of such other state or federal agency;

(F) service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(G) service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

(H) service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal internal revenue code of 1986 (other than an organization described in section 401(a) or under section 521 of such code) if the remuneration for such service is less than \$50. In construing the application of the term "employment," if services performed during $\frac{1}{2}$ or more of any pay period by an individual for the person employing such individual constitute employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than $\frac{1}{2}$ of any such pay period by an individual for the person employing such individual do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection (i)(4)(H) the term "pay period" means a period (of not more than 31 consecutive days) for which a payment of remuneration is ordinarily made to the individual by the person employing such individual. This subsection (i)(4)(H) shall not be applicable with respect to services with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(I) services performed in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(J) service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of such individual's ministry or by a member of a religious order in the exercise of duties required by such order;

(K) service performed in a facility conducted for the purpose of carrying out a program of:

(i) Rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or

(ii) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(L) service performed as part of an employment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof or of an Indian tribe, by an individual receiving such work relief or work training;

(M) service performed by an inmate of a custodial or correctional institution, ~~unless such service is performed for a private, for-profit employer;~~

(N) service performed, in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university;

(O) service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection (i)(4)(O) shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(P) service performed in the employ of a hospital licensed, certified or approved by the secretary of health and environment, if such service is performed by a patient of the hospital;

(Q) services performed as a qualified real estate agent. As used in this subsection (i)(4)(Q) the term "qualified real estate agent" means any individual who is licensed by the Kansas real estate commission as a salesperson under the real estate brokers' and salespersons' license act and for whom:

(i) Substantially all of the remuneration, whether or not paid in cash, for the services performed by such individual as a real estate salesperson is directly related to sales or other output, including the performance of services, rather than to the number of hours worked; and

(ii) the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for state tax purposes;

(R) services performed for an employer by an extra in connection with any phase of motion picture or television production or television commercials for less than 14 days during any calendar year. As used in this subsection, the term "extra" means an individual who pantomimes in the background, adds atmosphere to the set and performs such actions without speaking and "employer" shall not include any employer which is a governmental entity or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income taxation under section 501(a) of the code;

(S) services performed by an oil and gas contract pumper. As used in this subsection (i)(4)(S), "oil and gas contract pumper" means a person performing pumping and other services on one or more oil or gas leases, or on both oil and gas leases, relating to the operation and maintenance of such oil and gas leases, on a contractual basis for the operators of such oil and gas leases and "services" shall not include services performed for a governmental entity or any organization described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income taxation under section 501(a) of the code;

(T) service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$200 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if:

(i) On each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or

(ii) such individual was regularly employed, as determined under subparagraph (i), by such employer in the performance of such service during the preceding calendar quarter.

Such excluded service shall not include any services performed for an employer which is a governmental entity or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income taxation under section 501(a) of the code;

(U) service which is performed by any person who is a member of a limited liability company and which is performed as a member or manager of that limited liability company; and

(V) services performed as a qualified direct seller. The term "direct seller" means any person if:

(i) Such person:

(a) is engaged in the trade or business of selling or soliciting the sale of consumer products to any buyer on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise rather than in a permanent retail establishment; or

(b) is engaged in the trade or business of selling or soliciting the sale of consumer products in the home or otherwise than in a permanent retail establishment;

(ii) substantially all the remuneration whether or not paid in cash for the performance of the services described in subparagraph (i) is directly related to sales or other output including the performance of services rather than to the number of hours worked;

(iii) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee for federal and state tax purposes;

(iv) for purposes of this act, a sale or a sale resulting exclusively from a solicitation made by telephone, mail, or other telecommunications method, or other nonpersonal method does not satisfy the requirements of this subsection;

(W) service performed as an election official or election worker, if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000; and

(X) service performed by agricultural workers who are aliens admitted to the United States to perform labor pursuant to section 1101 (a)(15)(H)(ii)(a) of the immigration and nationality act.

(j) "Employment office" means any office operated by this state and maintained by the secretary of human resources for the purpose of assisting persons to become employed.

(k) "Fund" means the employment security fund established by this act, to which all contributions and reimbursement payments required and from which all benefits provided under this act shall be paid and including all money received from the federal government as reimbursements pursuant to section 204 of the federal-state extended compensation act of 1970, and amendments thereto.

(l) "State" includes, in addition to the states of the United States of America, any dependency of the United States, the Commonwealth of Puerto Rico, the District of Columbia and the Virgin Islands.

(m) "Unemployment." An individual shall be deemed "unemployed" with respect to any week during which such individual performs no services and with respect to which no wages are payable to such individual, or with respect to any week of less than full-time work if the wages payable to such individual with respect to such week are less than such individual's weekly benefit amount.

(n) "Employment security administration fund" means the fund established by this act, from which administrative expenses under this act shall be paid.

(o) "Wages" means all compensation for services, including commissions, bonuses, back pay and the cash value of all remuneration, including benefits, paid in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash, shall be estimated and determined in accordance with rules and regulations prescribed by the secretary. Compensation payable to an individual which has not been actually received by that individual within 21 days after the end of the pay period in which the compensation was earned shall be considered to have been paid on the 21st day after the end of that pay

period. Effective January 1, 1986, gratuities, including tips received from persons other than the employing unit, shall be considered wages when reported in writing to the employer by the employee. Employees must furnish a written statement to the employer, reporting all tips received if they total \$20 or more for a calendar month whether the tips are received directly from a person other than the employer or are paid over to the employee by the employer. This includes amounts designated as tips by a customer who uses a credit card to pay the bill. Notwithstanding the other provisions of this subsection (o), wages paid in back pay awards or settlements shall be allocated to the week or weeks and reported in the manner as specified in the award or agreement, or, in the absence of such specificity in the award or agreement, such wages shall be allocated to the week or weeks in which such wages, in the judgment of the secretary, would have been paid. The term "wages" shall not include:

(1) That part of the remuneration which has been paid in a calendar year to an individual by an employer or such employer's predecessor in excess of \$3,000 for all calendar years prior to 1972, \$4,200 for the calendar years 1972 to 1977, inclusive, \$6,000 for calendar years 1978 to 1982, inclusive, \$7,000 for the calendar year 1983, and \$8,000 with respect to employment during any calendar year following 1983, except that if the definition of the term "wages" as contained in the federal unemployment tax act is amended to include remuneration in excess of \$8,000 paid to an individual by an employer under the federal act during any calendar year, wages shall include remuneration paid in a calendar year to an individual by an employer subject to this act or such employer's predecessor with respect to employment during any calendar year up to an amount equal to the dollar limitation specified in the federal unemployment tax act. For the purposes of this subsection (o)(1), the term "employment" shall include service constituting employment under any employment security law of another state or of the federal government;

(2) the amount of any payment (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of such employee's dependents under a plan or system established by an employer which makes provisions for employees generally, for a class or classes of employees or for such employees or a class or classes of employees and their dependents, on account of (A) sickness or accident disability, except in the case of any payment made to an employee or such employee's dependents, this subparagraph shall exclude from the term "wages" only payments which are received under a workers compensation law. Any third party which makes a payment included as wages by reason of this subparagraph (2)(A) shall be treated as the employer with respect to such wages, or (B) medical and hospitalization expenses in connection with sickness or accident disability, or (C) death;

(3) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(4) any payment made to, or on behalf of, an employee or such employee's beneficiary:

(A) From or to a trust described in section 401(a) of the federal internal revenue code of 1986 which is exempt from tax under section 501(a) of the federal internal revenue code of 1986 at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust;

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a) of the federal internal revenue code of 1986;

(C) under a simplified employee pension as defined in section 408(k)(1) of the federal internal revenue code of 1986, other than any contribution described in section 408(k)(6) of the federal internal revenue code of 1986;

(D) under or to an annuity contract described in section 403(b) of the federal internal revenue code of 1986, other than a payment for the purchase of such contract which was made by reason of a salary reduction agreement whether evidenced by a written instrument or otherwise;

(E) under or to an exempt governmental deferred compensation plan as defined in section 3121(v)(3) of the federal internal revenue code of 1986;

(F) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this subparagraph to take into account some portion or all of the increase in the cost of living, as determined by the secretary of labor, since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the federal employee retirement income security act of 1974; or

(G) under a cafeteria plan within the meaning of section 125 of the federal internal revenue code of 1986;

(5) the payment by an employing unit (without deduction from the remuneration of the employee) of the tax imposed upon an employee under section 3101 of the federal internal revenue code of 1986 with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;

(6) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business;

(7) remuneration paid to or on behalf of an employee if and to the extent that at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of the federal internal revenue code of 1986 relating to moving expenses;

(8) any payment or series of payments by an employer to an employee or any of such employee's dependents which is paid:

(A) Upon or after the termination of an employee's employment relationship because of (i) death or (ii) retirement for disability; and

(B) under a plan established by the employer which makes provisions for employees generally, a class or classes of employees or for such employees or a class or classes of employees and their dependents, other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated;

(9) remuneration for agricultural labor paid in any medium other than cash;

(10) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 129 of the federal internal revenue code of 1986 which relates to dependent care assistance programs;

(11) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119 of the federal internal revenue code of 1986;

(12) any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died;

(13) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74(c), 117 or 132 of the federal internal revenue code of 1986; or

(14) any payment made, or benefit furnished, to or for the benefit of an employee, if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 of the federal internal revenue code of 1986 relating to educational assistance to the employee.

