

# Journal of the Senate

FIFTIETH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, March 23, 2004—2:30 p.m.

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

Heavenly Father,

As we approach the final countdown of this session, these legislators need Your special blessing to accomplish their goals.

Give them the insight to know the needy from the greedy.  
the stamina to stay alert and not become inert.  
the tenacity to prevail and not fail.  
the patience to stay calm and do no harm.  
the determination to persevere and not interfere.  
the energy to do their best with little rest.  
the sense to know they need rest to have success.  
the wisdom to recognize the hypocrite and the counterfeit.  
the understanding to distinguish the real from the frill.  
the humor to know that a little fun is better than none.  
the need to pray and not to stray.

I ask this in the Name of Christ,

AMEN

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to Committees as indicated:

Commerce: **HB 2895**.

Education: **SCR 1621**.

Federal and State Affairs: **SCR 1622; HB 2751**.

Ways and Means: **SB 562**.

## MESSAGE FROM THE GOVERNOR

March 17, 2004

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

Enclosed herewith is Executive Directive No. 04-350 for your information.

Sincerely,

KATHLEEN SEBELIUS  
*Governor*

The President announced Executive Directive No. 04-350, Authorizing Expenditure of Federal Funds, is on file in the office of the Secretary of the Senate and available for review at anytime.

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2918**.

Also, passage of **SB 384**, as amended.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 147** and has appointed Representatives Edmonds, Huff and Larkin as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 312** and has appointed Representatives Neufeld, Shultz and Minor as conferees on the part of the House.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2918** was thereupon introduced and read by title.

**CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR**

Senator Teichman moved the Senate concur in house amendments to **Sub SB 380**.

**Sub SB 380**, An act concerning liens for wrecker and towing service; pertaining to notice to lienholder; amending K.S.A. 8-1102, 8-1103 and 8-1104 and repealing the existing sections.

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

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

The Senate concurred.

On motion of Senator Allen the Senate nonconcurred in the House amendments to **H Sub for SB 166** and requested a conference committee be appointed.

The President appointed Senators Allen, O'Connor and Betts as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 197** and requested a conference committee be appointed.

The President appointed Senators Vratil, O'Connor and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Brungardt the Senate nonconcurred in the House amendments to **H Sub for SB 272** and requested a conference committee be appointed.

The President appointed Senators Brungardt, Clark and Gilstrap as a conference committee on the part of the Senate.

On motion of Senator Allen the Senate nonconcurred in the House amendments to **SB 292** and requested a conference committee be appointed.

The President appointed Senators Allen, O'Connor and Betts as a conference committee on the part of the Senate.

On motion of Senator Brownlee the Senate nonconcurred in the House amendments to **SB 393** and requested a conference committee be appointed.

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

On motion of Senator Brownlee the Senate nonconcurred in the House amendments to **SB 394** and requested a conference committee be appointed.

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

On motion of Senator Brownlee the Senate nonconcurred in the House amendments to **SB 417** and requested a conference committee be appointed.

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

On motion of Senator Brownlee the Senate nonconcurred in the House amendments to **SB 480** and requested a conference committee be appointed.

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

On motion of Senator Brownlee the Senate nonconcurred in the House amendments to **SB 520** and requested a conference committee be appointed.

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

#### CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointment, submitted by the Governor to the senate for confirmation, was considered.

Senator Oleen moved the following appointment be confirmed as recommended by the Standing Senate Committee:

On the appointment to the:

*Kansas Development Finance Authority:*

Thomas C. Schaller, term expires January 15, 2007.

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

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

The appointment was confirmed.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**SB 537**, An act concerning capital improvements for state agencies; making and concerning appropriations for the fiscal years ending June 30, 2004, June 30, 2005, and June 30, 2006, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, loans, disbursements and acts incidental to the foregoing, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Helgerson, Huelskamp, Journey, Lyon, Steineger.

The bill passed, as amended.

