

Journal of the House

FORTY-SEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, March 18, 2004, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 124 members present.
Rep. Sloan was excused on legislative business.

Prayer by guest chaplain, the Rev. William Johnson, pastor, First Christian Church, Great Bend, and guest of Rep. Edmonds:

O God, we humbly and gratefully acknowledge your presence this day.
You have created us and all things seen and unseen. The world with its
various kings, kingdoms, and powers were made by you God. You were
before all things and by your power all things hold together.

I thank you for this body who serve you by serving the people of Kansas.
Grant this body godly guidance as they draw upon knowledge, experience
and wisdom in making decisions.

I lift each member here to you for help in times of family separation
as they serve the people. Strengthen the families that are represented
here.

Grant each member rest and renewal in body, mind, and spirit in long
hours of hard work.

Grant renewed health and wholeness to all who may struggle with
sickness or injury.

As we serve others grant us humility in knowing that others have
valuable knowledge, experience, or gifts that we can draw upon.

Bless our nation and this state and all public servants everywhere on
every level.

These things we pray in the name of and for the glory of Christ. Amen.

The Pledge of Allegiance was led by Rep. Novascone.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

HB 2941, An act creating the Kansas criminal justice recodification, rehabilitation and restoration project; duties thereof; establishing a committee to govern the project; providing for the membership thereof, by Committee on Appropriations.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Appropriations: **SB 552**.

Corrections and Juvenile Justice: **SB 551**.

Education: **HR 6028**.

Federal and State Affairs: **SB 32**, **SB 320**, **SB 407**.

Insurance: **SB 546**.

CONSENT CALENDAR

No objection was made to **HB 2895** appearing on the Consent Calendar for the first day.
No objection was made to **SB 508** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2544, An act concerning sales taxation; relating to computer software exemptions; time for returns and payment of sales tax; franchise tax and fees; amending 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, 17-7509, 17-76, 125, 17-76, 139, 45-221, 56-1a606, 56-1a607, 56a-1201, 56a-1202, 56a-1203, 79-3603, 79-3606 and 79-3607 and repealing the existing sections; also repealing K.S.A. 2003 Supp. 17-7508 and 79-3603c, was considered on final action.

On roll call, the vote was: Yeas 91; Nays 32; Present but not voting: 1; Absent or not voting: 1.

Yeas: Aurand, Ballard, Barbieri-Lightner, Beggs, Bethell, Brunk, Burgess, Burroughs, Campbell, Carlin, Compton, Crow, Dahl, Davis, Decker, Dillmore, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goico, Grant, Henderson, Henry, Hill, Holland, Horst, Howell, Huff, Humerickhouse, Hutchins, Jack, D. Johnson, E. Johnson, Kirk, Klein, Kuether, Lane, Larkin, Loganbill, M. Long, Long-Mast, Mays, McCreary, McKinney, F. Miller, J. Miller, Jim Morrison, Judy Morrison, Neighbor, O'Malley, Osborne, Ostmeyer, Owens, Pauls, Phelps, Pottorff, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, D. Williams, J. Williams, Wilson, Winn, Yonally.

Nays: Ballou, Boyer, Carter, Cox, Craft, DeCastro, Dreher, Goering, Gordon, Hayzlett, Holmes, Huebert, Huntington, Huy, Kassebaum, Kauffman, Landwehr, Light, Loyd, Mason, McLeland, Merrick, Minor, Myers, Neufeld, Newton, Novascone, O'Neal, Patterson, Powell, Wilk, Yoder.

Present but not voting: Krehbiel.

Absent or not voting: Sloan.

The bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: While I support exemptions for the computer software industry, the franchise tax increase in this bill is wrong. It's true that small businesses create the majority of jobs in Kansas, but wrong to believe that a small decrease in the franchise tax will create those jobs.

1% of Kansas Corporations pay 70% of the income taxes. Larger companies with larger payrolls have already been hit this year with a \$64.7 million tax increase to fund the lagging unemployment insurance trust fund. That's a tax increase of 29.7% compared to last year and a similar increase will likely be implemented in 2005.

As our economy begins to show signs of recovery this is not the time to punish successful companies that call Kansas home. I vote no on **HB 2544**.—ROB BOYER, TODD NOVASCONE, LANA GORDON, DEAN NEWTON

MR. SPEAKER: Streamline sales tax last year, Franchise tax this year. At this rate we are not going to have any business left in Kansas. I vote NO on **HB 2544**.—JOE MCLELAND, BRENDA K. LANDWEHR, MELVIN NEUFELD, RAY MERRICK, DON MYERS, ERIC CARTER

HB 2682, An act concerning cigarettes; relating to sales by licensed dealers; sales tax requirements; shipment; providing penalties for certain unlawful acts; counterfeit cigarettes, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 3; Present but not voting: 0; Absent or not voting: 1.

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, 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, O'Neal, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Faber, Osborne, Powell.

Present but not voting: None.

Absent or not voting: Sloan.

The bill passed.

H. Sub. for SB 147. An act concerning taxation; relating to personal property; delinquent taxes in certain counties; amending K.S.A. 2003 Supp. 79-2017 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

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, O'Neal, Osborne, 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, 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: Sloan.

The substitute bill passed, as amended.

SB 183. An act concerning crimes, criminal procedure and punishment; relating to the interstate compact for juveniles; repealing K.S.A. 38-1001, 38-1002, 38-1003, 38-1004, 38-1005, 38-1006 and 38-1007, was considered on final action.

On roll call, the vote was: Yeas 106; Nays 18; Present but not voting: 0; Absent or not voting: 1.

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

Nays: Brunk, Carter, Dahl, Hayzlett, Howell, Huebert, Huy, Kauffman, Mason, McLeland, Merrick, F. Miller, Osborne, Ostmeyer, Powers, Schwab, Siegfried, D. Williams.

Present but not voting: None.

Absent or not voting: Sloan.

The bill passed.

SB 312, An act concerning levies on fire insurance business and the disposition of the moneys remitted therefor; relating to financial support for the state fire marshal, emergency medical services board and the fire service training program of the university of Kansas; amending K.S.A. 2003 Supp. 75-1508 and 75-1514 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, 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, 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, O'Neal, Osborne, 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, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Burroughs, Grant.

Present but not voting: None.

Absent or not voting: Sloan.

The bill passed, as amended.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Hayzlett, the House nonconcurrred in Senate amendments to **HB 2871** and asked for a conference.

Speaker Mays thereupon appointed Reps. Hayzlett, Faber and M. Long as conferees on the part of the House.

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

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **SB 393** be adopted; also, on motion of Rep. O'Malley be amended on page 6, in line 27, by striking all after "treasury"; by striking all in lines 28 and 29 and inserting "shall be remitted to the state treasurer and deposited in the state treasury and credited to the Kansas community entrepreneurship fund";

On page 7, in line 25, after "state" where it appears the second time by inserting "or other"; in line 28, by striking "may" and inserting "shall"; in line 30, after "source" by inserting "for the center"; after line 31 by inserting the following:

"(b) The state treasurer shall credit all revenue collected or received by the center to the fund. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas community entrepreneurship fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas community entrepreneurship fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.";

And by relettering the remaining subsections accordingly; and **SB 393** be passed as amended.

Committee report to **SB 417** be adopted; and the bill be passed as amended.

Committee report to **SB 520** be adopted; and the bill be passed as amended.

Committee report to **SB 394** be adopted; and the bill be passed as amended.

Committee report to **SB 480** be adopted; and the bill be passed as amended.

On motion of Rep. Goico to amend **SB 292**, Rep. Dillmore requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. The question then reverted back to the motion of Rep. Goico and the bill be amended on page 9, after line 25, by inserting:

"New Sec. 12. (a) On and after the effective date of this act, any provision of a restrictive covenant which requires the use of wood shingles or wood shakes as a roof covering material for any residential dwelling is hereby declared to be against public policy and such provision shall be void and unenforceable unless such covenant also allows for the use of composition asphalt or wood shingles or other alternative material which is comparable in appearance to the existing roof covering material, flame resistant or retardant, and meets or exceeds any fire prevention standards established by any municipal building code which has been adopted as required by law applicable to such residential dwelling.

(b) The provisions of this section shall apply to any restrictive covenant:

- (1) In existence on the effective date of this act; or
- (2) entered into on or after the effective date of this act.

(c) The provisions of this section shall not affect the enforceability of a restrictive covenant which regulates or restricts the color, style, dimension or other aesthetic characteristics of roofing material to be used on a residential dwelling if such restrictive covenant meets the requirements of subsection (a).";

By renumbering the remaining sections accordingly;

In the title, in line 10, after "protection" by inserting "and prevention"; in line 12, after the semicolon, by inserting "pertaining to the use of wood shingles and similar materials;";

Also, on motion of Rep. O'Neal **SB 292** be amended on page 9, following line 25, by inserting:

"Sec. 12. K.S.A. 31-137 is hereby amended to read as follows: 31-137. The state fire marshal, ~~his~~ *deputies of the fire marshal*, the chief of any organized fire department of any municipality, whether such fire department is regular or volunteer, or any member of any such fire department who has been duly authorized by the chief thereof, shall enforce the provisions of this act and any rules and regulations adopted pursuant thereto. ~~Said~~ *Such* persons are authorized to make any investigations deemed necessary of any fire or explosion occurring within this state; ~~and they~~. *Such persons* shall make an investigation of any fire or explosion occurring within this state, or an attempt to cause any fire or explosion within this state, if there is reason to believe that the fire was of an incendiary origin or was an attempt to defraud an insurance company. *In addition, the chief of any organized fire department of any municipality may designate other qualified persons to conduct such investigations in such municipality.* In order to carry out such investigations, the state fire marshal and those persons ~~herein~~ *designated by or authorized to be designated by this section* shall have the right and authority at all times of day or night to enter upon or examine, in accordance with existing laws and regulations, any building or ~~premise~~ *premises* where any fire or explosion or attempt to cause a fire or explosion ~~shall have~~ *has* occurred. ~~Every person designated herein~~ *Such persons* shall make a written report of the findings of any investigation conducted ~~by him~~ pursuant to this section which shall be filed in the office of the state fire marshal.";

By renumbering sections accordingly;

Also on page 9, in line 26, before "K.S.A.", by inserting "K.S.A. 31-137 and";

In the title, in line 12, by striking "amending" and inserting "; relating to fire investigations; amending K.S.A. 31-137 and";

Also, on motion of Rep. Toelkes to amend **SB 292**, Rep. Long-Mast requested a ruling on the amendment being germane to the bill. The Rules Chair ruled it not germane. Rep. McKinney challenged the ruling, the question being "Shall the Rules Chair be sustained?" The Rules Chair was sustained; and **SB 292** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **HB 2898** be amended on page 2, in line 39, by striking "\$170,000" and inserting "\$175,000"; in line 40, by striking "\$731,794" and inserting "\$529,794"; preceding line 41, by inserting the following:

"Roberts building roof replacement	\$85,000
Key card entry system	\$112,000";

On page 4, by striking all in lines 35 through 43;

On page 5, by striking all in lines 1 through 14;