Nothing in any paragraph of subsection (o), other than paragraph (1), shall exclude from the term "wages": (1) Any employer contribution under a qualified cash or deferred arrangement, as defined in section 401(k) of the federal internal revenue code of 1986, to the extent that such contribution is not included in gross income by reason of section 402(a)(8) of the federal internal revenue code of 1986; or (2) any amount treated as an employer contribution under section 414(h)(2) of the federal internal revenue code of 1986.

Any amount deferred under a nonqualified deferred compensation plan shall be taken into account for purposes of this section as of the later of when the services are performed or when there is no substantial risk of forfeiture of the rights to such amount. Any amount taken into account as wages by reason of this paragraph, and the income attributable thereto, shall not thereafter be treated as wages for purposes of this section. For purposes of this

paragraph, the term “nonqualified deferred compensation plan” means any plan or other arrangement for deferral of compensation other than a plan described in subsection (o)(4).

(p) “Week” means such period or periods of seven consecutive calendar days, as the secretary may by rules and regulations prescribe.

(q) “Calendar quarter” means the period of three consecutive calendar months ending March 31, June 30, September 30 or December 31, or the equivalent thereof as the secretary may by rules and regulations prescribe.

(r) “Insured work” means employment for employers.

(s) “Approved training” means any vocational training course or course in basic education skills approved by the secretary or a person or persons designated by the secretary.

(t) “American vessel” or “American aircraft” means any vessel or aircraft documented or numbered or otherwise registered under the laws of the United States; and any vessel or aircraft which is neither documented or numbered or otherwise registered under the laws of the United States nor documented under the laws of any foreign country, if its crew performs service solely for one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

(u) “Institution of higher education,” for the purposes of this section, means an educational institution which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized in this state to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor’s or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(4) is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subsection (u), all colleges and universities in this state are institutions of higher education for purposes of this section, except that no college, university, junior college or other postsecondary school or institution which is operated by the federal government or any agency thereof shall be an institution of higher education for purposes of the employment security law.

(v) “Educational institution” means any institution of higher education, as defined in subsection (u) of this section, or any institution, except private for profit institutions, in which participants, trainees or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher and which is approved, licensed or issued a permit to operate as a school by the state department of education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school or to an Indian tribe in the operation of an educational institution. The courses of study or training which an educational institution offers may be academic, technical, trade or preparation for gainful employment in a recognized occupation.

(w) (1) “Agricultural labor” means any remunerated service:

(A) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife.

(B) In the employ of the owner or tenant or other operator of a farm, in connection with the operating, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(C) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section (15)(g) of the agricultural marketing act, as amended (46 Stat. 1500, sec. 3; 12 U.S.C. 1141j) or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(D) (i) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than $\frac{1}{2}$ of the commodity with respect to which such service is performed;

(ii) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in paragraph (i) above of this subsection (w)(1)(D), but only if such operators produced more than $\frac{1}{2}$ of the commodity with respect to which such service is performed;

(iii) the provisions of paragraphs (i) and (ii) above of this subsection (w)(1)(D) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(E) On a farm operated for profit if such service is not in the course of the employer's trade or business.

(2) "Agricultural labor" does not include service performed prior to January 1, 1980, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the federal immigration and nationality act.

(3) As used in this subsection (w), the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(4) For the purpose of this section, if an employing unit does not maintain sufficient records to separate agricultural labor from other employment, all services performed during any pay period by an individual for the person employing such individual shall be deemed to be agricultural labor if services performed during $\frac{1}{2}$ or more of such pay period constitute agricultural labor; but if the services performed during more than $\frac{1}{2}$ of any such pay period by an individual for the person employing such individual do not constitute agricultural labor, then none of the services of such individual for such period shall be deemed to be agricultural labor. As used in this subsection (w), the term "pay period" means a period of not more than 31 consecutive days for which a payment of remuneration is ordinarily made to the individual by the person employing such individual.

(x) "Reimbursing employer" means any employer who makes payments in lieu of contributions to the employment security fund as provided in subsection (e) of K.S.A. 44-710 and amendments thereto.

(y) "Contributing employer" means any employer other than a reimbursing employer or rated governmental employer.

(z) "Wage combining plan" means a uniform national arrangement approved by the United States secretary of labor in consultation with the state unemployment compensation agencies and in which this state shall participate, whereby wages earned in one or more states are transferred to another state, called the "paying state," and combined with wages in the paying state, if any, for the payment of benefits under the laws of the paying state and as provided by an arrangement so approved by the United States secretary of labor.

(aa) "Domestic service" means any service for a person in the operation and maintenance of a private household, local college club or local chapter of a college fraternity or sorority, as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise or vocation.

(bb) "Rated governmental employer" means any governmental entity which elects to make payments as provided by K.S.A. 44-710d and amendments thereto.

(cc) "Benefit cost payments" means payments made to the employment security fund by a governmental entity electing to become a rated governmental employer.

(dd) "Successor employer" means any employer, as described in subsection (h) of this section, which acquires or in any manner succeeds to (1) substantially all of the employing enterprises, organization, trade or business of another employer or (2) substantially all the assets of another employer.

(ee) "Predecessor employer" means an employer, as described in subsection (h) of this section, who has previously operated a business or portion of a business with employment to which another employer has succeeded.

(ff) "Lessor employing unit" means any independently established business entity which engages in the business of providing leased employees to a client lessee.

(gg) "Client lessee" means any individual, organization, partnership, corporation or other legal entity leasing employees from a lessor employing unit.

(hh) "Qualifying injury" means a personal injury by accident arising out of and in the course of employment within the coverage of the Kansas workers compensation act, K.S.A. 44-501 *et seq.*, and amendments thereto.;

And by renumbering sections accordingly;

Also on page 42, in line 14, after "Supp." by inserting "44-703.,";

On page 1, in the title, in line 11, after the semicolon, by inserting: "exempting private prison based industries from payment of state unemployment tax; concerning disqualification from receipt of benefits; relating to failing a pre-employment drug screen.,"; also in line 11, after "Supp." by inserting "44-703.,"; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 299** be amended on page 1, in line 15, after "1." by inserting "(a)"; also in line 1, by striking "act: (a)" and inserting "section: (1)"; in line 20, by striking "(b)" and inserting "(2)"; in line 24, by striking "Sec. 2. Any surety or authorized" and inserting "(b) Any"; in line 28, by striking "surety or"; in line 30, by striking "surety or"; by striking all in lines 35 through 43;

On page 2, by striking all in lines 1 through 5; in line 6, by striking "weapon. A surety recovery agent" and inserting "(c) An agent of a surety"; also in line 6, before "enter" by inserting "not"; in line 9, by striking "Sec. 4." and inserting the following:

"(d) No person who, within the past 10 years, has been convicted, in this or any other jurisdiction, of a person felony, may act as a surety or as an agent of a surety.

(e)";

Also on page 2, also in line 9, by striking "act shall be" and inserting "section is"; in line 10, after "first" by inserting "conviction of a"; also in line 10, before "level" by inserting "severity"; also in line 10, after "9" by inserting a comma; also in line 10, by striking "and" where it appears the second time and inserting "or"; in line 11, after "subsequent" by inserting "conviction of a"; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 350** be amended on page 1, in line 16, by striking "he or she" and inserting "the judge"; also in line 16, after "term" by inserting "of parole"; in line 26, after "initial" by inserting "jail"; and the bill be passed as amended.

Committee on **Ethics and Elections** recommends **SB 376** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL No. 376," as follows:

"HOUSE Substitute for SENATE BILL No. 376

By Committee on Ethics and Elections

"AN ACT concerning certain elected officials; relating to use of unexpended campaign funds; amending K.S.A. 25-4142, 25-4148, 25-4151, 25-4153, 25-4157a and 46-269 and K.S.A. 2003 Supp. 25-4143 and repealing the existing sections.,"; and the substitute bill be passed.

(H. Sub. for **SB 376** was thereupon introduced and read by title.)

Committee on **Health and Human Services** recommends **SB 466** be passed.

Committee on **Transportation** recommends **SB 289** be amended on page 1, in line 13, by striking "this act" and inserting "sections 1 and 2, and amendments thereto.,";

On page 2, in line 33, following "request" by inserting "a territorial governor's sign from"; in line 34, by striking "to install a territorial governor's sign";

On page 3, following line 4, by inserting the following:

"Sec. 3. The secretary of the Kansas department of transportation shall cause signs to be installed on the state highway system informing the public of the exits for post-secondary degree granting schools under the jurisdiction of the Kansas board of regents and which are accredited by the higher learning commission. Such signs shall not be installed unless such school requests the signs and the secretary has received sufficient moneys from gifts and

donations to reimburse the secretary for the cost of installing such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing such exit signs.”;

Also on page 3, by renumbering the current section 3 as section 4;

In the title, in line 10, following “ACT” by inserting “relating to the Kansas department of transportation; providing certain signs;”; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 384** be amended on page 1, in line 39, by striking “(a)”; in line 41, by striking “70” and inserting “75”;

On page 2, by striking all in lines 1 through 4; in line 6, by striking “(a)”; in line 7, by striking “70” and inserting “75”; by striking all in lines 14 through 20; and the bill be passed as amended.