**SB 558**, An act concerning the Kansas business health policy partnership; relating to duties, expenditures and creation of a fund; amending K.S.A. 2003 Supp. 40-4702, 40-4704 and 40-4706 and repealing the existing sections, was considered on final action.

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

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

Nays: Huelskamp.

The bill passed, as amended.

**HB 2545**, An act concerning insurance; pertaining to the use of mortality tables; relating to the assumption reinsurance agreements; relating to group life insurance; relating to motor vehicle insurance; relating to contracts of stock insurance companies; relating to required provisions of certain accident and health policies; relating to the effect of health savings accounts on certain types of coverage; relating to income tax deduction for long-term care insurance premium costs; amending K.S.A. 8-173, 40-306, 40-409, 40-433, 40-2202 and K.S.A. 2003 Supp. 40-2,105 and 79-32,117 and repealing the existing sections; also repealing K.S.A. 2003 Supp. 40-428a, was considered on final action.

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

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

The bill passed, as amended.

**HB 2563**, An act concerning motor vehicles; pertaining to reporting of accidents; relating to the taxation thereof; amending K.S.A. 8-1606, 8-1611 and 79-5107 and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

**HB 2573**, An act concerning wildlife and parks; relating to requirements for persons designated to assist disabled licensees; amending K.S.A. 2003 Supp. 32-933 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

**HB 2633**, An act relating to motor vehicles; concerning impoundment of motor vehicles; amending K.S.A. 8-1102 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

**HB 2670**, An act concerning the division of accounts and reports; relating to reporting; amending K.S.A. 75-3054 and 75-3073 and K.S.A. 2003 Supp. 75-3735 and repealing the existing sections; also repealing K.S.A. 79-2917, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Kerr, Lee, Morris, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil.

Nays: Brownlee, Huelskamp, Journey, Lyon, O'Connor, Wagle.

The bill passed.

**Sub HB 2698**, An act providing for the regulation and licensing of radiologic technologists; granting powers and duties of the state board of healing arts; establishing a radiologic technology council and providing for the functions thereof; declaring unlawful acts and penalties, was considered on final action.

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

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

The substitute bill passed, as amended.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

**SENATE RESOLUTION No. 1831—**

A RESOLUTION congratulating and commending Dr. Ted K. Kessinger.

WHEREAS, Dr. Ted K. Kessinger, head football coach at Bethany College since 1976, is retiring from coaching June 30. He will continue at the college working in student-athlete recruiting, fund raising and alumni liaison. In addition to his exceptional record as a coach, he has been an outstanding role model for Bethany College students living an active Christian life, serving as a lay minister in pulpits throughout the area and working with the Fellowship of Christian Athletes; and

WHEREAS, In the 28 seasons as the Bethany College head football coach, Coach Kessinger's teams have won 16 conference championships or co-championships in the Kansas Collegiate Athletic Conference. His teams have played in 13 national championship playoff games and one post-season bowl game. In coming to Bethany he inherited a team which had been in last place in the league. Under his leadership the Bethany Swedes won five consecutive conference championships — from 1977 through 1981. In fact the team has not had a losing record under Coach Kessinger. His 28-year record is 219 wins, 57 losses and 1 tie, and his teams have been ranked 20 times nationally in the National Association of Intercollegiate Athletics list of top 25 teams; and

WHEREAS, Dr. Kessinger has been named the conference coach of the year 11 times. He was inducted into the Bethany College Athletics' Hall of Honor in 1999 and was inducted into the National Association of Intercollegiate Athletics' Hall of Fame in 2003; and

WHEREAS, Dr. Kessinger was born and educated in South Dakota and played one year of professional football in Canada before starting his coaching career. As the wrestling coach at Augustana College in Rock Island, Illinois, his teams won five consecutive conference championships. He returned in 1969 to coach at his alma mater, Augustana College in Sioux Falls, South Dakota, before coming to Bethany College in 1976; and

WHEREAS, Dr. Kessinger and his wife, Nancy, have three adult children, Kent, Kristin and Erin, and five grandchildren: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Coach Kessinger upon completing 28 spectacular years as the Bethany College head football coach and for the moral values he has instilled in a myriad of Bethany College students; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Dr. Ted K. Kessinger, Head Football Coach, Bethany College, and four copies to Dr. Paul Formo, President, Bethany College, both addressed to Bethany College, 421 N. First St., Lindsborg, KS 67456.