And by relettering subsections accordingly;

On page 20, after line 43, by inserting the following:

"Veterans' home repair and rehabilitation projects	\$100,000";
--	-------------

On page 21, by striking all in lines 41 through 43;

On page 22, by striking all in lines 1 through 22 and inserting in lieu thereof the following:

"(c) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2005, the following:

Debt service — Topeka fleet service	\$283,788
Debt service — port weigh stations.....	\$110,861
Replacement of scales	\$234,144";

Also on page 22, in line 23, by striking "(f)" and inserting "(d)"; after line 29, by inserting the following:

"(e) On July 1, 2004, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$628,793 from the state highway fund of the department of transportation to the state general fund. In addition to other purposes for which expenditures may be made from the state highway fund during fiscal year 2005 and notwithstanding the provisions of K.S.A. 68-416 and amendments thereto or any other statute, transfers and expenditures may be made from the state highway fund during fiscal year 2005 for support and maintenance of the Kansas highway patrol.";

On page 26, by striking all in lines 32 through 35 and inserting in lieu thereof the following:

"(q) During the fiscal year ending June 30, 2005, no expenditures shall be made from any moneys appropriated for the department of wildlife and parks from the state general fund or any special revenue fund for construction of any new river access on the Kansas River, unless (1) in any case of a new river access project on the Kansas river to be located wholly or partially outside an incorporated municipality, the secretary of wildlife and parks has obtained the prior written permission for the proposed river access from each owner of each parcel of real property on the river which is immediately adjacent to the real property upon which the proposed river access project is to be constructed, and, if a parcel of any such immediately adjacent real property is being leased, then the secretary also has obtained the prior written permission for the proposed new river access project from the lessor of such immediately adjacent real property, and (2) in any case of a new river access project on the Kansas river to be located wholly within an incorporated municipality, the secretary has obtained the prior written permission for the proposed new river access project from the governing body of the municipality.";

and the bill be passed as amended.

Committee on **Appropriations** recommends **HB 2899** be amended on page 2, in line 43, by striking "\$344,517" and inserting "\$344,017";

On page 3, in line 22, by striking "\$21,916" and inserting "\$22,129"; in line 28, by striking "\$1,369,308" and inserting "\$1,459,056"; in line 32, by striking "\$1,495,077" and inserting "\$1,478,622"; in line 38, by striking "\$113,511" and inserting "\$114,511";

On page 5, in line 18, by striking "\$242,997" and inserting "\$60,525";

On page 8, in line 24, by striking "\$40,693" and inserting "\$693";

On page 11, following line 32, by inserting:

"(k) On the effective date of this act, the position limitation established by section 72(u)(2) of chapter 160 of 2003 Session Laws of Kansas for Larned State Hospital is hereby increased from 792.8 to 798.2.";

On page 17, by striking all in lines 13 through 24; in line 25, by striking “(b)” and inserting “(a)”; following line 30, by inserting:

“Tuttle Creek state park mitigation project fund..... \$1,500,000

Provided, That expenditures may be made from the Tuttle Creek state park mitigation project fund for a capital improvement project to construct a new access road and campground at the Tuttle Creek state park: *Provided however*, That all moneys received during fiscal year 2004 or fiscal year 2005 from the federal government for reimbursement of state expenses for this project in mitigation of damage to the Tuttle Creek state park in the area of the access road and campground during the U. S. Army Corps of Engineers project to repair Tuttle Creek dam shall be deposited in the state treasury to the credit of the Tuttle Creek state park mitigation project fund: *Provided further*, That all moneys received under the loan from the pooled money investment board pursuant to subsection (e): *And provided further*, That such loan shall be repaid from moneys available therefor in this fund or from other moneys appropriated for the department of wildlife and parks and available therefor.”;

And by relettering subsections accordingly;

Also on page 17, following line 37, by inserting:

“(d) During the fiscal year ending June 30, 2005, upon request of the secretary of wildlife and parks, the pooled money investment board is authorized and directed to loan to the secretary of wildlife and parks a sufficient amount of moneys for the initial expenses of the capital improvement project to construct a new access road and campground at the Tuttle Creek state park upon approval of such loan by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto: *Provided*, That such loan shall not be made unless the terms thereof have been approved by the director of the budget: *Provided further*, That, upon such approval, the director of the budget shall deliver a copy of the terms of such loan to the director of the legislative research department: *And provided further*, That the pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments of the state of Kansas to provide the funds for such loan: *And provided further*, That such loan shall be repaid within 30 months from the date of the loan with interest at a rate equal to the net earnings rate for the pooled money investment portfolio at the time of the making of such loan.”;

On page 19, following line 12, by inserting:

“Sec. 54.

STATE BOARD OF VETERINARY EXAMINERS

(a) On July 1, 2004, the expenditure limitation established for the fiscal year ending June 30, 2005, by section 59(b) of chapter 160 of the 2003 Session Laws of Kansas on the veterinary examiners fee fund is hereby increased from \$281,217 to \$281,238.

Sec. 55.

JUDICIAL COUNCIL

(a) During the fiscal years ending June 30, 2004, and June 30, 2005, when unanticipated expenses are incurred by the judicial council, the judicial council shall first utilize moneys available in the judicial council fund to pay such unanticipated expenses before expending any moneys credited to the publications fee fund therefor.

(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of any other statute, the director of accounts and reports shall transfer \$47,075 from the publications fee fund of the judicial council to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the publications fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the publications fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the judicial council by other state agencies which receive appropriations from the state general fund to provide such services.

Sec. 56.

KANSAS COMMISSION ON VETERANS AFFAIRS

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2004, the following:

Operating expenditures — Kansas soldiers’ home	\$300,436
Operating expenditures — Kansas veterans’ home.....	\$229,686
Additional operating expenditures — Kansas soldiers’ home and Kansas veterans’ home	\$136,000

Sec. 57.

STATE BOARD OF REGENTS

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2005, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures shall not exceed the following:

Other federal grants fund.....	No limit
--------------------------------	----------

Provided, That the above agency is authorized to make expenditures from the other federal grants fund of any moneys credited to this fund from any individual grant if the grant is: (1) Less than or equal to \$750,000 in the aggregate, and (2) does not require the matching expenditure of any other moneys in the state treasury during fiscal year 2004 other than moneys appropriated by this or other appropriation act of the 2004 regular session of the legislature: *Provided, however*, That, upon application to and authorization by the governor, the above agency may make expenditures of moneys credited to this fund from any individual federal grant which is more than \$750,000 in the aggregate or which requires the matching expenditure of moneys in the state treasury during fiscal year 2004, other than moneys appropriated by this or other appropriation act of the 2004 regular session of the legislature.

Sec. 58.

ADJUTANT GENERAL

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2004, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Homeland security federal fund.....	No limit
-------------------------------------	----------

Sec. 59.

ATTORNEY GENERAL — KANSAS BUREAU OF INVESTIGATION

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2004, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Kansas bureau of investigation motor vehicle fund	\$350,000
---	-----------

Provided, That expenditures may be made from the Kansas bureau of investigation motor vehicle fund to acquire and sell motor vehicles for the Kansas bureau of investigation: *Provided further*, That all moneys received for sale of motor vehicles of the Kansas bureau of investigation shall be deposited in the state treasury and credited to this fund.

(b) On June 1, 2004, the director of accounts and reports shall transfer \$350,000 from the state general fund to the Kansas bureau of investigation motor vehicle fund for the purposes of acquiring and selling motor vehicles for the Kansas bureau of investigation.

(c) On the effective date of this act, of the \$11,569,515 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 74(a) of chapter 138 of the 2003 Session Laws of Kansas from the state general fund in the operating expenditures account, the sum of \$350,000 is hereby lapsed.”;

And by renumbering sections accordingly; and the bill be passed as amended.

Committee on **Appropriations** recommends **HB 2900** be amended on page 1, in line 36, by striking “\$2,603,987” and inserting “\$2,628,039”; in line 40, by striking “\$2,342,579” and inserting “\$2,355,464”;

On page 2, in line 11, by striking "\$12,758,831" and inserting "\$12,743,480"; in line 41, by striking all following "council"; by striking all in lines 42 and 43;

On page 3, by striking all in line 1; in line 2, by striking all preceding the period;

On page 4, in line 5, by striking all after "council"; by striking all in lines 6 through 8; in line 9, by striking all before the period;

On page 6, in line 5, by striking "\$3,743,512" and inserting "\$3,943,512";

On page 8, in line 27, before the period by inserting: ": *Provided*, That, in addition to the other purposes authorized by K.S.A. 82a-1802 and amendments thereto, expenditures may be made from the interstate water litigation fund for: (1) Litigation costs for the case of Kansas v. Colorado No. 105, Original in the Supreme Court of the United States, including repayment of past contributions; (2) expenses related to the appointment of a river master or such other official as may be appointed by the Supreme Court to administer, implement or enforce its decree or other orders of the Supreme Court related to this case; and (3) expenses incurred by agencies of the state of Kansas to monitor actions of the state of Colorado and its water users and to enforce any settlement, decree or order of the Supreme Court related to this case";

Also on page 8, following line 36, by inserting:

"(d) During the fiscal year ending June 30, 2005, of the aggregate amount of fines, penalties and forfeitures remitted each month to the state treasurer by the clerks of the district courts, the state treasurer shall credit (1) the amount equal to 1% of each such aggregate monthly remittance to the crime victims compensation fund; and (2) the amount equal to 1% of each such aggregate monthly remittance to the crime victims assistance fund: *Provided*, That all moneys credited to the crime victims compensation fund pursuant to this subsection shall be in addition to all other amounts credited to the crime victims compensation fund as prescribed by K.S.A. 74- 7336 and amendments thereto or by any other statute: *Provided further*, That all moneys credited to the crime victims assistance fund pursuant to this subsection shall be in addition to all other amounts credited to the crime victims assistance fund as prescribed by K.S.A. 20-367 and 74- 7336 and amendments thereto or by any other statute.