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were thereupon introduced and read by title:

HB 2939, An act concerning the membership of the health care data governing board; amending K.S.A. 65-6803 and repealing the existing section, by Committee on Appropriations.

HB 2940, An act concerning schools; relating to required courses of study; amending K.S.A. 72-1101 and repealing the existing section; also repealing K.S.A. 72-1103 and 72-1117..

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6028—

By Representatives Yonally, Barbieri-Lightner, Beggs, Bethell, Boyer, Campbell, Cox, Crow, Decker, Gordon, Hill, Holland, Horst, Huff, Huntington, Jack, Kassebaum, Light, Neighbor, O'Malley, Reardon, Reitz, Sawyer, S. Sharp, Showalter, Storm, Svaty, Thimesch and Yoder

A RESOLUTION memorializing the Congress of the United States regarding the
No Child Left Behind Act.

WHEREAS, The state of Kansas fully supports and actively pursues the goal of No Child Left Behind; and

WHEREAS, We welcome the additional support No Child Left Behind has brought to focus on quality education, the improvements needed to reach all children and the urgency nationwide to close achievement gaps but we need a feasible and fair accountability system; and

WHEREAS, There are four major areas in regulations and law, that if improved, will support successful implementation of No Child Left Behind:

Some students with disabilities have cognitive disabilities that prevent them from succeeding and therefore need more appropriate measures for accountability;

Students with limited English proficiency are in their program because they cannot speak, read or write English and therefore need more appropriate measures for accountability;

The Act imposes significant costs on the state, including statewide professional development and the administration of newly developed assessments, and on local school district and teachers and paraprofessionals, for tasks including the funding of staff development, certification upgrades and coursework;

All students, all schools, and all districts do not improve on a uniform basis: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we urge the United States Department of Education and the Congress of the United States to address the issues contained in this resolution and to make changes and permit flexibility that will ensure successful implementation of the No Child Left Behind Act; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to the President of the United States, the Secretary of the United States Department of Education, the President pro tempore of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Kansas legislative delegation.

On motion of Rep. Aurand, the House recessed until 5:00 p.m.

EARLY EVENING SESSION

The House met pursuant to recess with Speaker Mays in the chair.

On motion of Rep. Merrick, the House went into Committee of the Whole, with Rep. Vickrey in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that discussion resume on **HB 2544** (see Committee of the Whole, Morning Session).

Having voted on the prevailing side, Rep. Bethell moved that the Committee reconsider its action in not adopting the amendment by Rep. Schwab (see Committee of the Whole, Morning Session). The motion prevailed.

The question then reverted back to the motion of Rep. Schwab and **HB 2544** be amended on page 1, after line 14, by inserting the following:

“Section 1. K.S.A. 2003 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3% on and after July 1, 2002, and before July 1, ~~2004~~, ~~5.2%~~ on and after July 1, 2004, and before July 1, ~~2005~~ 2006, and 5% on and after July 1, ~~2005~~ 2006, and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

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

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001; and (3) the gross receipts from the provision of services

taxable under this subsection which are billed on a combined basis with nontaxable services, shall be accounted for and the tax remitted as follows: The taxable portion of the selling price of those combined services shall include only those charges for taxable services if the selling price for the taxable services can be readily distinguishable in the retailer's books and records from the selling price for the nontaxable services. Otherwise, the gross receipts from the sale of both taxable and nontaxable services billed on a combined basis shall be deemed attributable to the taxable services included therein. Within 90 days of billing taxable services on a combined basis with nontaxable services, the retailer shall enter into a written agreement with the secretary identifying the methodology to be used in determining the taxable portion of the selling price of those combined services. The burden of proving that any receipt or charge is not taxable shall be upon the retailer. Upon request from the customer, the retailer shall disclose to the customer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on a combined basis;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

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

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

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

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

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

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

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

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

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

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

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

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

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

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building or facility damaged or destroyed by fire, flood, tornado, lightning, explosion or earthquake,

but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

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

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

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

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

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

(s) *on and after July 1, 2004*, the gross receipts received from the sale of *prewritten* computer software; ~~the sale of the service of providing computer software other than prewritten computer software~~ and the sale of the services of modifying, altering, updating or maintaining *prewritten* computer software, whether the *prewritten* computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services, mobile telecommunication services, beeper services and other similar services. On and after August 1, 2002, the provisions of the federal mobile telecommunications sourcing act as in effect on January 1, 2002, shall be applicable to all sales of mobile telecommunication services taxable pursuant to this subsection. The secretary of revenue is hereby authorized and directed to perform any act deemed necessary to properly implement such provisions;

(u) the gross receipts received from the sale of prepaid calling service as defined in K.S.A. 2003 Supp. 79-3673, and amendments thereto; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq., and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section.";

And by renumbering sections accordingly;

On page 20, in line 35, after "Supp." by inserting "79-3603, 79-3603c and"; also in line 35, by striking "is" and inserting "are";

On page 1, in the title, in line 10, after "to" by inserting "computer software;"; in line 11, after "Supp." by inserting "79-3603 and"; in line 12, by striking "section" and inserting "sections; also repealing K.S.A. 2003 Supp. 79-3603c";

Also, on motion of Rep. Holland, **HB 2544** be amended on page 20, by striking all in line 35 and inserting the following:

"Sec. 2. K.S.A. 2003 Supp. 79-3607 is hereby amended to read as follows: 79-3607. (a) Retailers shall make returns to the director at the times prescribed by this section upon forms prescribed and furnished by the director stating: (1) The name and address of the retailer; (2) the total amount of gross sales of all tangible personal property and taxable services rendered by the retailer during the period for which the return is made; (3) the total amount received during the period for which the return is made on charge and time sales of tangible personal property made and taxable services rendered prior to the period for which the return is made; (4) deductions allowed by law from such total amount of gross

sales and from total amount received during the period for which the return is made on such charge and time sales; (5) receipts during the period for which the return is made from the total amount of sales of tangible personal property and taxable services rendered during such period in the course of such business, after deductions allowed by law have been made; (6) receipts during the period for which the return is made from charge and time sales of tangible personal property made and taxable services rendered prior to such period in the course of such business, after deductions allowed by law have been made; (7) gross receipts during the period for which the return is made from sales of tangible personal property and taxable services rendered in the course of such business upon the basis of which the tax is imposed. The return shall include such other pertinent information as the director may require. In making such return, the retailer shall determine the market value of any consideration, other than money, received in connection with the sale of any tangible personal property in the course of the business and shall include such value in the return. Such value shall be subject to review and revision by the director as hereinafter provided. Refunds made by the retailer during the period for which the return is made on account of tangible personal property returned to the retailer shall be allowed as a deduction under subdivision (4) of this section in case the retailer has theretofore included the receipts from such sale in a return made by such retailer and paid taxes therein imposed by this act. The retailer shall, at the time of making such return, pay to the director the amount of tax herein imposed, except as otherwise provided in this section. The director may extend the time for making returns and paying the tax required by this act for any period not to exceed 60 days under such rules and regulations as the secretary of revenue may prescribe. When the total tax for which any retailer is liable under this act, does not exceed the sum of \$80 in any calendar year, the retailer shall file an annual return on or before January 25 of the following year. When the total tax liability does not exceed ~~\$1,600~~ \$3,200 in any calendar year, the retailer shall file returns quarterly on or before the 25th day of the month following the end of each calendar quarter. When the total tax liability exceeds ~~\$1,600~~ \$3,200 in any calendar year, the retailer shall file a return for each month on or before the 25th day of the following month. When the total tax liability exceeds \$32,000 in any calendar year, the retailer shall be required to pay the sales tax liability for the first 15 days of each month to the director on or before the 25th day of that month. Any such payment shall accompany the return filed for the preceding month. A retailer will be considered to have complied with the requirements to pay the first 15 days' liability for any month if, on or before the 25th day of that month, the retailer paid 90% of the liability for that fifteen-day period, or 50% of such retailer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs computed at the rate applicable in the month in which the fifteen-day period occurs, and, in either case, paid any underpayment with the payment required on or before the 25th day of the following month. Such retailers shall pay their sales tax liabilities for the remainder of each such month at the time of filing the return for such month. Determinations of amounts of liability in a calendar year for purposes of determining filing requirements shall be made by the director upon the basis of amounts of liability by those retailers during the preceding calendar year or by estimates in cases of retailers having no previous sales tax histories. The director is hereby authorized to modify the filing schedule for any retailer when it is apparent that the original determination was inaccurate.

(b) All model 1, model 2 and model 3 sellers are required to file returns electronically. Any model 1, model 2 or model 3 seller may submit its sales and use tax returns in a simplified format approved by the director. Any seller that is registered under the agreement, which does not have a legal requirement to register in this state, and is not a model 1, model 2 or model 3 seller, may submit its sales and use tax returns as follows: (1) Upon registration, the director shall provide to the seller the returns required;

(2) seller shall file a return anytime within one year of the month of initial registration, and future returns are required on an annual basis in succeeding years; and

(3) in addition to the returns required in subsection (b)(2), sellers are required to submit returns in the month following any month in which they have accumulated state and local sales tax funds for this state in the amount of \$1,600 or more.