On emergency motion of Senator Emler **SR 1831** was adopted unanimously.

Senator Emler and members of the Senate welcomed and congratulated Dr. Kessinger on his many accomplishments. Accompanying Dr. Kessinger were his wife, Nancy; children, Kent Kessinger, Kristin Byers, Erin Nally and her husband Zack; and grandchildren Conner, Ethan and Allison.

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

**SENATE RESOLUTION No. 1832—**

A RESOLUTION congratulating and commending Marian Washington upon her retirement as head women's basketball coach at the University of Kansas.

WHEREAS, In 1973, months after Title IX was signed into law, Marian Washington became head women's basketball coach at the University of Kansas; and

WHEREAS, Marian Washington is a true pioneer, overcoming the barriers that confronted other African-Americans and females in her generation to excel in the emergent field of collegiate women's basketball; and

WHEREAS, Marian Washington has achieved tremendous success in her career as Kansas University's women's basketball coach, serving for more than 30 years; and

WHEREAS, Coach Washington has accumulated numerous honors, including over 500 career victories, seven conference titles, six league tournament titles, three Kodak All-Americans, four total All-Americans, 11 National Collegiate Athletic Association Tournaments,

two Sweet 16 finishes, three conference Coach of the Year awards, a mentor for seven Women's National Basketball Association players, the first African-American to coach a United States national team against international competition, and a coach of gold-medal winning United States Olympic Team; and

WHEREAS, Coach Washington has established Kansas University as one of the most successful programs in women's basketball history; her guidance has been instrumental in building the Kansas University women's basketball program as well as women's athletics across the nation; and

WHEREAS, Coach Washington is scheduled this summer to receive the highest professional honor of her career, induction into the Women's Basketball Hall of Fame; and

WHEREAS, With qualities such as hard work, determination and compassion, Washington has paved the way for young women across the nation; her legacy will be forever solidified in Kansas and basketball history; Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Marian Washington upon her retirement as the head women's basketball coach at the University of Kansas and the legacy she leaves the University; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Dr. Robert Hemenway, Chancellor, University of Kansas; Dr. Lew Perkins, Athletic Director, University of Kansas, and Marian Washington, all addressed to 1450 Jayhawk Blvd., 230 Strong Hall, Lawrence, KS 66045.

On emergency motion of Senator Buhler **SR 1832** was adopted unanimously.

Senator Buhler and members of the Senate welcomed and congratulated Coach Washington on her many accomplishments. Accompanying Coach Washington were, Lynette Woodard, Maggie Mahood, Tiffanie Johannes, Jerry Lewis, Peg Whittmer, Larry Keating, Jim Marchinoy and Carol Foreman.

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

SENATE RESOLUTION No. 1833—

A RESOLUTION congratulating and commending the Hanston High School boys basketball team and Coach Oliver Salmans for winning the 2004 Class 1A State Basketball Championship.

WHEREAS, The Hanston High School boys basketball team won the 2004 Kansas State High School Activities Association Class 1A State Basketball Championship with a thrilling overtime victory of 50 to 44 over Frankfort High School in the state championship game at Hays on March 13; and

WHEREAS, The Hanston High School "Elks" basketball team finished the season with a record of 26 wins and 2 losses; and

WHEREAS, The members of the team were Simeon Seiler, Eric Dvorak, Cody Howe, Bret Wilkens, Gilbert Thayer, Drew Holmes, Andy Thayer, Levi Salmans, Joe Broz, Austin Rogers, Ben Wilkens, Joe Dvorak, Dwayne Doyle, Dustin Horacek, Phillip Broz, Dustin Thacker and Darren Rogers. The head coach was Oliver Salmans who was assisted by Travis Torkelson; and