(e) During the fiscal year ending June 30, 2005, the director of accounts and reports is hereby authorized to transfer an amount certified by the attorney general of not to exceed \$100,000 from the crime victims compensation fund to the crime victims assistance fund.";

On page 9, following line 6, by inserting:

"*Provided*, That expenditures from the information and services fee fund for official hospitality shall not exceed \$2,500.";

Also on page 9, in line 18, by striking "grants"; by striking all in lines 19 through 30;

On page 10, by striking all in line 8; following line 14, by inserting:

"*Provided*, That the state treasurer is hereby authorized to fix, charge and collect a cash management fee for services provided by the state treasurer for banking services and for processing warrants and direct deposits except that payroll warrants shall not be subject to any fee prescribed by this section: *Provided further*, That such fees shall be fixed to recover all or part of the operating expenditures incurred in providing such services: *And provided further*, That fees fixed by the state treasurer for services provided by the state treasurer in providing banking services shall be fixed to collect an estimated aggregate amount not to exceed the actual transaction costs for the fiscal year ending June 30, 2005: *And provided further*, That fees fixed by the state treasurer for processing warrants and direct deposits shall be fixed to collect an estimated aggregate amount not to exceed \$979,303 for the fiscal year ending June 30, 2005: *And provided further*, That the state treasurer is hereby authorized to fix, charge and collect a voucher processing fee for services provided by the state treasurer in processing vouchers and maintaining the voucher system: *And provided further*, That such fees shall be fixed to recover all or part of the operating expenditures incurred in providing such services: *And provided further*, That fees fixed by the state treasurer for services provided by the state treasurer in processing vouchers and maintaining the voucher system shall be fixed to collect an estimated aggregate amount not to exceed \$180,000 for the fiscal year ending June 30, 2005: *And provided further*, That all moneys received from such fees shall be deposited in the state treasury and credited to the services reimbursement fund: *And provided further*, That expenditures from this fund may be made for operating

expenditures for the state treasurer's office: *And provided further*, That during the fiscal year ending June 30, 2005, the director of accounts and reports shall transfer to the services reimbursement fund of the state treasurer one or more amounts certified by the state treasurer, for expenses incurred for warrants issued and processed and electronic transactions processed for the department of human resources payable from the employment security fund, from moneys made available to the state under section 903(d) of the federal social security act, as amended, and credited to the employment security fund, except that the aggregate of such amounts transferred shall not exceed \$451,000.”;

On page 12, preceding line 36, by inserting:

“Monumental life settlement fund \$12,396

Provided, That all expenditures from the monumental life settlement fund shall be made for scholarship purposes: *Provided further*, That the scholarship recipients shall be African-American students in good academic standing who are attending Washburn university of Topeka or Kansas state university and who have taken courses necessary to successfully complete the first or second actuarial qualification examination.”;

On page 16, in line 5, by striking “\$93,392,348” and inserting “\$91,282,145”;

On page 38, in line 42, by striking “\$9,303,945” and inserting “\$8,721,168”;

On page 42, in line 10, by striking “\$2,000,000” and inserting “\$1,200,000”; in line 11, by striking “\$14,368,030” and inserting “\$14,868,030”;

On page 46, in line 16, by striking “\$215,906” and inserting “\$315,906”; in line 30, by striking “\$11,310,217” and inserting “\$11,470,217”;

On page 47, in line 10, by striking “\$1,055,737” and inserting “\$1,295,167”;

On page 50, in line 6, by striking “\$1,452,603” and inserting “\$1,730,750”; in line 10, by striking “\$1,649,009” and inserting “\$1,760,410”; in line 20, by striking “\$1,922,298” and inserting “\$2,074,686”; in line 23, by striking “\$6,702,903” and inserting “\$5,833,139”;

On page 58, following line 10, by inserting:

“(m) Notwithstanding any other provision of any appropriation act of the 2004 regular session of the legislature for fiscal year 2005, the department of health and environment is hereby prohibited from making any expenditures from any moneys appropriated from the state general fund or any special revenue funds for the fiscal year ending June 30, 2005, for the following purposes related to licensure requirements:

(1) Facilities, programs or services operated by a school on school property for children five years and older before and after the customary school day during the regular school term;

(2) non-residential programs or services designated for mental health treatment of children and adolescents provided by a community mental health center licensed pursuant to K.S.A.75-3307b, and amendments thereto;

(3) drop-in recreation programs that are for children five years and older provided by a municipality, the salvation army, the boys and girls club of America where the children are free to come and go from the premises without being escorted by a parent or responsible person and short-term educational programs or classes for children in which the supervision and care of the children are incidental to their participation in the activity or training in specific subjects including, but not limited to, music, dance and religion, and the program provider does not assume responsibility for the provision of daily child care outside the scheduled program; and

(4) day camping or recreation programs for children five years and older which have as the primary emphasis outdoor education and recreation and are operated between school terms for no more than seven hours per day or which are accredited by the American camping association or other national standard-setting agency or church camp accreditation programs which must provide standards equivalent to the American camping association standards: *Provided*, That this subsection (m) shall not preclude any person who is not required to be licensed under K.S.A. 65-501, *et seq.*, and amendments thereto, from applying for a license nor shall this section preclude the secretary of health and environment from issuing a license to any person not required to be licensed.”;

On page 69, following line 37, by inserting:

“*Provided*, That any unencumbered balance in the mental health and retardation services aid and assistance account in excess of \$100 as of June 30, 2004, is hereby reappropriated for fiscal year 2005: *Provided further*, That, during the fiscal year ending June 30, 2005, of the expenditures from this account for HCBS/MRDD services as authorized by this or other appropriation act of the 2004 regular session, reimbursement rates for consumers with documented extraordinary needs who currently receive, have been approved for or leave a state institution or private institutional setting and are approved for special tier or individualized rates shall be maintained at a level no lower than the rate of reimbursement for these consumers on July 1, 2002: *Provided, however*, That nothing in this or any other statute shall prohibit a reduction or guarantee an increase in the reimbursement rate for consumers with documented extraordinary needs because of a change as a result of the annual basis assessment: *And provided further*, That any reductions in the HCBS/MRDD funding in fiscal year 2005 shall be implemented based on information and recommendations obtained in the most recent rate study required under subsection (a)(3) of K.S.A. 39-1806 and amendments thereto.”;

On page 70, in line 13, by striking “\$22,359,876” and inserting “\$22,809,476”;

On page 72, in line 22, by striking “\$374,760,855” and inserting “\$374,311,255”;

On page 76, in line 38, by striking “\$10,000,000” and inserting “\$7,495,491”;

On page 77, in line 3, by striking “\$495,491” and inserting “\$500,000”; in line 7, by striking “\$2,243,770” and inserting “\$4,243,770”; in line 12, by striking “\$2,000,000” and inserting “\$2,500,000”;

On page 79, following line 25, by inserting:

“(m) During the fiscal year ending June 30, 2005, the director of accounts and reports shall transfer the amounts specified by the director of the budget from the LTC — medicaid assistance — NF account of the state general fund of the department on aging to the LTC — medicaid assistance — HCBS/FE account of the state general fund of the department on aging or to the community based services account of the department of social and rehabilitation services: *Provided*, That such transfers shall be certified by the director of the budget on December 1, 2004, and on June 1, 2005, to reflect the nursing facility rate paid for persons moving from a nursing facility to the home and community-based services waiver for the physically disabled or the frail elderly for the six months preceding the date of certification: *Provided further*, That the aggregate of all such transfers certified during fiscal year 2005 shall not exceed the amount required to support the movement of 75 individuals from nursing facilities to home and community-based services: *Provided further*, That each of the 75 individuals must meet the requirements described in a policy jointly developed by the secretary of aging and the secretary of social and rehabilitation services governing the operations of this transfer: *Provided further*, That the director of the budget shall transmit a copy of each such certification to the director of the legislative research department.”;

On page 86, in line 15, by striking “\$1,138,465” and inserting “\$1,173,465”;

On page 95, in line 25, by striking “\$18,054,253” and inserting “\$18,245,703”; in line 30, by striking “\$28,892,074” and inserting “\$29,200,624”;

On page 105, in line 19, by striking “\$99,671,788” and inserting “\$100,671,788”;

On page 108, following line 21, by inserting:

“Aviation research initiative \$500,000”;

On page 110, in line 13, following “2005” by inserting “: *Provided further*, That, in addition to other expenditures made by the above agency from the operating expenditures (including official hospitality) account during fiscal year 2005, expenditures shall be made from this account for the purpose of examining opportunities available to increase the number of seats at dental schools contracted through the reciprocal agreement or to establish a dental school in Kansas”;

On page 111, in line 27, by striking “\$19,673,603” and inserting “\$20,123,603”;

On page 112, following line 13, by inserting:

“Alternative teacher certification \$450,000

Provided, That the state board of regents is hereby authorized to transfer moneys from the alternative teacher certification account to the appropriate account or accounts of the state

general fund of any state educational institution under the control and supervision of the state board of regents.”;

On page 126, in line 33, by striking “\$3,968,580” and inserting “\$4,257,665”;

On page 130, following line 2, by inserting:

“(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2005, the following:

Operating expenditures \$43,761,722

Provided, That any unencumbered balance in the operating expenditures account in excess of \$100 as of June 30, 2004 is hereby reappropriated for fiscal year 2005 *Provided, however*, That expenditures from such reappropriated balance shall be made only upon approval of the state finance council: *Provided further*, That expenditures from the operating expenditures account for official hospitality shall not exceed \$3,000.”;

Also on page 130, in line 3, by striking “(a)” and inserting “(b)”;

On page 132, by striking all in lines 5 through 13; in line 28, by striking “(b)” and inserting “(c)”; in line 34, by striking “(c)” and inserting “(d)”; in line 38, by striking “(d)” and inserting “(e)”; in line 42, by striking “(e)” and inserting “(f)”; in line 43, by striking “\$11,097,628.75” and inserting “\$10,940,430.50”;

On page 133, by striking all in line 2; in line 3, by striking all before the period and inserting “state general fund. In addition to other purposes for which expenditures may be made from the state highway fund during fiscal year 2005 and notwithstanding the provisions of K.S.A. 68-416 and amendments thereto or any other statute, transfers and expenditures may be made from the state highway fund during fiscal year 2005 for support and maintenance of the Kansas highway patrol”; in line 4, by striking “(f)” and inserting “(g)”; in line 8, by striking “(g)” and inserting “(h)”; in line 12, by striking “(h)” and inserting “(i)”; in line 16, by striking “(i)” and inserting “(j)”; in line 35, by striking “\$12,158,153” and inserting “\$11,808,153”;

On page 134, following line 22, by inserting:

“Kansas bureau of investigation motor vehicle fund \$350,000

Provided, That expenditures may be made from the Kansas bureau of investigation motor vehicle fund to acquire and sell motor vehicles for the Kansas bureau of investigation: *Provided further*, That all moneys received for sale of motor vehicles of the Kansas bureau of investigation shall be deposited in the state treasury and credited to this fund.”;

On page 136, following line 3, by inserting:

“(c) On June 1, 2005, the director of accounts and reports shall transfer \$350,000 from the state general fund to the Kansas bureau of investigation motor vehicle fund for the purposes of acquiring and selling motor vehicles for the Kansas bureau of investigation.”;

On page 138, in line 32, by striking “\$551,684” and inserting “\$559,516”;

On page 139, in line 24, by striking “\$209,402” and inserting “\$210,257”; by striking all in lines 34 through 43;

On page 140, by striking all in lines 1 through 5 and inserting:

Provided, That expenditures may be made from the publications fee fund for operating expenditures related to preparation and publication of informational or educational materials related to the programs or functions of the Kansas department of agriculture: *Provided further*, That, notwithstanding the provisions of K.S.A. 75-1005 and amendments thereto to the contrary, the secretary of agriculture is hereby authorized to enter into a contract with a commercial publisher for the printing, distribution and sale of such materials: *And provided further*, That the secretary of agriculture is hereby authorized to collect fees from such commercial publisher pursuant to contract with the publisher for the sale of such materials: *And provided further*, That the secretary of agriculture is hereby authorized to receive and accept grants, gifts, donations or funds from any non-federal source for the printing, publication and distribution of such materials: *And provided further*, That all moneys received from such fees or for such grants, gifts, donations or other funds received for such purpose, shall be deposited in the state treasury and credited to this fund.”;