New Sec. 3. (a) (1) For any foreign or domestic for profit corporation, or professional corporation or association, duly registered and authorized to do business in Kansas by the secretary of state and which has taxable equity attributable to Kansas of \$1,000,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .1% of such entity's taxable equity attributable to Kansas, except that such annual franchise tax for such entity shall not exceed \$25,000.

(2) For any foreign or domestic limited liability company, foreign or domestic limited partnership or foreign or domestic limited liability partnership duly registered and authorized to do business in Kansas by the secretary of state and which has net capital accounts located or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income of \$1,000,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .1% of the net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, or for a one-member LLC taxed as a sole proprietorship which has net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the preceding taxable year of \$1,000,000 or more, .1% of net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the preceding taxable year, except that such annual franchise tax for such entities shall not exceed \$25,000.

(3) For any business trust duly registered and authorized to do business in Kansas by the secretary of state which has corpus as shown on its balance sheet at the end of the preceding taxable year as required to be reported on its annual report filed with the secretary of state pursuant to K.S.A. 17-2036, and amendments thereto, of \$1,000,000 or more, such entity shall pay an annual franchise tax to the secretary of revenue at the rate of .1% of the corpus as shown on its balance sheet at the end of the preceding taxable year as required to be reported on its annual report filed with the secretary of state pursuant to K.S.A. 17-2036, and amendments thereto, or in the case of a foreign business trust which has a corpus which is located in or which it uses or intends to use in this state as shown on its balance sheet at the end of the preceding taxable year as required to be reported on the annual report filed with the secretary of state pursuant to K.S.A. 17-2036, and amendments thereto, of \$1,000,000 or more, .1% of the corpus which is located in or which it uses or intends to use in this state as shown on its balance sheet at the end of the preceding taxable year as required to be reported on the annual report filed with the secretary of state pursuant to K.S.A. 17-2036, and amendments thereto, except that the annual franchise tax for such entities shall not exceed \$25,000.

(b) (1) Every corporation or association, business trust, limited liability company, limited partnership or limited liability partnership subject to taxation under this act, shall make a return, stating specifically such information as may be required by the forms, rules and regulations of the secretary of revenue, which return shall include a balance sheet listing all assets and liabilities as of the end of the tax year, as reported with the federal income tax return or as otherwise required by the secretary, and such further information showing the allocation or apportionment of such assets and liabilities to Kansas used in computing the amount of the franchise tax. The return of a corporation or association shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer so authorized to act. The fact that an individual's name is signed on a return shall be *prima facie* evidence that such individual is authorized to sign such return on behalf of such corporation. In cases where receivers, trustees in bankruptcy or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns shall be collected in the same manner as if collected from the corporation for which the return is made. The returns of a limited liability partnership shall be signed by a partner of the limited liability partnership. The returns of a limited liability company shall be signed by a member of the limited liability partnership.

(2) All returns shall be filed in the office of the director of taxation on or before the 15th day of the fourth month following the close of the taxable year, except as provided in subsection (b) (3).

(3) The director of taxation may grant a reasonable extension of time for filing returns in accordance with rules and regulations of the secretary of revenue. Whenever any such extension of time to file is requested by a taxpayer and granted by the director, no penalty authorized by K.S.A. 79-3228, and amendments thereto, shall be imposed if 90% of the liability is paid on or before the original due date.

(c) (1) All taxes imposed under the provisions of the Kansas franchise tax act shall be paid on the 15th day of the fourth month following the close of the taxable year. When the tax as shown to be due on a return is less than \$5, such tax shall be canceled and no payment need be remitted by the taxpayer.

(2) The director of taxation may extend the time for payment of the tax, or any installment thereof, for a reasonable period of time not to exceed six months from the date fixed for payment thereof. Such extension may exceed six months in the case of a taxpayer who is abroad. Interest shall be charged at the rate prescribed by K.S.A. 79-2968, and amendments thereto, for the period of such extension.

(d) The provisions of K.S.A. 79-3226, 79-3228, 79-3228a, 79-3229, 79-3230, 79-3233, 79-3233a, 79-3233b, 79-3233g, 79-3233h, 79-3233i, 79-3234, 79-3235 and 79-3236, and amendments thereto, shall apply to the administration and enforcement of this section.

(e) All taxes paid pursuant to the provisions of this act shall be rounded off to the nearest \$1, and unless other disposition is specifically provided by law, the taxes collected under the provisions of this act and all overpayments which may not be refunded under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. The secretary of revenue shall not refund any overpayment of franchise taxes which is equal to \$5 or less, shall not credit any domestic corporation or foreign corporation with any amount which may not be refunded under this section, and shall not require reimbursement for any underpayment of franchise taxes which is less than \$5.

(f) As used in this section: (1) "Act" means the Kansas franchise tax act;

(2) "net book value of an LLC as calculated on an income tax basis located in or used in this state" means the net book value of an LLC as calculated on an income tax basis located in or used in this state;

(3) "net capital accounts located in or used in this state" means the net capital accounts located in or used in this state;

(4) "net book value as calculated on an income tax basis located in or used in this state" means the net book value of a limited liability company multiplied by a percentage which is the average of the following three percentages: (A) The average value of the limited liability company's real and tangible personal property owned or rented and used in this state during the next preceding tax period divided by the average total value of the limited liability company's real and tangible personal property owned or rented and used during the next preceding tax period; (B) the total amount of compensation paid by the limited liability company in this state during the next preceding tax period divided by the total amount of compensation paid everywhere by the limited liability company during the next preceding tax period; and (C) the total sales of the limited liability company in this state during the next preceding tax period divided by the total sales of the limited liability company everywhere during the next preceding tax period. If a limited liability company has no property or activity mentioned in one of the above factors, the appropriate percentage for that factor is 100%;

(5) "net capital accounts located in or used in this state" means the net capital accounts of a limited partnership or limited liability partnership as stated on the federal income tax return multiplied by a percentage which is the average of the following three percentages: (A) The average value of such entity's real and tangible personal property owned or rented and used in this state during the next preceding tax period divided by the average total value of such entity's real and tangible personal property owned or rented and used during the next preceding tax period; (B) the total amount of compensation paid by such entity in this state during the next preceding tax period divided by the total amount of compensation paid everywhere by such entity during the next preceding tax period; and (C) the total sales of such entity in this state during the next preceding tax period divided by the total sales of

such entity everywhere during the next preceding tax period. If such entity has no property or activity mentioned in one of the about factors, the appropriate percentage for that factor is 100%;

(6) "shareholder's equity" means the sum of: (1) Paid-in capital stock, except that paid-in capital stock shall not include any capital stock issued by a corporation and reacquired by such corporation through gift, purchase or otherwise and available for resale or retirement; (2) capital paid in, in excess of par; and (3) retained earnings, all as stated on such corporation's federal income tax return; and

(7) "taxable equity attributable to Kansas" means shareholder's equity attributable to Kansas.

(g) The provisions of this section shall be known and may be cited as the Kansas franchise tax act.

Sec. 4. K.S.A. 17-1513 is hereby amended to read as follows: 17-1513. Each corporation organized under the provisions of this act shall make an annual report to the secretary of state, and pay the annual franchise ~~tax~~ *fee*, as prescribed by K.S.A. 17-7503 *and amendments thereto*.

Sec. 5. K.S.A. 17-1618 is hereby amended to read as follows: 17-1618. Each association formed under this act, or acts amendatory thereto, shall prepare and make an annual report to the secretary of state, and pay the annual franchise ~~tax~~ *fee*, as prescribed by K.S.A. 17-7504 and amendments thereto, except that the report shall be filed at the time prescribed by law for filing the association's annual Kansas income tax return. If any such association shall apply for an extension of time for filing its annual income tax return pursuant to the internal revenue code or subsection (c) of K.S.A. 79-3221 and amendments thereto, such association shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of time for filing the annual report. Such application for an extension of time for filing the annual report shall include a copy of the application for extension for filing its annual income tax return filed pursuant to the internal revenue code or K.S.A. 79-3221 and amendments thereto.

Sec. 6. K.S.A. 2003 Supp. 17-2036 is hereby amended to read as follows: 17-2036. Every business trust shall make an annual report in writing to the secretary of state, showing its financial condition at the close of business on the last day of its tax period under the Kansas income tax act next preceding the date of filing, but if a business trust's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms provided by the secretary of state and shall be filed at the time prescribed by law for filing the business trust's annual Kansas income tax return, except that if any such business trust shall receive an extension of time for filing its annual income tax return from the internal revenue service or pursuant to subsection (c) of K.S.A. 79-3221, and amendments thereto, the time for filing the report hereunder shall be extended, correspondingly, upon filing with the secretary of state a copy of the extension granted by the internal revenue service or the director of taxation. The report shall contain the following:

(a) Executed copies of all amendments to the instrument by which the business trust was created, or to prior amendments thereto, which have been adopted and have not theretofore been filed under K.S.A. 17-2033, and amendments thereto, and accompanied by the fee prescribed therein for each such amendment;

(b) a verified list of the names and addresses of its trustees as of the end of its tax period; and

(c) a balance sheet as of the end of its tax period, certified by the trustee, fairly and truly reflecting its assets and liabilities and specifically setting out its corpus, and, in the case of a foreign business trust, fairly and truly reflecting an allocation of its moneys and other assets as between those located, used, or to be used in this state and those located, used or to be used elsewhere.