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

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

*Be it resolved by the Senate of the State of Kansas:* That the Hanston High School boys basketball team and Coach Salmans be congratulated and commended for winning the 2004 Kansas State High School Activities Association Class 1A State Basketball Championship; and

*Be it further resolved:* That the Secretary of the Senate provide 20 enrolled copies of this resolution to Gary Walker, Principal, Hanston High School, 203 N. West Street, Hanston, KS 67849-0219.

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

Senator Salmans and members of the Senate welcomed and congratulated the Hanston Boys Basketball team on winning the Class 1A State championship.

#### REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2530**, as amended by House Committee, be passed.

Also, **Substitute for HB 2593**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "SENATE Substitute for Substitute for HOUSE BILL NO. 2593," as follows:

"SENATE Substitute for Substitute for HOUSE BILL NO. 2593

By Committee on Agriculture

"AN ACT concerning agriculture; relating to animal identification program; also relating to duty of care of livestock;"

and the substitute bill be passed.

Committee on **Assessment and Taxation** recommends **SB 544** be amended on page 4, in line 22, by striking the comma; by striking all in lines 23 and 24; in line 25, by striking "craft"; in line 32, before the semicolon, by inserting "sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft for use outside of the United States, and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft"; in line 43, before "sold" by inserting "or aircraft";

On page 5, in line 2, by striking "or" the first time it appears and inserting a comma; also in line 2, before "is" by inserting "or aircraft"; in line 3, by striking "or" and inserting a comma; in line 4, before "will" by inserting "or aircraft"; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **HB 2528**, as amended by House Committee of the Whole, be passed.

Also, **HB 2605** be amended on page 1, in line 19, by striking "property" and inserting "territory"; in line 20, by striking "property" and inserting "territory"; in line 21, by striking "property" and inserting "territory";

On page 2, in line 25, by striking "property" and inserting "territory"; in line 30, by striking "property" and inserting "territory"; in line 31, by striking "of directors"; in line 32, by striking "property" and inserting "territory"; in line 33, by striking "property" and inserting "territory"; following line 36, by inserting:

"(b) No resolution requesting that all territory located within the city of Auburn be detached from the library district adopted by the governing body of the city of Auburn, Kansas pursuant to subsection (a) shall take effect until 60 days after its final publication, and if within 60 days of its final publication a petition signed by a number of electors of the city equal to not less than 10% of the number of electors who voted at the last preceding regular city election shall be filed with the county election officer of the county in which such city is entirely or primarily located demanding that such resolution be submitted to a vote of the electors, such resolution shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.";

By relettering the remaining subsections accordingly;

Also on page 2, in line 42, by striking "property" and inserting "territory";

On page 3, in line 2, by striking "property" and inserting "territory"; following line 2, by inserting the following:

"New Sec. 4. K.S.A. 12-1260 through 12-1270 and sections 3 and 4, and amendments thereto, shall be known and may be cited as the Topeka and Shawnee library district act.";

By renumbering the remaining sections accordingly;

and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HB 2835**, as amended by House Committee of the Whole, be passed.

Also, **SB 41** be amended on page 1, in line 14, by striking "2001" and inserting "2003";

On page 2, in line 26, by striking "July 1, 2003" and inserting "January 1, 2006"; in line 35, by striking "2002" and inserting "2003";

In the title, in line 10, by striking "2002" and inserting "2003"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2487** be passed.

Also, **HCR 5033**, as amended by House Committee of the Whole, be adopted.

**Substitute for HB 2777** be amended by substituting a new bill to be designated as "SENATE Substitute for Substitute for HOUSE BILL NO. 2777," as follows:

"SENATE Substitute for Substitute for HOUSE BILL NO. 2777

By Committee on Judiciary

"AN ACT concerning controlled substances; relating to manufacturing; endangering a child; amending K.S.A. 21-3608, 65-4111, 65-4150, 65-4159, 65-4161, 65-4163 and 65-7006 and K.S.A. 2003 Supp. 65-4160 and repealing the existing sections.;"

and the substitute bill be passed.