Also on page 140, in line 37, by striking “\$477,826” and inserting “\$490,682”;

On page 141, by striking all in lines 14 through 43;

On page 142, by striking all in lines 1 through 16 and inserting:

“(f) There is appropriated for the Kansas department of agriculture from the state water plan fund for the fiscal year ending June 30, 2005, from amounts first released from amounts encumbered by the Kansas department of agriculture, the department of health and environment, the state conservation commission, the Kansas water office, or any other state agency from the state water plan fund, or any account thereof, the amount of \$110,447 for the water appropriation subprogram of the state water plan fund of the Kansas department of agriculture.”;

And by renumbering sections accordingly;

On page 143, in line 33, by striking “\$592,127” and inserting “\$1,032,618”;

On page 145, in line 12, by striking “\$352,499” and inserting “\$452,499”;

On page 147, following line 42, by inserting:

“Weather modification program..... \$120,000”;

On page 149, following line 32, by inserting:

“(i) During the fiscal year ending June 30, 2005, no expenditures shall be made by the Kansas water office from any moneys appropriated by this or other appropriation act of the 2004 regular session from the state general fund or any special revenue fund for fiscal year 2005 for the release of any water in Cedar Bluff reservoir under the control of the state of Kansas for any environmental, domestic, municipal, industrial or irrigation purposes, except that expenditures may be made by the Kansas water office for the release of such waters for the purpose of the operations of facilities of the department of wildlife and parks below the dam of the Cedar Bluff reservoir.”;

On page 156, in line 7, by striking “94.5” and inserting “96.5”; in line 30, by striking “24.0” and inserting “23.0”; in line 31, by striking “938.4” and inserting “940.4”; in line 40, by striking “707.2” and inserting “726.2”;

On page 157, in line 21, by striking “15.5” and inserting “14.0”;

On page 163, in line 15, by striking “\$81.11” and inserting “\$78.75”;

On page 164, in line 2, by striking “\$81.11” and inserting “\$78.75”; in line 26, by striking “\$81.11” and inserting “\$78.75”; in line 33, by striking “\$81.11” and inserting “\$78.75”;

On page 165, in line 15, by striking “\$493.99” and inserting “\$479.60”; in line 23, by striking “\$252.13” and inserting “\$244.79”; in line 30, by striking “\$397.26” and inserting “\$385.69”; in line 35, by striking “\$445.66” and inserting “\$432.68”; in line 41, by striking “\$445.66” and inserting “\$432.68”;

On page 166, in line 16, by striking “\$81.11” and inserting “\$78.75”; in line 39, by striking “\$81.11” and inserting “\$78.75”;

On page 167, in line 6, by striking “\$81.11” and inserting “\$78.75”; in line 27, by striking “\$81.11” and inserting “\$78.75”; in line 39, by striking “\$81.11” and inserting “\$78.75”;

On page 168, in line 16, by striking “\$81.11” and inserting “\$78.75”;

On page 169, following line 24, by inserting:

“(p) In addition to the other purposes for which expenditures may be made by the legislature from the operations (including official hospitality) account of the state general fund for the fiscal year ending June 30, 2005, expenditures shall be made by the legislature from the operations (including official hospitality) account of the state general fund for fiscal year 2005, for an additional amount of allowance equal to the amount required to provide, along with the amount of allowance otherwise payable from appropriations for the legislature to each member of the legislature at the rate prescribed by subsection (c) of K.S.A. 46-137a and amendments thereto, an aggregate amount of allowance of \$324 for the two-week period which coincides with the first biweekly payroll period commencing in June, which is chargeable to fiscal year 2005, and for each of the 15 ensuing two-week periods thereafter and for the two-week period which coincides with the first biweekly payroll period commencing in April, 2005, and for each of the 3 ensuing two-week periods thereafter, for each member of the legislature to defray expenses incurred between sessions of the legislature for postage, telephone, office and other incidental expenses, which is chargeable to fiscal year 2005: *Provided*, That all expenditures under this subsection (p) for such purposes shall be made in the same manner and at the same times that such allowance is payable to such members of the legislature for such two-week periods for which such allowance is payable and which are chargeable to fiscal year 2005.”;

On page 170, in line 16, by striking "\$3,158,312" and inserting "\$3,138,694";

On page 172, in line 29, by striking "\$20,125,765" and inserting "\$20,020,057";

On page 174, following line 16, by inserting:

"(5) The provisions of this subsection (b) shall not apply to:

(A) The health care stabilization fund of the health care stabilization fund board of governors; or

(B) the Kansas public employees retirement fund, the group insurance reserve fund, the optional death benefit plan reserve fund, the Kansas endowment for youth fund, the senior services trust fund, the family and children endowment account of the family and children investment fund, the non-retirement administration fund, or any other special revenue fund appropriated for the Kansas public employees retirement system by this or any other appropriation act of the 2004 regular session of the legislature.";

Also, on page 174, in line 17, after "(c)(1)", by inserting "(A)"; in line 18, after "statute" by inserting "except as otherwise provided by this subsection (c)"; in line 34, by striking "subsection (c)(1)" and inserting "paragraph (c)(1)(A)"; in line 38, by striking "subsection (c)(1)" and inserting "paragraph (c)(1)(A)"; in line 42, before the period, by inserting "And provided further, That the provisions of this paragraph (c)(1)(A) shall not apply to the bank commissioner fee fund of the state bank commissioner"; following line 42, by inserting:

"(B) Effective as of June 30, 2005, notwithstanding the provisions of any other statute, the director of accounts and reports shall transfer the amount of the unencumbered balance in the bank commissioner fee fund of the state bank commissioner that is in excess of \$700,000, as certified by the director of the budget to the director of accounts and reports on or before July 15, 2005, from the bank commissioner fee fund of the state bank commissioner to the state general fund: *Provided*, That, in making such certification, the director of the budget shall take into account the maximum prescribed by subsection (c)(2) and such other factors and considerations as are deemed appropriate by the director of the budget with respect to the bank commissioner fee fund of the state bank commissioner: *Provided further*, That, at the same time that such certification is made by the director of the budget to the director of accounts and reports under this paragraph (c)(1)(B), the director of the budget shall deliver a copy of such certification to the director of the legislative research department: *And provided further*, That the amount transferred from each such special revenue fund to the state general fund pursuant to this paragraph (c)(1)(B) is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state bank commissioner by other state agencies which receive appropriations from the state general fund to provide such services.";

On page 175, in line 4, by striking "\$6,422,848" and inserting "\$4,593,429";

On page 176, following line 6, by inserting:

"Sec. 71. Notwithstanding the provisions of K.S.A. 77-151 and K.S.A. 2003 Supp. 77-138 and 77-165, and amendments thereto, no state agency shall make expenditures for fiscal year 2005 to provide and deliver a full set of hardbound Kansas Statutes Annotated to each member of the legislature for the 2005 regular session: *Provided, however*, That new members of the legislature shall be entitled to receive one full set of hardbound Kansas Statutes Annotated, including any reissued hardbound volumes and one set of Kansas Statutes Annotated supplements, and expenditures shall be made for fiscal year 2005 to provide and deliver a full set of hardbound Kansas Statutes Annotated to each new member of the legislature, including any reissued hardbound volumes and one set of Kansas Statutes Annotated supplements: *Provided further*, That expenditures shall be made for fiscal year 2005 to provide and deliver to each returning member of the legislature one set of Kansas Statutes Annotated supplements and any reissued hardbound volumes for the 2005 regular session.";

And by renumbering sections accordingly;

On page 177, in line 4, by striking "\$367,000" and inserting "\$587,000"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2614** be amended by adoption of the amendments recommended by the House Committee on Judiciary as reported in the Journal of the House on February 25, 2004, and the bill, as printed with amendments by House Committee, be passed as amended.

Committee on **Judiciary** recommends **House Substitute for SB 18** be amended by substituting a new bill to be designated as "HOUSE Substitute for House Substitute for SENATE BILL No. 18," as follows:

"HOUSE Substitute for House Substitute for SENATE BILL No. 18

By Committee on Judiciary

"AN ACT concerning civil procedure; relating to small claims; amending K.S.A. 61-2706 and K.S.A. 2003 Supp. 61-2703 and 61-2713 and repealing the existing sections."; and the substitute bill be passed.

(**H. Sub. for H. Sub. for SB 18** was thereupon introduced and read by title.)

Committee on **Judiciary** recommends **SB 256** be amended on page 2, in line 25, after "Kansas" by inserting ", except that criminally injurious conduct does not include any conduct resulting in injury or death sustained as a member of the United States armed forces while serving on active duty";

On page 3, in line 24, after the semicolon by inserting "or"; in line 26, by striking "; or (4) an act of terrorism, as defined in 18"; in line 27, by striking all before the period; after line 27, by inserting the following:

"Sec. 2. K.S.A. 74-7305 is hereby amended to read as follows: 74-7305. (a) An application for compensation shall be made in the manner and form prescribed by the board.

(b) Compensation may not be awarded unless an application has been filed with the board within two years of the reporting of the incident to law enforcement officials if the victim was less than 16 years of age and the injury or death is the result of any of the following crimes: (1) Indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto; (2) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto; (3) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto; (4) enticement of a child as defined in K.S.A. 21-3509 and amendments thereto; (5) indecent solicitation of a child as defined in K.S.A. 21-3510 and amendments thereto; (6) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511 and amendments thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516 and amendments thereto; or (8) aggravated incest as defined in K.S.A. 21-3603 and amendments thereto. Compensation for mental health counseling may be awarded, if a claim is filed within two years of testimony, to a claimant who is, or will be, required to testify in a sexually violent predator commitment, pursuant to article 29a of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, of an offender who victimized the claimant or the victim on whose behalf the claim is made. For all other incidents of criminally injurious conduct, compensation may not be awarded unless the claim has been filed with the board within two years after the injury or death upon which the claim is based, *unless, with respect to a claim for compensation that arises out of a violent crime that was committed outside the United States against a person whose domicile is in Kansas: (1) The violent crime caused death; (2) the violent crime that caused the death was committed after January 1, 2001; and (3) the claimant makes a claim for compensation within 30 days of the effective date of this act.* Compensation may not be awarded to a claimant who was the offender or an accomplice of the offender and may not be awarded to another person if the award would unjustly benefit the offender or accomplice.

(c) Compensation otherwise payable to a claimant shall be diminished:

(1) To the extent, if any, that the economic loss upon which the claimant's claim is based is recouped from other persons, including collateral sources; and

(2) to the extent, if any, that the board deems reasonable because of the contributory misconduct of the claimant or of a victim through whom the claimant claims.

(d) Compensation may be awarded only if the board finds that unless the claimant is awarded compensation the claimant will suffer financial stress as the result of economic loss otherwise reparable. A claimant suffers financial stress only if the claimant cannot maintain the claimant's customary level of health, safety and education for self and dependents without undue financial hardship. In making its determination of financial stress, the board shall consider all relevant factors, including:

(1) The number of claimant's dependents;

(2) the usual living expenses of the claimant and the claimant's family;

- (3) the special needs of the claimant and the claimant's dependents;
- (4) the claimant's income and potential earning capacity; and
- (5) the claimant's resources.