At the time of filing its annual report, the business trust shall pay to the secretary of state an annual franchise ~~tax~~ *fee* in an amount equal to \$2 for each \$1,000 of its corpus as shown by its balance sheet, or, in the case of a foreign business trust, in an amount equal to \$2 for each \$1,000 of that portion of its corpus which is located in or which it uses or intends to

~~use in this state as shown by its balance sheet, except that in any case no such tax shall be less than \$40 nor more than \$5,000 not to exceed \$40.~~

The failure of any domestic or foreign business trust to file its annual report and pay its annual franchise ~~tax~~ fee within 90 days from the date on which they are due, as aforesaid, shall work a forfeiture of its authority to transact business in this state and all of the remedies, procedures, and penalties specified in K.S.A. 17-7509 and 17-7510, and amendments thereto, with respect to a corporation which fails to file its annual report or pay its annual franchise ~~tax~~ fee within 90 days after they are due, shall be applicable to such business trust.

Sec. 7. K.S.A. 2003 Supp. 17-2718 is hereby amended to read as follows: 17-2718. (a) Each professional corporation organized under the laws of this state shall file with the secretary of state an annual report in writing and a copy or duplicate thereof, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return, except that such corporation may apply to the secretary of state not more than 90 days after the due date of its annual report for an extension of the time for filing the report, and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221, and amendments thereto. The report shall be made on a form provided by the secretary of state, containing the following information:

- (1) The names and residence addresses of all officers, directors and shareholders of the professional corporation;
- (2) a statement that each officer, director and shareholder is or is not a qualified person as defined in K.S.A. 17-2707, and amendments thereto, and setting forth the date on which any shares of the corporation were no longer owned by a qualified person; and
- (3) the amount of capital stock issued.

(b) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report will be dated and subscribed by the person as true, under penalty of perjury. The copy of the annual report or the duplicate original copy of the annual report shall be forwarded to the regulatory board which licenses the shareholders described in the report. At the time of filing its annual report, each professional corporation shall pay the annual franchise ~~tax~~ fee prescribed by K.S.A. 17-7503, and amendments thereto.

Sec. 8. K.S.A. 2003 Supp. 17-4634 is hereby amended to read as follows: 17-4634. (a) Every corporation organized under the electric cooperative act of this state shall make an annual report in writing to the secretary of state, showing the financial condition of the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The report shall be filed on or before the fifteenth day of the fourth month following the close of the tax year of the electric cooperative. An extension for filing the annual report may be granted upon the filing of a written application with the secretary of state prior to the due date of the report, except that no such extension may be granted for a period of more than ~~ninety (90)~~ 90 days. The report shall be made on a form provided by the secretary of state, containing the following information:

- (1) The name of the corporation;
- (2) the location of the principal office;
- (3) the name of the president, secretary and treasurer and the names of directors with the residence address of each;
- (4) the number of memberships issued;
- (5) a balance sheet showing the financial condition of the corporation at the close of business on the last day of its tax period next preceding the date of filing; and

(6) the change or changes, if any, in the particulars made since the last annual report.

(b) Such reports shall be signed by the president, vice-president or secretary of the corporation, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing such annual report, each such corporation shall pay an annual franchise ~~tax of~~ *fee in an amount not to exceed \$40.*

Sec. 9. K.S.A. 2003 Supp. 17-4677 is hereby amended to read as follows: 17-4677. (a) Every cooperative organized under the renewable energy electric generation cooperative act shall make an annual report in writing to the secretary of state, showing the financial condition of the cooperative at the close of business on the last day of its tax period next preceding the date of filing, but if any such cooperative's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The report shall be filed on or before the 15th day of the fourth month following the close of the tax year of the electric cooperative. An extension for filing the annual report may be granted upon the filing of a written application with the secretary of state prior to the due date of the report, except that no such extension may be granted for a period of more than 90 days. The report shall be made on a form provided by the secretary of state, containing the following information:

- (1) The name of the cooperative;
- (2) the location of the principal office of the cooperative;
- (3) the names and addresses of the president, secretary, treasurer and directors of the cooperative;
- (4) the number of members of the cooperative;
- (5) a balance sheet showing the financial condition of the cooperative at the close of business on the last day of its tax period next preceding the date of filing; and

(6) the change or changes, if any, in the particulars made since the last annual report.

(b) The annual report shall be signed by the president, vice-president or secretary of the cooperative, sworn to before an officer duly authorized to administer oaths, and forwarded to the secretary of state. At the time of filing such annual report, the cooperative shall pay an annual franchise ~~tax of \$20~~ *fee in an amount not to exceed \$40.*

Sec. 10. K.S.A. 2003 Supp. 17-7503 is hereby amended to read as follows: 17-7503. (a) Every domestic corporation organized for profit shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms prescribed by the secretary of state. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return, except that if any such corporation shall apply for an extension of time for filing its annual income tax return under the internal revenue service or under subsection (c) of K.S.A. 79-3221, and amendments thereto, such corporation shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing the report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221, and amendments thereto. Such application shall include a copy of the application to income tax authorities. The report shall contain the following information:

- (1) The name of the corporation;
- (2) the location of the principal office;
- (3) the names of the president, secretary, treasurer and members of the board of directors, with the residence address of each;
- (4) the number of shares of capital stock issued and the amount of capital stock paid up;
- (5) the nature and kind of business in which the corporation is engaged; and
- (6) a list of stockholders owning at least 5% of the capital stock of the corporation, with the post office address of each.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under provision (5), state separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(c) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report will be dated and subscribed by the person as true, under penalty of perjury. At the time of filing such annual report it shall be the duty of each domestic corporation organized for profit to pay to the secretary of state an annual franchise tax fee in an amount equal to \$2 for each \$1,000 of the corporation's shareholder's equity attributable to Kansas, except that no such tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the corporation to the secretary as provided by this subsection shall not be disclosed by the secretary not to exceed \$40.

Sec. 11. K.S.A. 2003 Supp. 17-7504 is hereby amended to read as follows: 17-7504. (a) Every corporation organized not for profit shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms prescribed by the secretary of state. The report shall be filed on the 15th day of the sixth month following the close of the taxable year, except that such corporation may apply to the secretary of state not more than 90 days after the due date of its annual report for an extension of the time for filing the report, and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221, and amendments thereto. The report shall contain the following information:

(1) The name of the corporation;

(2) the location of the principal office;

(3) the names of the president, secretary and treasurer, and the members of the board of directors, with the residence address of each;

(4) the number of memberships or the number of shares of capital stock issued and the amount of capital stock paid up.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5) of this subsection (b), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(c) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report will be dated and subscribed by the person as true, under penalty of perjury. At the time of filing such report, each nonprofit corporation shall pay an annual ~~privilege franchise fee of \$40~~ *in an amount not to exceed \$20* for all tax years commencing after December 31, ~~2001~~ 2003.

Sec. 12. K.S.A. 2003 Supp. 17-7505 is hereby amended to read as follows: 17-7505. (a) Every foreign corporation organized for profit, or organized under the cooperative type statutes of the state, territory or foreign country of incorporation, now or hereafter doing business in this state, and owning or using a part or all of its capital in this state, and subject to compliance with the laws relating to the admission of foreign corporations to do business in Kansas, shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation operates on a fiscal year other than the calendar year it shall give written notice thereof to the secretary of state prior to December 31 of the year commencing such fiscal year. The report shall be made on a form prescribed by the secretary of state. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return, except that if any such corporation shall apply for an extension of time for filing its annual income tax return under the internal revenue service or under subsection (c) of K.S.A. 79-3221, and amendments thereto, such corporation shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing the report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221, and amendments thereto. Such application shall include a copy of the application to income tax authorities. The report shall contain the following facts:

- (1) The name of the corporation and under the laws of what state or country organized;
- (2) the location of its principal office;
- (3) the names of the president, secretary, treasurer and members of the board of directors, with the residence address of each;
- (4) the number of shares of capital stock issued and the amount of capital stock paid up;
- (5) the nature and kind of business in which the company is engaged and its place or places of business both within and without the state of Kansas;
- (6) the value of the property owned and used by the company in Kansas, where situated, and the value of the property owned and used outside of Kansas and where situated; and
- (7) the corporation's shareholder's equity attributable to Kansas.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

- (1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;
- (2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;
- (3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;
- (4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5) of this subsection (b), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report will be dated and subscribed by the person as true, under penalty of perjury. At the time of filing its annual report, each such foreign corporation shall pay to the secretary of state an annual franchise tax fee in an amount equal to \$2 for each \$1,000 of the corporation's shareholder's equity attributable to Kansas, except that no such tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the foreign corporation to the secretary as provided by this subsection shall not be disclosed by the secretary not to exceed \$40.