**HB 2638** be amended on page 4, after line 43 by inserting the following:

"New Sec. 4. Sections 4 through 24, inclusive, and amendments thereto, shall be known and may be cited as the private contract prison act.

New Sec. 5. Definitions. As used in the private contract prison act:

(a) "Private contract prison" means a correctional facility situated in this state that is not owned by the state of Kansas or any subdivision thereof or by the federal government or any subdivision thereof.

(b) "Private owner" means any corporation, partnership, limited liability company, trust, person or other legal entity that engages in, or proposes to engage in, the construction or ownership or both of a private contract prison in this state.

(c) "Private operator" means any corporation, partnership, limited liability company, person or other legal entity that engages in, or proposes to engage in, the operation of a private contract prison in this state.

(d) "Private contractor" means a private owner or a private operator or both.

(e) "Secretary" means the secretary of corrections.

(f) "Department" means the department of corrections.

(g) "Applicant" means a private contractor making application to the department of corrections for a license.

(h) "Licensee" means a private contractor to which a valid license has been issued by the department of corrections.

(i) "Private correctional officer" means a correctional officer as defined by K.S.A. 75-5202, and amendments thereto, except that such officer is not an employee of the state of Kansas or any subdivision thereof.

(j) "Non-Kansas inmate" means any inmate in the custody of any jurisdiction other than the state of Kansas or any of its political subdivisions.

(k) "Kansas inmate" means any inmate in the custody of the secretary of corrections.

New Sec. 6. Except as authorized by K.S.A. 75-52,127 or 75-52,133, and amendments thereto, no private contractor shall authorize, construct, own or operate any private contract prison in this state for the placement or confinement of inmates unless such private contractor possesses a valid license as provided by the private contract prison act.

New Sec. 7. The secretary is hereby authorized to license, monitor and regulate one or more private contractors meeting the requirements of the private contract prison act to construct, own or operate one or more private contract prisons in this state.

New Sec. 8. The secretary shall not approve any application for a license pursuant to the private contract prison act unless the secretary has, after due diligence, made the following findings:

(a) The applicant has the qualifications, experience and management personnel necessary to design, construct, own or operate a private contract prison in a manner that satisfies the requirements of the private contract prison act;

(b) the applicant has the ability, if circumstances warrant, to expedite the siting, design and construction of a private contract prison;

(c) the applicant has the ability to comply with applicable laws, court orders and state and national correctional standards; and

(d) if Kansas inmates are being housed in the private contract prison, the private operator has the ability to provide correctional services to the state of Kansas at a cost that is no more than 90% of the department's average per capita operating cost for the previous fiscal year for comparable state correctional facilities and services.

New Sec. 9. Any license issued pursuant to the private contract prison act shall require as conditions of such license all of the following:

(a) All private correctional officers employed by the licensee must be certified, at the licensee's expense, as having met the minimum qualifications and training requirements established for correctional officers by the secretary;

(b) the design for any private contract prison constructed, owned or operated by the licensee shall meet or exceed all requirements of the association responsible for adopting national correctional standards as determined by the secretary;

(c) the design for any private contract prison, including but not limited to siting, shall meet or exceed any standard established by the secretary;

(d) the licensee shall at all times consult the secretary during the design and construction of the private contract prison;

(e) the licensee shall indemnify the state and the secretary, including their subdivisions, officials and agents, against any and all liability including, but not limited to, any civil rights claims. The secretary shall require proof of satisfactory insurance, the amount to be determined by the secretary;

(f) the licensee shall seek, obtain and maintain accreditation by the association responsible for adopting national correctional standards. In addition, the licensee shall comply with the association's amendments to the accreditation standards upon approval of such amendments by the secretary;