(e) Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within 72 hours after its occurrence or the board finds there was good cause for the failure to report within that time.

(f) The board, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw or reduce an award of compensation.

(g) Except in K.S.A. 21-3602 or 21-3603 or cases of sex offenses established in article 35 of chapter 21, of the Kansas Statutes Annotated, and amendments thereto, compensation may not be awarded if the economic loss is less than \$100.

(h) Compensation for work loss, replacement services loss, dependent's economic loss and dependent's replacement service loss may not exceed \$400 per week or actual loss, whichever is less.

(i) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed \$25,000 in the aggregate.”;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 28, by striking “is” and inserting “and 74-7503 are”;

On page 1, in the title, in line 11, after “74-7301” by inserting “and 74-7305”; also in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 317** be amended on page 4, in line 25, by striking all after “issued”; by striking all in lines 26 through 32; in line 33, by striking “original records”;

On page 5, after line 10 by inserting the following:

“Sec. 2. K.S.A. 2003 Supp. 60-2610 is hereby amended to read as follows: 60-2610. (a) If a person gives a worthless check, the person shall be liable to the holder of the check for the amount of the check, the incurred court costs, the incurred service charge, interest at the statutory rate and the costs of collection including but not limited to reasonable attorney fees, plus an amount equal to the greater of the following:

- (1) Damages equal to three times the amount of the check but not exceeding the amount of the check by more than \$500; or
- (2) \$100.

The court may waive all or part of the attorney fees provided for by this subsection, if the court finds that the damages and other amounts awarded are sufficient to adequately compensate the holder of the check. In the event the court waives all or part of the attorney fees, the court shall make written findings of fact as to the specific reasons that the amounts awarded are sufficient to adequately compensate the holder of the check.

(b) The amounts specified by subsection (a) shall be recoverable in a civil action brought by or on behalf of the holder of the check only if: (1) Not less than 14 days before filing the civil action, the holder of the check made written demand on the maker or drawer for payment of the amount of the check, the incurred service charge and accrued interest; and (2) the maker or drawer failed to tender to the holder, prior to the filing of the action, an amount not less than the amount demanded.

The written demand shall be sent by first class mail, to the person to be given notice at such person's address as it appears on such check, draft or order or to the last known address of the maker or drawer. The written demand shall include notice that, if the money is not paid within 14 days, triple damages in addition to an amount of money equal to the sum of the amount of the check, the incurred service charge, court costs, accrued interest, the costs of collection, including but not limited to, reasonable attorney fees unless the court otherwise orders, may be incurred by the maker or drawer of the check.

Notice required by subsection (b)(1) shall state the exact amount and date due, as well as an estimate of the amount that may be incurred if the amount demanded is not paid by the specified date.

(c) Subsequent to the filing of an action under this section but prior to the commencement of a dispositional hearing by the court, the defendant may tender to the plaintiff as satisfaction of the claim, an amount of money equal to the sum of the amount of the check, the

incurred service charge, accrued interest, the costs of collection including, but not limited to, reasonable attorney fees and court costs. The plaintiff shall include in the petition a statement alleging that the defendant may tender such amount as satisfaction of the claim as provided in this subsection. If the amount alleged in the petition is tendered to the plaintiff in full satisfaction of the debt prior to the commencement of the dispositional hearing by the court, the case shall be dismissed by the plaintiff. For purposes of this subsection only, the amount tendered as satisfaction of the claim shall not include triple damages or damages of \$100 as provided in subsections (a)(1) and (2). For purposes of this subsection, a dispositional hearing means a trial or other hearing by the court in which the plaintiff is seeking the entry of judgment against the defendant. The court may waive all or part of the attorney fees provided for by this subsection, if the court finds that the ~~damages and other amounts awarded are amount tendered~~ is sufficient to adequately compensate the holder of the check. In the event the court waives all or part of the attorney fees, the court shall make written findings of fact as to the specific reasons that the ~~amounts awarded are amount tendered~~ is sufficient to adequately compensate the holder of the check.

(d) If the trier of fact determines that the failure of the defendant to satisfy the dishonored check was due to economic hardship, the court may waive all or part of the damages provided for by this section, but the court shall render judgment against defendant for not less than the amount of the dishonored check, the incurred court costs, service charge, ~~costs of restricted mail~~ and the costs of collection, including but not limited to reasonable attorney fees, unless otherwise provided in this subsection. The court may waive all or part of the attorney fees provided for by this subsection, if the court finds that the damages and other amounts awarded are sufficient to adequately compensate the holder of the check. In the event the court waives all or part of the attorney fees, the court shall make written findings of fact as to the specific reasons that the amounts awarded are sufficient to adequately compensate the holder of the check.

(e) Any amount previously paid as restitution or reparations to the holder of the check by or on behalf of its maker or drawer shall be credited against the amount for which the maker or drawer is liable under subsection (a).

(f) Conviction of giving a worthless check or habitually giving a worthless check, as defined by K.S.A. 21-3707, and amendments thereto, shall not be a prerequisite or bar to recovery pursuant to this section.

(g) The service charge on a check which is dishonored by the drawee because the maker or drawer had no deposits in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of each check, order or draft in full upon its presentation, shall not exceed \$30.

(h) As used in this section, "giving a worthless check" means the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent:

- (1) With intent to defraud or in payment for a preexisting debt; or
- (2) Which is dishonored by the drawee because the maker or drawer had no deposits in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation; and
- (3) for which the maker or drawer has not tendered to the holder's agent the amount of money demanded and within the time allowed by the demand required in subsection (b).

Sec. 3. K.S.A. 2003 Supp. 60-2611 is hereby amended to read as follows: 60-2611. In any civil action to enforce payment of or to collect upon a check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent, payment upon which such instrument has been refused because of insufficient funds or no account, the party prevailing on such cause of action shall be awarded reasonable attorney fees. Such fees shall be assessed by the court as costs against the losing party. The fees shall not be allowed unless the plaintiff offers proof during the trial of such action that prior to the filing of the petition in the action demand for payment of the check, order or draft had been made upon the defendant by ~~restricted~~ *first class* mail not less than 14 days prior to the filing of such suit.

Sec. 4. K.S.A. 2003 Supp. 61-3101 is hereby amended to read as follows: 61-3101. (a) When an answer has been filed in an action or if the defendant appears and disputes the claims in the petition commenced pursuant to the provisions of the code of civil procedure for limited actions, any party may submit to any other party a written request for that party to admit:

(1) The genuineness of any relevant document described in and attached to the request; or

(2) the truth of any relevant matter of fact set forth in the request. The request shall be in a form which will permit the party to whom it is submitted to answer the questions on the request form under oath. A request for admissions may not contain more than 10 requests unless permission of the court is obtained to increase the number.

(b) Each of the matters requested shall be deemed to be admitted for purposes of the pending lawsuit, unless within 15 days after the request is served, the party to whom the request is directed submits to the party propounding the request either:

(1) A sworn statement denying specifically the matters requested; or

(2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part.

(c) If the answering party cannot truthfully admit or deny a request, the party shall set forth in detail the reasons why. If the answering party denies a request, the denial shall be in good faith and shall fairly address the substance of the request. If in good faith the answering party can deny only a part of the request or qualify a request, the party shall specify which part is admitted and qualify or deny the remaining part. If the answering party objects to a request, the party shall notify the court and the party propounding the request and schedule a hearing on the objection to be held within 10 days after making the objection.

(d) The judge may permit withdrawal or amendment of any admission made by nonresponse when the party to whom the admissions were sent shows good cause for failure to respond and shows evidence that the admission is not true and the party who obtained the admission fails to satisfy the judge that withdrawal or amendment will prejudice such party in maintaining such party's action or defense on the merits. In the event such withdrawal or amendment is made by the party to whom the admissions were sent at trial, the party who obtained the admissions shall be allowed a continuance of the trial setting. Any admission made by a party under this section is for the purpose of the pending action only and is not an admission by such party for any other purpose nor may it be used against such party in any other proceeding.

And by renumbering the remaining sections accordingly;

Also on page 5, in line 11, by striking "is" and inserting ", 60-2610, 60-2611 and 61-3101 are";

On page 1, in the title, in line 11, after the semicolon by inserting "relating to admissions of facts in limited actions; relating to worthless checks;"; also in line 11, after "60-245a" by inserting ", 60-2610, 60-2611 and 61-3101"; in line 12, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 460** be amended on page 3, by striking all in lines 36 through 43;

On page 4, by striking all in lines 1 through 39;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 40, by striking "and 8-1324 are" and inserting "is";

On page 1, in the title, in line 9, by striking "and other identification cards"; in line 11, by striking "and 8-1324"; also in line 11, by striking "sections" and inserting "section"; and the bill be passed as amended.

Committee on **Local Government** recommends **SB 461** be amended on page 1, in line 41, by striking all after "lution."; by striking all in lines 42 and 43;

On page 2, by striking all in line 1; in line 5, by striking "without subsequent approval of the leg."; in line 6, by striking all before "The"; in line 7, by striking all after "hereunder"; by striking all in line 8; in line 9, by striking "this subsection,."; after line 10 by inserting the following:

"No port authority located in Cowley county shall modify, amend or extend the port authority's official plan as originally adopted by the port authority to change the purpose

for which it was created or alter the character of the work to be undertaken, as provided by K.S.A. 12-3406, and amendments thereto, without approval of the legislature by concurrent resolution. The port authority shall not transact any business or exercise powers hereunder concerning any business or actions related to such modification, amendment or extension of the original plan.”;

On page 5, in line 33, by striking “The” and inserting “(a) Except as provided by subsection (b), the”; in line 38, by striking “, except that the” and inserting the following:

“(b) The”;

Also on page 5, also in line 38, after “directors” by inserting “of a port authority located in Cowley county”; and the bill be passed as amended.

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.

MESSAGE FROM THE SENATE

Announcing passage of **SB 405, SB 459, SB 528, SB 560**.

Announcing passage of **HB 2542, HB 2553, HB 2580**.

Announcing passage of **HB 2154**, as amended; **HB 2555**, as amended; **HB 2669**, as amended; **HB 2737**, as amended; **HB 2745**, as amended.

INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

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

SB 405, SB 459, SB 528, SB 560.

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

COMMITTEE OF THE WHOLE

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

Recommended that **SB 379, SB 509, SB 316** be passed.

Committee report to **SB 328** be adopted; also, on motion of Rep. Rehorn to amend, Rep. Campbell requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane and **SB 328** be passed as amended.

Committee report to **Sub. SB 380** be adopted; and the bill be passed as amended.

SB 392 be passed over and retain a place on the calendar.

Committee report recommending a substitute bill to **H. Sub. for SB 272** be adopted; and the substitute bill be passed.

Committee report to **SB 418** be adopted; and the bill be passed as amended.