Sec. 13. K.S.A. 2003 Supp. 17-7507 is hereby amended to read as follows: 17-7507. No corporation shall be required to file its first annual report under this act, or pay any annual franchise tax fee required to accompany such report, unless such corporation has filed its articles of incorporation or certificate of good standing at least six months prior to the last day of its tax period. If any corporation shall file with the secretary of state a notice of change in its tax period, and the next annual report filed by such corporation subsequent to such notice is based on a tax period of less than 12 months. The annual tax liability shall be determined by multiplying the annual franchise tax liability for such year by a fraction the numerator of which is the number of months, or any portion thereof, covered by the annual report and the denominator of which is 12. Notwithstanding the foregoing, the minimum annual franchise tax shall be \$40.

Sec. 14. K.S.A. 2003 Supp. 17-7509 is hereby amended to read as follows: 17-7509. (a) In case any corporation organized for profit which is required to file an annual report and pay the annual franchise tax fee prescribed by this act shall fail or neglect to make such report at the time prescribed, such corporation shall be subject to a penalty of \$75. Such penalty and the annual tax or taxes fee or fees required to be paid by this act may be recovered by an action in the name of the state, and all moneys recovered shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(b) ~~On complaint of the secretary of state that any corporation has failed to pay the annual taxes prescribed by this act, it shall be the duty of the county or district attorney, or the attorney general, to institute such action in the district court of Shawnee county, Kansas, or of any county in which such corporation has an office or place of business.~~

~~(c) The penalties provided for in subsection (a) also may be assessed against any corporation for the reason that such corporation has been canceled or its existence forfeited pursuant to the Kansas general corporation code. No penalty shall be charged pursuant to this subsection, if a corporation is assessed penalties pursuant to grounds specified in subsection (a).~~

Sec. 15. K.S.A. 17-7510 is hereby amended to read as follows: 17-7510. (a) In addition to any other penalties, the failure of any domestic corporation to file the annual report in accordance with the provisions of this act or to pay the annual taxes herein franchise fee provided for within 90 days of the time for filing and paying the same shall work the forfeiture of the articles of incorporation of such domestic corporation. Within 60 days after the date such annual report and taxes fee are due, the secretary of state, by mail, shall notify any corporation that has failed to submit such report and taxes fee when due that its articles of incorporation shall be forfeited unless the annual report is filed and the taxes thereon are fee is paid within 90 days from the date such report and taxes fee were due. Any corporation that fails to submit such report and taxes fee within such time shall forfeit its articles

of incorporation, and the secretary of state shall notify the attorney general that the articles of incorporation of such corporation have been forfeited.

(b) In addition to any other penalties, the failure of any foreign corporation to file the annual report or pay the annual franchise ~~taxes~~ *fee* prescribed by this act within 90 days from the time provided for filing and paying the same shall work a forfeiture of its right or authority to do business in this state. Within 60 days after the date such annual report and ~~taxes~~ *fee* are due, the secretary of state, by mail, shall notify any corporation that has failed to submit such report and ~~taxes~~ *fee* when due that its authority to do business in this state shall be forfeited unless the annual report and ~~taxes thereon are~~ *fee* is paid within 90 days from the date such report and ~~taxes~~ *fee* were due. Any corporation that fails to submit such report and ~~taxes~~ *fees* within such time shall forfeit its authority to do business in this state, and the secretary of state shall publish a notice of such forfeiture in the Kansas register.

This section shall not be construed to restrict the state from invoking any other remedies provided by law.

Sec. 16. K.S.A. 17-7511 is hereby amended to read as follows: 17-7511. Pursuant to the authority granted by subsection (c) of K.S.A. 79-3234, the secretary of state, as a legal representative of the state, may inspect the annual Kansas income tax return of any corporation for the purpose of verifying any information contained in the annual report filed by such corporation with the secretary of state pursuant to this act. The secretary of state shall not disclose any information obtained from any such return, except as may be necessary to commence an appropriate administrative or judicial proceeding against the corporation filing the same, *and shall disclose to the secretary of revenue any information and allow the secretary to inspect as necessary the annual report for purposes of verifying any information contained on the franchise tax return as provided in section 1 and amendments thereto.*

Sec. 17. K.S.A. 17-7512 is hereby amended to read as follows: 17-7512. The provisions of this act relating to the filing of annual reports and the payment of franchise ~~taxes~~ *fees* shall not apply to banking, insurance or savings and loan corporations or associations or to credit unions or any firemen's relief association under the jurisdiction and supervision of the insurance commissioner or to Kansas Venture Capital, Inc. or to venture capital companies certified by the secretary of commerce pursuant to article 83 of chapter 74 of the Kansas Statutes Annotated and amendments thereto.

Sec. 18. K.S.A. 2003 Supp. 17-76,125 is hereby amended to read as follows: 17-76,125. A foreign limited liability company may cancel its registration by filing with the secretary of state a certificate of cancellation executed by the members, together with the fee required by this act and the annual report and franchise ~~tax~~ *fee* for any tax period which has ended. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited liability company with respect to causes of action arising out of the doing of business in the state of Kansas.

Sec. 19. K.S.A. 2003 Supp. 17-76,139 is hereby amended to read as follows: 17-76,139.

(a) Every limited liability company organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

- (1) The name of the limited liability company; and
- (2) a list of the members owning at least 5% of the capital of the company, with the post office address of each.

(b) Every foreign limited liability company shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company also shall apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited liability company.

(c) The annual report required by this section shall be signed by a member of the limited liability company and forwarded to the secretary of state. At the time of filing the report, the limited liability company shall pay to the secretary of state an annual franchise ~~tax fee~~ in an amount ~~equal to \$2 for each \$1,000 of the net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, or for a one-member LLC taxed as a sole proprietorship, \$2 for each \$1,000 of net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the preceding taxable year, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited liability company to the secretary as provided by this subsection shall not be disclosed by the secretary not to exceed \$40.~~

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, shall be applicable to the articles of organization of any domestic limited liability company or to the authority of any foreign limited liability company which fails to file its annual report or pay the franchise ~~tax fee~~ within 90 days of the time prescribed in this section for filing and paying the same. Whenever the articles of organization of a domestic limited liability company or the authority of any foreign limited liability company are forfeited for failure to file an annual report or to pay the required franchise ~~tax fee~~, the domestic limited liability company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees ~~and taxes~~, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

(e) When reinstatement is effective, it relates back to and takes effect as of the effective date of the forfeiture and the company may resume its business as if the forfeiture had never occurred.

(f) No limited liability company shall be required to file its first annual report under this act, or pay any annual franchise ~~tax fee~~ required to accompany such report, unless such limited liability company has filed its articles of organization or application for authority at least six months prior to the last day of its tax period. ~~If any limited liability company files with the secretary of state a notice of change in its tax period and the next annual report filed by such limited liability company subsequent to such notice is based on a tax period of less than 12 months, the annual tax liability shall be determined by multiplying the annual franchise tax liability for such year by a fraction, the numerator of which is the number of months or any portion thereof covered by the annual report and the denominator of which is 12, except that the tax shall not be less than \$40.~~

Sec. 20. K.S.A. 2003 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except that the district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting;
or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting;
or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state

pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the ombudsman of corrections, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901, *et seq.*, and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 *et seq.* and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20 and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the *secretary of revenue* or the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; or (B) sewer or wastewater treatment systems, facilities or equipment. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping.

(46) Any information or material received by the secretary of state pursuant to subsection (b) of K.S.A. 2003 Supp. 44-1518, and amendments thereto, except when such information is required to be submitted in an application pursuant to K.S.A. 2003 Supp. 44-1520, and amendments thereto.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

Sec. 21. K.S.A. 2003 Supp. 56-1a606 is hereby amended to read as follows: 56-1a606. (a) Every limited partnership organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return. If the limited partnership applies for an extension of time for filing its annual income tax return under the internal revenue code or under K.S.A. 79-3221 and amendments thereto, the limited partnership shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221 and amendments thereto. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

- (1) The name of the limited partnership; and
- (2) a list of the partners owning at least 5% of the capital of the partnership, with the post office address of each.

(c) Every limited partnership subject to the provisions of this section which is a limited corporate partnership, as defined in K.S.A. 17-5903 and amendments thereto, and which holds agricultural land, as defined in K.S.A. 17-5903 and amendments thereto, within this state shall show the following additional information on the report:

- (1) The number of acres and location, listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.

(d) The annual report shall be signed by the general partner or partners of the limited partnership, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing the report, the limited partnership shall pay to the secretary of state an annual franchise ~~tax fee~~ in an amount equal to \$2 for each ~~\$1,000~~ of the partners' net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited partnership to the secretary as provided by this subsection shall not be disclosed by the secretary ~~not to exceed \$40~~.