(g) the licensee shall agree to abide by operations standards for correctional facilities adopted by the secretary;

(h) if Kansas inmates are being housed in the private contract prison, the licensee shall be responsible for the range of dental, medical and psychological services and diet, education and work programs at least equal to those services and programs provided by the secretary at comparable state correctional facilities. The work and education programs shall be designed to reduce recidivism;

(i) the secretary shall monitor all private contract prisons and the secretary shall have unrestricted access to all private contract prisons for that purpose. The licensee shall bear the costs of monitoring the facility;

(j) if the department contracts to house Kansas inmates at the licensee's private contract prison, the licensee shall incarcerate all inmates assigned to the private contract prison by the department and as specified by the contract and may not reject inmates assigned to it by the department. The department shall have the right of first refusal to any space in the licensee's private contract prison, whether or not such space is occupied by non-Kansas inmates. The department may not exceed the maximum occupancy designated in the contract for the private contract prison;

(k) the licensee may not benefit financially from the labor of inmates except that inmates housed in any private contract prison operated by the licensee in this state may be given job assignments that assist in the operation and maintenance of the facility, including but not limited to janitorial or food service, or constitute work crews for the state or nearby communities if the inmates have the appropriate custody designation;

(l) if the licensee enters into a contract to house non-Kansas inmates, the licensee must require as a condition of that contract that each such inmate to be released from custody must be released in the sending state;

(m) whenever any non-Kansas inmate is proposed to be brought into this state for the purpose of being incarcerated at a private contract prison, all records regarding each such inmate, including but not limited to custody records, facility history records, disciplinary records, and medical and mental health records, shall be reviewed by the department prior to such inmate being transported into this state. The cost of such review shall be borne by the licensee. The department shall determine custody classification levels for each such non-Kansas inmate pursuant to the department's custody classification system. The secretary

shall have authority to refuse to allow any non-Kansas inmate to be transported to or incarcerated in any private contract prison;

(n) the licensee shall be subject to review by the legislative division of post audit; and

(o) any other provision the secretary considers necessary and appropriate for carrying out the purpose of the private contract prison act.

New Sec. 10. No license issued pursuant to the private contract prison act shall be construed as authorizing, allowing or delegating authority to the licensee to:

(a) With regard to Kansas inmates being housed at a private contract prison, reject any inmate appropriately classified by the Kansas custody classification system for the custody level or levels of the private facility;

(b) with regard to Kansas inmates who are being housed at a private contract prison, develop or adopt disciplinary rules or penalties that differ from the disciplinary rules and penalties that apply to inmates housed in correctional facilities operated by the secretary. With regard to non-Kansas inmates, the licensee may develop or adopt disciplinary rules or penalties consistent with the requirements of the sending entity provided that the secretary shall retain authority to approve or reject any such rules or penalties;

(c) make a final determination on a disciplinary action that affects the liberty of an inmate. The licensee may remove an inmate from the general prison population during an emergency, before final resolution of a disciplinary hearing in response to an inmate's request for assigned housing in protective custody or when otherwise necessary to maintain order and security of the private contract prison;

(d) make a decision that affects the sentence imposed upon or the time served by an inmate, including a decision to award, deny or forfeit earned time;

(e) make recommendations to the Kansas parole board with respect to the denial or granting of parole or release except the licensee may submit written reports to the Kansas parole board and shall respond to any written request for information by the Kansas parole board;

(f) develop and implement requirements that inmates engage in any type of work not previously authorized in the private contract prison act, except to the extent that those requirements are accepted by the department; and

(g) determine inmate eligibility for any form of release from a correctional facility including any private contract prison.