Roll call was demanded on motion of Rep. Rehorn to amend **HB 2751** on page 1, by striking all in lines 21 through 43;

By striking all on pages 2 through 6;

On page 7, by striking all in lines 1 through 22 and inserting:

“Section 1. As used in this act:

(a) “Local anesthesia” means the administration of an anesthetic agent into a localized part of the human body by topical application or local infiltration in close proximity to a nerve, which produces a transient and reversible loss of sensation.

(b) “Minimal sedation” means the administration of oral sedative or oral analgesic drugs in doses appropriate for the unsupervised treatment of insomnia, anxiety or pain.

(c) “Minor surgery” means surgery which can be safely and comfortably performed on a patient who has received local or topical anesthesia, without more than minimal sedation and where the likelihood of complications requiring hospitalization is remote.

(d) “Office-based surgery” means any surgery or other special procedure requiring anesthesia, analgesia or sedation which is performed by a physician in a clinical location other

than a medical facility licensed pursuant to K.S.A. 65-425, and amendments thereto, and which results in a patient stay of less than 24 hours. The term specifically includes any surgical abortion. The term does not include minor surgery.

(e) "Physician" means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in the state of Kansas.

(f) "Secretary" means the secretary of health and environment.

(g) "Special procedure" means a patient care service which requires contact with the human body with or without instruments in a potentially painful manner, for a diagnostic or therapeutic procedure requiring anesthesia services (i.e., diagnostic or therapeutic endoscopy, invasive radiologic procedures, manipulation under anesthesia or endoscopic examination). The term specifically includes any nonsurgical second or third trimester abortion. The term does not include minor surgery.

(h) "Surgery" means a manual or operative procedure which involves the excision or resection, partial or complete, destruction, incision or other structural alteration of human tissue by any means, including the use of lasers, performed upon the human body for the purpose of preserving health, diagnosing or treating disease, repairing injury, correcting deformity or defects, prolonging life or relieving suffering, or for aesthetic, reconstructive or cosmetic purposes. Surgery includes, but is not limited to, incision or curettage of tissue or an organ, suture or other repair of tissue or an organ, a closed or open reduction of a fracture, extraction of tissue from the uterus and insertion of natural or artificial implants.

(i) "Topical anesthesia" means an anesthetic agent applied directly or by spray to the skin or mucous membranes, intended to produce a transient and reversible loss of sensation to a circumscribed area.

Sec. 2. (a) The secretary, by rules and regulations, shall establish standards for clinics and other locations where office-based surgery or special procedures, or both, are performed. Such standards shall include such requirements as the secretary determines necessary to promote the safety of patients, including, but not limited to, standards addressing:

(1) Qualifications of physicians and other personnel and supervision of non-physician personnel;

(2) facility safety and sanitation;

(3) equipment requirements, sanitation, testing and maintenance;

(4) patient screening, assessment and monitoring;

(5) selection of procedures to be performed;

(6) anesthesia services;

(7) peri-operative care;

(8) emergencies and patient transfers; and

(9) quality assurance and peer review.

(b) In adopting standards pursuant to this section, the secretary shall give consideration to the guidelines for office-based surgery and special procedures approved by the Kansas medical society house of delegates on May 5, 2002.

(c) The secretary, by rules and regulations, shall provide for such inspections of clinics and other locations where office-based surgery or special procedures, or both, are performed as the secretary determines necessary to protect the public health and safety and to implement and enforce the provisions of this act and rules and regulations adopted hereunder. For that purpose, authorized agents of the secretary shall have access to such clinics and locations during reasonable business hours. Any rules and regulations adopted by the secretary pursuant to this act shall provide for protection of the identities of patients and health care providers.

Sec. 3. (a) Any person who violates any provision of the rules and regulations adopted under this act shall incur a civil penalty in an amount not more than \$5,000 for every such violation. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) The secretary, upon a finding that a person has violated any provision of rules and regulations adopted under this act may impose a penalty within the limits provided in this section. In determining the amount of the civil penalty, the secretary shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused

by the violation, the nature and persistence of the violation, the length of time over which the violation occurs and any corrective actions taken.

(c) No penalty shall be imposed under this section until written notice and an opportunity for hearing have been provided to the person alleged to have committed the violation. Such notice shall state the violation, the penalty to be imposed and the right of the person to a hearing on the matter. Such person, within 15 days after service of the order, may make written request to the secretary for a hearing thereon. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(d) Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 4. Any clinic or other location where office-based surgery or special procedures, or both, are performed at the time rules and regulations adopted under this act take effect shall be given reasonable time, as determined by the secretary under the particular circumstances, but not to exceed one year from the effective date of such rules and regulations, within which to comply with such rules and regulations.”;

By renumbering section 2 accordingly;

In the title, in line 16, by striking all after “concerning”; by striking all in line 17; in line 18, by striking all before the period and inserting “certain medical procedures; providing for adoption of standards relating thereto; providing remedies for violations”;

On roll call, the vote was: Yeas 52; Nays 67; Present but not voting: 0; Absent or not voting: 6.

Yeas: Ballard, Ballou, Beggs, Boyer, Burroughs, Carlin, Compton, Cox, Craft, Crow, Davis, Dillmore, Dreher, Faust-Goudeau, Flaharty, Flora, Gilbert, Gordon, Henderson, Hill, Holland, Horst, Huff, Huntington, D. Johnson, Kirk, Klein, Krehbiel, Kuether, Lane, Loganbill, Loyd, J. Miller, Minor, Neighbor, Newton, O'Malley, Pottorff, Rehorn, Reitz, Sawyer, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Storm, Thull, Toelkes, Ward, Winn, Yoder, Yonally.

Nays: Aurand, Barbieri-Lightner, Bethell, Brunk, Burgess, Campbell, Carter, Dahl, DeCastro, Decker, Edmonds, Faber, Feuerborn, Freeborn, Gatewood, Goering, Goico, Grant, Hayzlett, Henry, Holmes, Howell, Huebert, Hutchins, Huy, E. Johnson, Kauffman, Landwehr, Larkin, M. Long, Long-Mast, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Powell, Powers, Reardon, Ruff, Schwab, Schwartz, Shriver, Shultz, Siegfried, Svaty, Swenson, Tafanelli, Thimesch, Vickrey, Wilk, J. Williams, Wilson.

Present but not voting: None.

Absent or not voting: Humerickhouse, Jack, Kassebaum, Light, Sloan, D. Williams.

The motion of Rep. Rehorn did not prevail.

Also, roll call was demanded on motion of Rep. Horst to amend **HB 2751** on page 1, in line 23, by striking “Abortion clinic” and inserting “Clinic”; in line 25, before the period, by inserting: “or in which other medical procedures which carry a risk equal to or greater than a first trimester abortion, as determined by the state board of healing arts, are performed”; in line 33, by striking “an abortion” and inserting “a”; in line 42, by striking “abortion procedures” and inserting “procedures performed at the clinic”;

On page 2, in line 8, by striking “abortion”; in lines 10 and 11, by striking “abortion”; in line 15, by striking “abortion”; in line 29, by striking “abortion”; in line 30, by striking “facilities” and inserting “clinics”; in line 35, by striking “abortion”; in line 38, by striking “abortion” where it appears for the first time; also in line 38, by striking “abortion” where it appears for the last time; in line 40, by striking “an abortion” and inserting “a”; in line 43, by striking “abortion”;

On page 3, in line 7, after “abortions” by inserting “or other medical procedures”; in line 9, after “abortion” by inserting “or other medical procedure”; in line 17, by striking “abortion”; in line 21, by striking “Obstetric” and inserting “For an abortion, obstetric”; in line 23, after “including” by inserting “, for an abortion.”; in line 28, before the period, by inserting: “; for an abortion, a test for anemia; and for an abortion, Rh typing, unless reliable written documentation of blood type is available”; by striking all in lines 29 through 31; in

line 32, by striking "(D)" and inserting "(B)"; also in line 32, before the period, by inserting "and which relate to the procedure being performed";

On page 4, in line 6, by striking "the"; in line 7, by striking "procedure" and inserting: "and other medical procedures performed at a clinic"; in line 10, by striking "abortion" and inserting "medical"; in line 13, before the period, by inserting: "and for the safe conduct of other medical procedures performed at the clinic"; in line 18, before the period, by inserting: "and the use of appropriate precautions for other medical procedures"; in line 20, by striking "abortion" and inserting "medical"; in line 33, by striking "abortion"; in line 35, by striking "abortion"; in line 40, by striking "A" and inserting: "For abortion patients, a";

On page 5, in line 4, by striking "Written" and inserting: "For abortion patients, written"; in line 10, by striking "abortion"; also in line 10, by striking "and gestational"; in line 11, by striking all before the period; in line 13, by striking "abortion"; in line 22, by striking "A" and inserting: "For an abortion patient, a"; in line 25, by striking "A" and inserting: "For an abortion patient, a"; in line 30, by striking "abortion"; in line 32, by striking "abortion"; in line 33, by striking "an abortion" and inserting "a"; in line 36, by striking "an abortion" and inserting "a"; in line 39, by striking "abortion";

On page 6, in line 2, by striking "abortion"; in line 17, by striking "abortion"; in line 21, by striking "an abortion" and inserting "a"; in line 28, by striking "an abortion" and inserting "a"; in line 29, by striking "an abortion" and inserting "a";

On page 7, in line 11, by striking "abortion"; preceding line 23, by inserting the following: "(q) The state board of healing arts shall specify by rule and regulation a list of medical procedures which carry a risk equal to or greater than a first trimester abortion.";

On page 1, in the title, in line 16, by striking "abortion";

On roll call, the vote was: Yeas 52; Nays 67; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Ballard, Beggs, Boyer, Burroughs, Carlin, Compton, Cox, Crow, Davis, Dillmore, Dreher, Faust-Goudeau, Flaharty, Flora, Gilbert, Gordon, Henderson, Hill, Holland, Horst, Huff, Huntington, D. Johnson, Kirk, Klein, Krehbiel, Kuether, Lane, Loganbill, Loyd, J. Miller, Minor, Neighbor, Newton, O'Malley, Owens, Pottorff, Rehorn, Sawyer, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Storm, Thull, Toelkes, Ward, Wilson, Winn, Yoder, Yonally.

Nays: Ballou, Barbieri-Lightner, Bethell, Brunk, Burgess, Campbell, Carter, Craft, Dahl, DeCastro, Decker, Edmonds, Faber, Feuerborn, Freeborn, Gatewood, Goering, Goico, Grant, Hayzlett, Holmes, Howell, Huebert, Hutchins, Huy, Jack, E. Johnson, Kauffman, Landwehr, Larkin, Light, M. Long, Long-Mast, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Neal, Osborne, Ostmeyer, Patterson, Pauls, Phelps, Powell, Powers, Reardon, Reitz, Ruff, Schwab, Schwartz, Shriver, Shultz, Siegfried, Svaty, Tafanelli, Thimesch, Vickrey, Wilk, J. Williams.

Present but not voting: None.

Absent or not voting: Henry, Humerickhouse, Kassebaum, Sloan, Swenson, D. Williams.