(e) The provisions of K.S.A. 17-7509 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a domestic corporation's articles of incorporation for failure to file an annual report or pay the required franchise ~~tax fee~~, shall be applicable to the certificate of partnership of any limited partnership which fails to file its annual report or pay the franchise ~~tax fee~~ within 90 days of the time prescribed in this section for filing and paying the same. Whenever the certificate of partnership of a limited partnership is forfeited for failure to file an annual report or to pay the required franchise ~~tax fee~~, the limited partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees ~~and taxes~~, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506 and amendments thereto for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 22. K.S.A. 2003 Supp. 56-1a607 is hereby amended to read as follows: 56-1a607. (a) Every foreign limited partnership shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return. If the limited partnership applies for an extension of time for filing its annual income tax return under the internal revenue code or under K.S.A. 79-3221 and amendments thereto, the limited partnership shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221 and amendments thereto. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited partnership.

(c) Every foreign limited partnership subject to the provisions of this section which is a limited corporate partnership, as defined in K.S.A. 17-5903 and amendments thereto, and

which holds agricultural land, as defined in K.S.A. 17-5903 and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and location, listed by section, range, township and county of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.

(d) The annual report shall be signed by the general partner or partners of the limited partnership, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing the report, the foreign limited partnership shall pay to the secretary of state an annual franchise ~~tax fee~~ in an amount ~~equal to \$2 for each \$1,000 of the partners' net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited partnership to the secretary as provided by this subsection shall not be disclosed by the secretary not to exceed \$40.~~

(e) The provisions of K.S.A. 17-7509 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, and the provisions of subsection (b) of K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a foreign corporation's authority to do business in this state for failure to file an annual report or pay the required franchise ~~tax fee~~, shall be applicable to the authority of any foreign limited partnership which fails to file its annual report or pay the franchise ~~tax fee~~ within 90 days of the time prescribed in this section for filing and paying the same. Whenever the authority of a foreign limited partnership to do business in this state is forfeited for failure to file an annual report or to pay the required franchise ~~tax fee~~, the foreign limited partnership's authority to do business in this state may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees ~~and taxes~~, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506 and amendments thereto for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 23. K.S.A. 56-1a608 is hereby amended to read as follows: 56-1a608. No limited partnership shall be required to file its first annual report under this act, or pay any annual franchise ~~tax fee~~ required to accompany such report, unless such limited partnership has filed its certificate of limited partnership or certificate of good standing at least six months prior to the last day of its tax period. ~~If any limited partnership files with the secretary of state a notice of change in its tax period and the next annual report filed by such limited partnership subsequent to such notice is based on a tax period of less than 12 months, there shall be no reduction or proration of the annual tax required to accompany such report.~~

Sec. 24. K.S.A. 2003 Supp. 56a-1201 is hereby amended to read as follows: 56a-1201. (a) Every limited liability partnership organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability partnership's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability partnership's annual Kansas income tax return. If the limited liability partnership applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability partnership shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

(1) The name of the limited liability partnership; and

(2) a list of the partners owning at least 5% of the capital of the partnership, with the post office address of each.

(c) The annual report shall be signed by a partner of the limited liability partnership and forwarded to the secretary of state. At the time of filing the report, the limited liability partnership shall pay to the secretary of state an annual franchise ~~tax fee~~ in an amount ~~equal to \$2 for each \$1,000 of the net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited liability partnership to the secretary as provided by this subsection shall not be disclosed by the secretary not to exceed \$40.~~

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, shall be applicable to the statement of qualification of any limited liability partnership which fails to file its annual report or pay the franchise ~~tax fee~~ within 90 days of the time prescribed in this section for filing and paying the same. Whenever the statement of qualification of a limited liability partnership is forfeited for failure to file an annual report or to pay the required franchise ~~tax fee~~, the limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees ~~and taxes~~, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 25. K.S.A. 2003 Supp. 56a-1202 is hereby amended to read as follows: 56a-1202. (a) Every foreign limited liability partnership shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the foreign limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the foreign limited liability partnership's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the foreign limited liability partnership's annual Kansas income tax return. If the foreign limited liability partnership applies for an extension of time for filing its annual income tax return under the internal revenue code, the foreign limited liability partnership shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the foreign limited liability partnership.

(c) The annual report shall be signed by a partner of the foreign limited liability partnership and forwarded to the secretary of state. At the time of filing the report, the foreign limited liability partnership shall pay to the secretary of state an annual franchise ~~tax fee~~ in an amount ~~equal to \$2 for each \$1,000 of the net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the foreign limited liability partnership to the secretary as provided by this subsection shall not be disclosed by the secretary not to exceed \$40.~~

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, and the provisions of subsection (a) of K.S.A. 17-7510, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise ~~tax fee~~, shall be applicable to the statement of foreign qualification of any foreign limited liability partnership which fails to file its annual report or pay the franchise ~~tax fee~~ within 90 days of the time prescribed in this section for filing and paying the same. Whenever the

statement of foreign qualification of a foreign limited liability partnership is forfeited for failure to file an annual report or to pay the required franchise ~~tax fee~~, the statement of foreign qualification of the foreign limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees ~~and taxes~~, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 26. K.S.A. 2003 Supp. 56a-1203 is hereby amended to read as follows: 56a-1203. No limited liability partnership or foreign limited liability partnership shall be required to file its first annual report under this act, or pay any annual franchise ~~tax fee~~ required to accompany such report, unless such partnership has filed its statement of qualification or foreign qualification at least six months prior to the last day of its tax period. ~~If any such partnership files with the secretary of state a notice of change in its tax period and the next annual report filed by such partnership subsequent to such notice is based on a tax period of less than 12 months, the annual tax liability shall be determined by multiplying the annual franchise tax liability for such year by a fraction, the numerator of which is the number of months or any portion thereof covered by the annual report and the denominator of which is 12, except that the tax shall not be less than \$40.~~

New Sec. 27. The secretary of state shall remit all moneys received from franchise fees, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 28. K.S.A. 17-1513, 17-1618, 17-7510, 17-7511, 17-7512 and 56-1a608 and K.S.A. 2003 Supp. 17-2036, 17-2718, 17-4634, 17-4677, 17-7503, 17-7504, 17-7505, 17-7507, 17-7508, 17-7509, 17-76,125, 17-76,139, 45-221, 56-1a606, 56-1a607, 56a-1201, 56a-1202, 56a-1203, 79-3606 and 79-3607 are hereby repealed.”;

And by renumbering sections accordingly;

On page 1, in the title, in line 11, after the semicolon, by inserting “time for returns and payment of sales tax; franchise tax and franchise fees;”; also in line 11, after “amending” by inserting “K.S.A. 17-1513, 17-1618, 17-7510, 17-7511, 17-7512 and 56-1a608 and”; also in line 11, after “Supp.” by inserting “17-2036, 17-2718, 17-4634, 17-4677, 17-7503, 17-7504, 17-7505, 17-7507, 17-7509, 17-76,125, 17-76,139, 45-221, 56-1a606, 56-1a607, 56a-1201, 56a-1202, 56a-1203;”; also in line 11, after “79-3606” by inserting “and 79-3607”; in line 12, after “sections” by inserting “; also repealing K.S.A. 2003 Supp. 17-7508”;

Also, roll call was demanded on motion to recommend **HB 2544** favorably for passage.

On roll call, the vote was: Yeas 113; Nays 8; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballard, Barbieri-Lightner, Beggs, Bethell, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, S. Sharp, Showalter, Shriver, Shultz, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Ballou, Boyer, Cox, Dreher, Kassebaum, McLeland, Siegfried, Wilk.

Present but not voting: None.

Absent or not voting: Landwehr, O'Neal, B. Sharp, Sloan.

The motion prevailed and **HB 2544** be passed as amended.

Having voted on the prevailing side, Rep. Howell moved that the Committee reconsider its action in the motion to recommend **SB 321** favorably for passage (see Committee of the Whole, Morning Session). The motion did not prevail.

HB 2682 be passed.

Committee report recommending a substitute bill to **H. Sub. for SB 147** be adopted; also, on motion of Rep. Schwab to amend, the motion did not prevail.

Also, on motion of Rep. Ward, **H. Sub. for SB 147** be amended on page 3, after line 31, by inserting the following:

“Sec. 2. K.S.A. 79-201k is hereby amended to read as follows: 79-201k. (a) It is the purpose of this section to promote, stimulate and develop the general welfare, economic development and prosperity of the state of Kansas by fostering the growth of commerce within the state; to encourage the location of new business and industry in this state and the expansion, relocation or retention of existing business and industry when so doing will help maintain or increase the level of commerce within the state; and to promote the economic stability of the state by maintaining and providing employment opportunities, thus promoting the general welfare of the citizens of this state, by exempting aircraft used in business and industry, from imposition of the property tax or other ad valorem tax imposed by this state or its taxing subdivisions. Kansas has long been a leader in the manufacture and use of aircraft and the use of aircraft in business and industry is vital to the continued economic growth of the state.