The motion of Rep. Horst did not prevail.

Also, roll call was demanded on motion to recommend **HB 2751** favorably for passage.

On roll call, the vote was: Yeas 76; Nays 43; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Ballou, Barbieri-Lightner, Bethell, Brunk, Burgess, Burroughs, Campbell, Carter, Craft, Dahl, DeCastro, Decker, Edmonds, Faber, Feuerborn, Freeborn, Gatewood, Goering, Goico, Grant, Hayzlett, Holmes, Horst, Howell, Huebert, Hutchins, Huy, Jack, E. Johnson, Kauffman, Landwehr, Larkin, Light, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Ruff, Schwab, Schwartz, Shriver, Shultz, Siegfried, Svaty, Tafanelli, Thimesch, Vickrey, Wilk, J. Williams, Wilson.

Nays: Ballard, Beggs, Boyer, Carlin, Compton, Cox, Crow, Davis, Dillmore, Dreher, Faust-Goudeau, Flaharty, Flora, Gilbert, Gordon, Henderson, Hill, Holland, Huff, Huntington, D. Johnson, Kirk, Klein, Krehbiel, Kuether, Lane, Loganbill, Minor, Neighbor,

Rehorn, Reitz, Sawyer, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Storm, Thull, Toelkes, Ward, Winn, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Henry, Humerickhouse, Kassebaum, Sloan, Swenson, D. Williams.
The motion prevailed and **HB 2751** be passed.

Committee report to **HB 2552** be adopted; also, on motion of Rep. Neighbor be amended on page 1, by striking all in lines 16 through 40; in line 41, by striking "Sec. 5." and inserting "Section 1.";

On page 2, in line 2, before the period, by inserting "or causing injury to the fetus resulting in serious defect or disfigurement which exists at birth"; in line 3, by striking "miscarriage" and inserting:

"(1) "Fetus" means the live product of human conception in utero.

(2) "Miscarriage";

Also on page 2, following line 22, by inserting:

"Sec. 2. K.S.A. 21-3441 is hereby amended to read as follows: 21-3441. (a) Injury to a pregnant woman by vehicle is injury to a pregnant woman by a person other than the pregnant woman in the unlawful operation of a motor vehicle causing the pregnant woman to suffer a miscarriage as a result of that injury *or causing injury to the fetus resulting in serious defect or disfigurement which exists at birth.*

(b) As used in this section, "~~miscarriage~~":

(1) "*Fetus*" means the live product of human conception in utero.

(2) "*Miscarriage*" means the interruption of the normal development of the fetus, other than by a live birth, resulting in the complete expulsion or extraction from a pregnant woman of a product of human conception.

(c) (1) Injury to a pregnant woman by vehicle while committing a violation of K.S.A. 8-1567 and amendments thereto is a severity level 5, person felony.

(2) Injury to a pregnant woman by vehicle while committing a violation of law related to the operation of a motor vehicle other than K.S.A. 8-1567 and amendments thereto is a class A person misdemeanor.

(d) The provisions of this section shall be part of and supplemental to the Kansas criminal code.

New Sec. 3. (a) Causing injury or death to a fetus is causing, in the commission of a felony or misdemeanor by a person other than the pregnant woman, miscarriage of a fetus or injury to a fetus resulting in serious defect or disfigurement which exists at birth.

(b) As used in this section:

(1) "Fetus" means the live product of human conception in utero.

(2) "Miscarriage" means the interruption of the normal development of a fetus, other than by a live birth, resulting in the complete expulsion or extraction from the pregnant woman of a product of human conception.

(c) (1) Causing injury or death to a fetus in the commission of a felony is a severity level 4, person felony.

(2) Causing injury or death to a fetus in the commission of a violation of K.S.A. 21-3412, subsection (a)(1) of K.S.A. 21-3413 or K.S.A. 21-3517, and amendments thereto, or a violation of K.S.A. 2003 Supp. 21-3412a, and amendments thereto, punishable pursuant to subsection (b)(1) or (b)(2) of that statute, is a severity level 5, person felony.

(3) Causing injury or death to a fetus in the commission of a misdemeanor other than a violation of K.S.A. 21-3412, subsection (a)(1) of K.S.A. 21-3413 or K.S.A. 21-3517, and amendments thereto, or a violation of K.S.A. 2003 Supp. 21-3412a, and amendments thereto, punishable pursuant to subsection (b)(1) or (b)(2) of that statute, is a class A person misdemeanor.

(d) The provisions of this section shall be part of and supplemental to the Kansas criminal code.

New Sec. 4. (a) Causing injury or death to a fetus by vehicle is causing, in the unlawful operation of a vehicle by a person other than the pregnant woman, miscarriage of a fetus or injury to a fetus resulting in serious defect or disfigurement which exists at birth.

(b) As used in this section:

(1) "Fetus" means the live product of human conception in utero.

(2) "Miscarriage" means the interruption of the normal development of a fetus, other than by a live birth, resulting in the complete expulsion or extraction from the pregnant woman of a product of human conception.

(c) (1) Causing injury or death to a fetus by vehicle while committing a violation of K.S.A. 8-1567 and amendments thereto is a severity level 5, person felony.

(2) Causing injury or death to a fetus by vehicle while committing a violation of law related to the operation of a motor vehicle other than K.S.A. 8-1567, and amendments thereto, is a class A person misdemeanor.

(d) The provisions of this section shall be part of and supplemental to the Kansas criminal code.;

Also on page 2, by renumbering sections accordingly; in line 23, before "K.S.A." by inserting "K.S.A. 21-3441 and"; also in line 23, by striking "is" and inserting "are";

In the title, by striking all in line 11; in line 12, by striking all before "K.S.A." and inserting "concerning certain crimes against a pregnant woman or a fetus; amending K.S.A. 21-3441 and"; in line 13, by striking "section" and inserting "sections"; and **HB 2552** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Ethics and Elections** recommends **SB 166** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL No. 166," as follows:

"HOUSE Substitute for SENATE BILL No. 166

By Committee on Ethics and Elections

"AN ACT concerning elections; relating to compliance with the help America vote act of 2002; relating to disabled voters; amending K.S.A. 25-1122d, 25-1123, 25-2710, 25-2909 and K.S.A. 2003 Supp. 25-1122, 25-2309, 25-2908 and 25-3002 and repealing the existing sections.;" and the substitute bill be passed.

(**H. Sub. for SB 166** was thereupon introduced and read by title.)

Committee on **Tourism and Parks** recommends **SB 334** be amended on page 1, by striking all in lines 21 through 27; in line 28, by striking all preceding "An" and inserting:

"(a) "Agritourism operator" means any person engaged in the business of providing one or more agritourism activities.

(b) "Agritourism activity" means any activity which allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including, but not limited to, farming activities, ranching activities or historic, cultural or natural attractions.;"

Also on page 1, in line 32, by striking "Designated agritourism" and inserting "Agritourism"; by striking all in lines 33 and 34; in line 35, by striking all preceding "where"; in line 36, by striking "specified"; in line 39, by striking "a specified" and inserting "an"; in line 40, by striking "such" and inserting "an";

On page 2, in line 2, by striking "a specified" and inserting "an"; in line 5, by striking "qualified"; in line 7, by striking all after "4."; by striking all in line 8; in line 9, by striking all preceding "shall" and inserting "(a) Any agritourism operator may register with the secretary of commerce. The registration"; in line 10, by striking all following "the" where it appears for the first time; by striking all in lines 11 and 12; in line 13, by striking all preceding the period and inserting "agrifourism activity which the person conducts or intends to conduct"; in line 14, by striking all following "the" where it appears for the first time; by striking all of lines 15 and 16; in line 17, by striking all before the period and inserting "location where the person conducts or intends to conduct such agritourism activity"; by striking all in lines 18 through 22; in line 23, by striking "(c)" and inserting "(b)"; also in line 23, by striking all following "all"; by striking all in line 24; in line 25, by striking all preceding the period and inserting "registered agritourism operators, the agritourism activities conducted by each operator and the location where the operator conducts such activities"; in line 26, following "secretary" by inserting ", in conjunction with other agritourism and rural economic efforts of the secretary,;" in line 27, by striking all preceding "locations" and inserting "registered agritourism operators, activities and"; by striking all in lines 29 through 33; in line 34, by striking all preceding "for" and inserting:

“(c) Registration pursuant to this section shall be”;

Also on page 2, in line 36, by striking “(e)” and inserting “(d)”;

also in line 36, by striking “applicants” and inserting “persons registering”; in line 37, by striking “designated”; in line 41, by striking “designated”;

On page 3, in line 1, by striking “a qualified” and inserting “an”; in line 2, by striking “a specified” and inserting “an”; in line 9, by striking “a specified” and inserting “an”; also in line 9, by striking “des-”; in line 10, by striking all preceding “location”; in line 16, by striking “specified”; in line 18, by striking “qualified”; in line 19, by striking “specified”; in line 20, by striking “pursuant to section 4(a)(2)” and inserting “in the registration pursuant to section 4”; in line 21, by striking “qualified”; also in line 21, by striking “each”; in line 22, by striking “designated” and inserting “the”; in line 24, by striking “a specified” and inserting “an”; in line 25, by striking “a specified” and inserting “such”; by striking all in line 26; in line 27, by striking all preceding “agritourism” and inserting “. In any action for damages arising from the operation of an agritourism activity, the”; in line 30, by striking “a”; in line 31, by striking “qualified” and inserting “an”; in line 32, by striking “qualified”; in line 33, by striking “conduct,” and inserting “or wanton conduct; or”; in line 34, by striking “qualified”; in line 35, by striking the comma and inserting “or waters or the dangerous propensity of a particular animal or a dangerous condition in the”; also in line 35, by striking “specified”; in line 39, by striking “a qualified” and inserting “an”;

On page 4, in line 1, by striking “a qualified” and inserting “an”; in line 5, by striking all following “9.”; by striking all in line 6 and inserting “(a) For taxable years commencing on and after December 31, 2003, and December 31, 2004, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, an amount equal to 25% of the cost of liability insurance paid by an agritourism operator who operates an agritourism activity on the effective date of this act. For taxable years commencing on or after December 31, 2005, December 31, 2006, and December 31, 2007, the agritourism operator shall be allowed as a credit as provided in this subsection an amount equal to 15% of the cost of liability insurance paid by the agritourism operator during any such taxable year. No tax credit claimed pursuant to this subsection shall exceed \$2,000. If the amount of such tax credit exceeds the taxpayer’s income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer’s income tax liability in the next succeeding taxable year or years until the total amount of tax credit has been deducted from tax liability, except that no such tax credit shall be carried forward for deduction after the third taxable year succeeding the taxable year in which the tax credit is claimed.

(b) For the first two taxable years commencing after a taxpayer opens such taxpayer’s business, after the effective date of this act, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, an amount equal to 25% of the cost of liability insurance paid by the agritourism operator who starts an agritourism activity after the effective date of this act. For the third, fourth and fifth taxable years commencing after the taxpayer’s business opens, the agritourism operator shall be allowed as a credit as provided in this subsection, an amount equal to 15% of the cost of liability insurance paid by the agritourism operator during any such taxable year. No tax credit claimed pursuant to this subsection shall exceed \$2,000. If the amount of such tax credit exceeds the taxpayer’s income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer’s income tax liability in the next succeeding taxable year or years until the total amount of tax credit has been deducted from tax liability, except that no such tax credit shall be carried forward for deduction after the third taxable year succeeding the taxable year in which the tax credit is claimed.”;

In the title, in line 10, by striking all following “concerning” and inserting “agritourism activities; providing for promotion thereof; relating to participants’ assumption of the inherent risks thereof; providing for certain income tax credits.”; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2918** be amended on page 1, by striking all in lines 14 through 43;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 4 through 6 and inserting:

“New Section 1. (a) For the purpose of financing a portion of the comprehensive transportation program, K.S.A. 68-2314a, *et seq.*, and amendments thereto, the Kansas development finance authority is hereby authorized to issue one or more series of revenue bonds pursuant to the Kansas development finance authority act, K.S.A. 74-8901 *et seq.*, and amendments thereto, in an amount necessary to provide a deposit or deposits in a total amount not to exceed \$150,000,000 to the state highway fund plus amounts necessary to pay the costs of issuance of the bonds, including any credit enhancement, and provide any required reserves for the bonds. The principal amount, interest rates and final maturity of such revenue bonds and any bonds issued to refund such bonds or parameters for such principal amount, interest rates and final maturity shall be approved by the secretary of transportation and by a resolution of the state finance council. The bonds, and interest thereon, issued pursuant to this section shall be payable from moneys appropriated by the state for such purpose. The bonds and interest thereon, issued pursuant to this section shall be obligations only of the authority and in no event shall such bonds constitute an indebtedness or obligation of the Kansas department of transportation or an indebtedness or obligation for which the faith and credit or any assets of the system are pledged.

(b) (1) The authority may pledge the contract or contracts authorized in subsection (c), or any part thereof, for the payment or redemption of the bonds, and covenant as to the use and disposition of money available to the authority for payments of the bonds. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section.

(2) The proceeds from the sale of the bonds, other than refunding bonds, issued pursuant to this section, after payment of any costs related to the issuance of such bonds, shall be paid by the authority to the Kansas department of transportation to be applied to the payment, in full or in part, of the construction projects authorized by the comprehensive transportation program.

(3) The state hereby pledges and covenants with the holders of any bonds issued pursuant to the provisions of this section, that it will not limit or alter the rights or powers vested in the authority by this section, nor limit or alter the rights or powers of the authority, the department of administration or the Kansas department of transportation, in any manner which would jeopardize the interest of the holders or any trustee of such holders or inhibit or prevent performance or fulfillment by the authority, the department of administration or the Kansas department of transportation with respect to the terms of any agreement made with the holders of the bonds or agreements made pursuant to this section, except that the failure of the legislature to appropriate moneys for any purpose shall not be deemed a violation of this pledge and covenant. The department of administration is hereby specifically authorized to include this pledge and covenant in any agreement with the authority. The authority is hereby specifically authorized to include this pledge and covenant in any bond resolution, trust indenture or agreement for the benefit of holders of the bonds.

(4) Revenue bonds may be issued pursuant to this section without obtaining the consent of any department, division, commission, board or agency of the state, other than the approvals of the state finance council required by this section, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by the Kansas development finance authority act.

(c) The department of administration and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in this section. The contract or contracts shall provide for payment of the amounts required to be paid pursuant to this section and shall set forth the procedure for the transfer of moneys for the purpose of paying such moneys. The contract or contracts shall contain such terms and conditions including principal amount, interest rates and final maturity as shall be approved by resolution of the state finance council and shall include, but not be limited to, terms and conditions necessary or desirable to provide for repayment of and to secure any bonds of the authority issued pursuant to this section.

(d) The approvals by the state finance council required by subsection (a) and (c) are hereby characterized as matters of legislative delegation and subject to the guidelines pre-

scribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto. Such approvals may be given by the state finance council when the legislature is in session.

(e) No bonds shall be issued pursuant to this section prior to the review of and recommendation to the state finance council of such issuance by the standing committees on transportation of the house of representatives and the senate.

Sec. 2. 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, and 5% on and after July 1, 2005, 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) the gross receipts received from the sale of 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 computer software, whether the 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.

Sec. 3. K.S.A. 2003 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be 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, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

(c) (1) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) *On July 1, 2006*, the state treasurer shall credit ~~$\frac{4}{100}$~~ $\frac{19}{200}$ of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of ~~5%~~ 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) *On July 1, 2007*, the state treasurer shall credit $\frac{13}{100}$ of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project or taxpayers doing business with such entity financed by a special bond project as

defined in K.S.A. 12-1770a, and amendments thereto, that was determined by the secretary of commerce ~~and housing~~ to be of statewide as well as local importance or will create a major tourism area for the state ~~or the project was designated as a special bond project~~ as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment ~~or special bond~~ project.

Sec. 4. K.S.A. 2003 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 5.3% ~~on and after July 1, 2002, and before July 1, 2006, and 5% on and after July 1, 2006.~~ 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 of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 5. K.S.A. 2003 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be 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, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the credit of the state general fund.

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

(c) (1) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) ~~On July 1, 2006,~~ the state treasurer shall credit ~~$\frac{4}{100}$~~ $\frac{19}{2000}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of ~~5%~~ 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) ~~On July 1, 2007,~~ the state treasurer shall credit $\frac{13}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce ~~and housing~~ to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund created by sub-

section (d) of K.S.A. 79-3620, and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under subsection (d) of K.S.A. 79-3620, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

This subsection shall not apply to a project designated as a special bond project as defined in subsection (z) of K.S.A. 12-1770a, and amendments thereto.

Sec. 6. K.S.A. 79-34,148 and K.S.A. 2003 Supp. 79-34,147, 79-3603, 79-3603c, 79-3620, 79-3620c, 79-3703, 79-3710 and 79-3710a are hereby repealed.”;

By renumbering the remaining section accordingly;

In the title, in line 10, by striking all following “Supp.” and inserting “79-3603, 79-3620, 79-3703 and 79-3710”; in line 11, by striking “section.” and inserting “sections; also repealing K.S.A. 79-34,148 and K.S.A. 2003 Supp. 79-34,147, 79-3603c, 79-3620c and 79-3710a.”; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 472** be amended on page 1, following line 13, by inserting:

“New Section 1. As applied to the regulation of motor carriers, the provisions of this act and all grants of power, authority and jurisdiction herein made to the state corporation commission shall be liberally construed, and all incidental powers necessary to carry into effect the provisions of this act are expressly granted to and conferred upon the state corporation commission.

New Sec. 2. The state corporation commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 66-1,108, and amendments thereto, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction. The commission shall have general supervision of all motor carriers operating in this state. The commission shall inquire into any neglect or violations of the laws pertaining to the regulation of motor carriers of this state by any motor carrier or any person retaining the transportation services of that motor carrier. From time to time, the commission shall carefully examine and inspect the condition of each motor carrier, its equipment, the manner of its conduct and its management with reference to the public safety and convenience. Nothing in this section shall be construed as relieving any motor carrier from responsibility or liability for damage to person or property.

New Sec. 3. The state corporation commission shall have the authority to examine all accounts and records pertaining to its regulation of motor carriers. The agents, accountants, examiners or inspectors designated by the commission shall have authority under the direction of the transportation division to inspect and examine any and all books, accounts, papers, records, property and memoranda pertinent to its regulation of motor carriers.”;

Also on page 1, in line 14, by striking “Section 1.” and inserting “Sec. 4.”;

By renumbering the remaining sections accordingly;

On page 3, in line 3, following “purposes” by inserting “, as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto.”; in line 38, by striking all following “(v)”;

in line 39, by striking all preceding the period and inserting “transportation of animal dung to be used for fertilizer”; following line 39, by inserting:
 “Sec. 5. K.S.A. 2003 Supp. 66-1,129 is hereby amended to read as follows: 66-1,129. (a) The commission shall adopt rules and regulations necessary to carry out the provisions of this act. No public motor carrier of property, household goods or passengers or private motor carrier of property shall operate or allow the operation of any motor vehicle on any public highway in this state except within the provisions of the rules and regulations adopted by the commission. Rules and regulations adopted by the commission shall include:

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

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

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

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

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

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

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

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

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

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

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

(3) (A) Except for motor vehicles under subparagraph (B), motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards.

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

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

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

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

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

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

(8) *Motor vehicles used to transport water for domestic use purposes, as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto, or livestock consumption.*

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

Sec. 6. K.S.A. 66-1,142b is hereby amended to read as follows: 66-1,142b. (a) Any ~~motor carrier person~~ violating any statute, commission orders or rules and regulations ~~relevant to motor carriers~~ adopted by the state corporation commission *pursuant to the motor carrier act and other laws relevant to motor carriers* shall be subject to a civil penalty of not less than \$100 and not more than \$1,000 for negligent violations, and not more than \$5,000 for intentional violations.

(b) In construing and enforcing a civil penalty in accordance with this section, any act, omission or failure of any officer, agent or other person acting for or employed by any motor carrier while acting within the scope of such person's employment, shall in every case be deemed the act, omission or failure of the motor carrier.

(c) Every day during which the ~~motor carrier person~~ fails to comply with any order or ~~direction~~ of the commission, or any applicable statute, rule or regulation, shall constitute a separate and distinct violation.

(d) Civil penalties shall be enforced and collected by an attorney for the corporation commission in the appropriate district court.

(e) Civil penalties shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the motor carrier license fee fund.

(f) The commission is granted the power, by general order or otherwise, to prescribe reasonable rules and regulations for the assessment of administrative civil penalties and sanctions for violations of any statute, commission orders or rules and regulations adopted by the commission.”;

By renumbering the remaining sections accordingly;

Also on page 3, in line 40, by striking “2003 Supp. 66-1,109 is” and inserting “66-1,142b and K.S.A. 2003 Supp. 66-1,109 and 66-1,129 are”;

In the title, in line 9, by striking all following “to”; in line 10, by striking all preceding the semicolon and inserting “the regulation thereof”; also in line 10, by striking “2003 Supp. 66-1,109” and inserting “66-1,142b and K.S.A. 2003 Supp. 66-1,109 and 66-1,129”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. O'Neal, the House nonconcurred in Senate amendments to **HB 2293** and asked for a conference.

Speaker pro tem Ballou thereupon appointed Reps. O'Neal, Patterson and Pauls as conferees on the part of the House.

On motion of Rep. O'Neal, the House nonconcurred in Senate amendments to **HB 2556** and asked for a conference.

Speaker pro tem Ballou thereupon appointed Reps. O'Neal, Patterson and Pauls as conferees on the part of the House.

REPORT ON ENGROSSED BILLS

HB 2544 reported correctly engrossed March 18, 2004.

On motion of Rep. Aurand, the House adjourned until 10:00 a.m., Friday, March 19, 2004.

CHARLENE SWANSON, *Journal Clerk.*

JANET E. JONES, *Chief Clerk.*