(b) The following described property, to the extent herein specified, is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. For all taxable years commencing after December 31, 1982, all aircraft actually and regularly used exclusively to earn income for the owner in the conduct of the owner's business or industry. *If the owner's business or industry is the leasing of aircraft, the lessee's use of the aircraft shall not be considered in determining this exemption, except that, if such owner knows or should have reasonably known that any such leased aircraft has or will be used in a manner that is inconsistent with this provision, this exemption shall not apply.*”;

And by renumbering sections accordingly;

Also on page 3, in line 32, before “K.S.A.” by inserting “K.S.A. 79-201k and”; also in line 32, by striking “is” and inserting “are”;

On page 1, in the title, in line 10, after the semicolon, by inserting “property tax exemptions, business aircraft;”; also in line 10, after “amending” by inserting “K.S.A. 79-201k and”; in line 11, by striking “section” and inserting “sections”;

Also, on motion of Rep. Mason to amend **H. Sub. for SB 147**, the motion did not prevail and the substitute bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **SB 422** be amended on page 1, by striking all in lines 16 through 38;

On page 2, by striking all in lines 1 through 43;

On page 3, preceding line 1 by inserting the following:

“Section 1. K.S.A. 21-4622 is hereby amended to read as follows: 21-4622. Upon conviction of a defendant of capital murder and a finding that the defendant was less than 18 years of age at the time of the commission thereof, the court shall sentence the defendant as otherwise provided by law, and no sentence of death *or life without the possibility of parole* shall be imposed hereunder.

Sec. 2. K.S.A. 21-4623 is hereby amended to read as follows: 21-4623. (a) If, under K.S.A. 21-4624 and amendments thereto, the county or district attorney has filed a notice of intent to request a separate sentencing proceeding to determine whether the defendant should be sentenced to death and the defendant is convicted of the crime of capital murder, the defendant's counsel or the warden of the correctional institution or sheriff having custody of the defendant may request a determination by the court of whether the defendant is mentally retarded. If the court determines that there is not sufficient reason to believe that the defendant is mentally retarded, the court shall so find and the defendant shall be sentenced in accordance with K.S.A. 21-4624 through 21-4627, 21-4629 and 21-4631 and amendments thereto. If the court determines that there is sufficient reason to believe that the defendant is mentally retarded, the court shall conduct a hearing to determine whether the defendant is mentally retarded.

(b) At the hearing, the court shall determine whether the defendant is mentally retarded. The court shall order a psychiatric or psychological examination of the defendant. For that purpose, the court shall appoint two licensed physicians or licensed psychologists, or one of each, qualified by training and practice to make such examination, to examine the defendant and report their findings in writing to the judge within 10 days after the order of examination is issued. The defendant shall have the right to present evidence and cross-examine any witnesses at the hearing. No statement made by the defendant in the course of any examination provided for by this section, whether or not the defendant consents to the examination, shall be admitted in evidence against the defendant in any criminal proceeding.

(c) If, at the conclusion of a hearing pursuant to this section, the court determines that the defendant is not mentally retarded, the defendant shall be sentenced in accordance with K.S.A. 21-4624 through 21-4627, 21-4629 and 21-4631 and amendments thereto.

(d) If, at the conclusion of a hearing pursuant to this section, the court determines that the defendant is mentally retarded, the court shall sentence the defendant as otherwise provided by law, and no sentence of death *or life without the possibility of parole* shall be imposed hereunder.

(e) As used in this section, "mentally retarded" means having significantly subaverage general intellectual functioning, as defined by K.S.A. 76-12b01 and amendments thereto, to an extent which substantially impairs one's capacity to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law.

Sec. 3. K.S.A. 21-4624 is hereby amended to read as follows: 21-4624. (a) If a defendant is charged with capital murder, the county or district attorney shall file written notice if such attorney intends, upon conviction of the defendant, to request a separate sentencing proceeding to determine whether the defendant should be sentenced to death. Such notice shall be filed with the court and served on the defendant or the defendant's attorney not later than five days after the time of arraignment. If such notice is not filed and served as required by this subsection, the county or district attorney may not request such a sentencing proceeding and the defendant, if convicted of capital murder, shall be sentenced ~~as otherwise provided by law~~ *to life without the possibility of parole*, and no sentence of death shall be imposed hereunder.

(b) Except as provided in K.S.A. 21-4622 and 21-4623, and amendments thereto, upon conviction of a defendant of capital murder, the court, upon motion of the county or district attorney, shall conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to death. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If any person who served on the trial jury is unable to serve on the jury for the sentencing proceeding, the court shall substitute an alternate juror who has been impaneled for the trial jury. If there are insufficient alternate jurors to replace trial jurors who are unable to serve at the sentencing proceeding, the trial judge may summon a special jury of 12 persons which shall determine the question of whether a sentence of death shall be imposed. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such special jury. The jury at the sentencing proceeding may be waived in the manner provided by K.S.A. 22-3403 and amendments thereto for waiver of a trial jury. If the jury at the sentencing proceeding has been waived or the trial jury has been waived, the sentencing proceeding shall be conducted by the court.

(c) In the sentencing proceeding, evidence may be presented concerning any matter that the court deems relevant to the question of sentence and shall include matters relating to any of the aggravating circumstances enumerated in K.S.A. 21-4625 and amendments thereto and any mitigating circumstances. Any such evidence which the court deems to have probative value may be received regardless of its admissibility under the rules of evidence, provided that the defendant is accorded a fair opportunity to rebut any hearsay statements. Only such evidence of aggravating circumstances as the state has made known to the defendant prior to the sentencing proceeding shall be admissible, and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. No testimony by the defendant at the sentencing proceeding shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary pres-

entation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(d) At the conclusion of the evidentiary portion of the sentencing proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations.

(e) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A. 21-4625 and amendments thereto exist and, further, that the existence of such aggravating circumstances is not outweighed by any mitigating circumstances which are found to exist, the defendant shall be sentenced to death; otherwise, the defendant shall be sentenced ~~as provided by law~~ *to life without the possibility of parole*. The jury, if its verdict is a unanimous recommendation of a sentence of death, shall designate in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found beyond a reasonable doubt. If, after a reasonable time for deliberation, the jury is unable to reach a verdict, the judge shall dismiss the jury and impose a sentence of ~~imprisonment as provided by law~~ *life without the possibility of parole*, and shall commit the defendant to the custody of the secretary of corrections. In nonjury cases, the court shall follow the requirements of this subsection in determining the sentence to be imposed.

(f) Notwithstanding the verdict of the jury, the trial court shall review any jury verdict imposing a sentence of death hereunder to ascertain whether the imposition of such sentence is supported by the evidence. If the court determines that the imposition of such a sentence is not supported by the evidence, the court shall modify the sentence and sentence the defendant ~~as otherwise provided by law~~ *to life without the possibility of parole*, and no sentence of death shall be imposed hereunder. Whenever the court enters a judgment modifying the sentencing verdict of the jury, the court shall set forth its reasons for so doing in a written memorandum which shall become part of the record.

(g) *A defendant who is sentenced to imprisonment for life without the possibility of parole shall spend the remainder of the defendant's natural life incarcerated and in the custody of the secretary of corrections. A defendant who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, or suspension, modification or reduction of sentence. Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced to imprisonment for life without the possibility of parole.*;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 2, after "K.S.A." by inserting "21-4622, 21-4623 and"; in line 4, by striking all before "and"; in line 5, by striking ", or if" and inserting "pursuant to subsection (e) of K.S.A. 21-4624, and amendments thereto, or requested pursuant to subsection (a) or (b) of K.S.A. 21-4624, and amendments thereto, the defendant shall be sentenced to life without the possibility of parole.

(b) IF;

And by relettering the remaining subsections accordingly;

On page 4, in line 1, by striking "section 1" and inserting "K.S.A. 21-4624";

On page 12, in line 13, by striking "21-4634" and inserting "21-4622, 21-4623 and 21-4624";

Also on page 1, in the title, in line 12, by striking "21-4634" and inserting "21-4622, 21-4623 and 21-4624"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HB 2895** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Transportation** recommends **SB 446, SB 447** be passed.

Committee on **Transportation** recommends **HR 6023** be adopted.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

Speaker pro tem Ballou announced the referral of the following bills to the following committees:

Education: **HB 2940**.

Health and Human Services: **HB 2939**.

CHANGE OF REFERENCE

Speaker pro tem Ballou announced the withdrawal of **SB 441** from Committee on Commerce and Labor and referral to Committee on Economic Development.

MESSAGES FROM THE SENATE

Announcing passage of **HB 2618**, **HB 2764**.

Announcing passage of **HB 2293**, as amended; **HB 2556**, as amended; **Sub. HB 2592**, as amended; **HB 2871**, as amended.

The Senate nonconcur in House amendments to **SB 353**, requests a conference and has appointed Senators Schmidt, Huelskamp and Downey as conferees on the part of the Senate.

Also, the Senate nonconcur in House amendments to **SB 404**, requests a conference and has appointed Senators Teichman, Barnett and Steineger as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 353**.

Speaker pro tem Ballou thereupon appointed Reps. D. Johnson, Powell and Thimesch as conferees on the part of the House.

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **SB 404**.

Speaker pro tem Ballou thereupon appointed Reps. Dahl, Novascone and Ruff as conferees on the part of the House.

REPORT ON ENGROSSED BILLS

HB 2484 reported correctly engrossed March 16, 2004.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Thursday, March 18, 2004.

JANET E. JONES, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