New Sec. 11. (a) No private contract prison shall house inmates until:

(1) The private operator has submitted to the secretary, and the secretary has approved, a plan for the secretary to assume temporary control and operation of the private contract prison in the event the private operator becomes unable to meet the requirements of private prison construction act;

(2) each private contractor, whether a private owner or a private operator, or both, involved in the private contract prison has submitted to the secretary, and the secretary has approved, a plan for the temporary assumption of operations and purchase of the private contract prison by the secretary in the event of bankruptcy or the financial insolvency of any such private contractor; and

(3) the private operator has submitted to the secretary, and the secretary has approved, a plan to address emergencies including, but not limited to, inmate disturbances, employee work stoppages, employee strikes, escapes, natural disaster threats, bomb threats, riots, hunger strikes, taking of hostages, fires, explosions, evacuations, hazardous material spills or other serious events. The plan shall comply with applicable national correctional standards. The plan shall identify how the state shall recover its costs for such assumptions of operation or other interventions.

(b) The secretary may from time to time require the private contractor to review, revise or update any plan required by this section. The private contractor shall comply promptly with any request by the secretary pursuant to this subsection, and failure by any private contractor to do so within a reasonable period of time shall constitute cause for suspension of such private contractor's license.

(c) Nothing in this section shall be construed to require the state to purchase or lease any private contract prison or to assume responsibility for the operation of any private contract prison or to assume costs associated with events described in this section.

New Sec. 12. The secretary may suspend or revoke a license for cause, including, but not limited to, failure to obtain or maintain facility accreditation or failure to comply with any requirement of the private contract prison act, after written notice of material deficiencies and after 60 workdays have been provided to the contractor to correct the material deficiencies.

New Sec. 13. If, as determined by the secretary, an emergency occurs involving the noncompliance with or violation of the requirements of the private contract prison act and presents a serious threat to the safety, health or security of the inmates, employees or the public, the secretary may, without prior notice, temporarily assume operation and control of the private contract prison. Nothing in this section shall be construed to require the state to assume responsibility for the operation of private contract prisons or for costs associated with events described in this section. If the state chooses, it may assume responsibility upon approval by the legislature through the enactment of legislation.

New Sec. 14. If a private owner intends to sell, convey, transfer, donate, trade, barter or otherwise alienate title to a private contract prison, the private owner shall first give notice of such intent to the secretary. The state shall have the right of first refusal to lease or purchase such private contract prison at fair market value, although the state shall not be required to do so. Except as provided in this section, a private contract prison may be transferred only to an entity that is licensed as required by the private contract prison act.

New Sec. 15. Each private operator shall require applicants for employment at a private contract prison to submit a set of fingerprints to the Kansas bureau of investigation for a criminal background check. The Kansas bureau of investigation may accept fingerprints of individuals who apply for employment at a private contract prison and who shall be subject to background checks. For the purpose of conducting background checks, to the extent provided for by federal law, the Kansas bureau of investigation may exchange with the secretary criminal history records, whether state, multi-state or federal, of individuals who apply for employment at a private contract prison.

New Sec. 16. This act shall not apply to the contracts between cities and counties and the secretary under which the city or county agrees to house the backlog of inmates as provided by K.S.A. 75-52,128 and 75-52,129, and amendments thereto, which contracts shall be governed by such.

New Sec. 17. Any private operator licensed under the private contract prison act shall collect and maintain data with respect to all Kansas and non-Kansas inmates housed by the private contractor, in a fashion compatible with Kansas department of corrections practices and procedures for inmate data collection and maintenance, as specified by the secretary.

New Sec. 18. (a) Any county that meets the requirements of this section may contract with a private contractor to develop and construct, own or operate a private contract prison in such county.

(b) No private contract prison shall be constructed, owned or operated pursuant to the private contract prison act in any county unless the county commission, by resolution, has first placed on a primary or general election ballot the question in subsection (c) and such question has been approved by a majority of qualified voters who cast ballots in such election.

(c) The form of the question described in subsection (b) shall be: "Shall construction and operation of a private contract prison, pursuant to the Private Contract Prison Act, be allowed in \_\_\_\_\_ County?"

(d) If the proposed site for the private contract prison is within one mile of the border of any county that adjoins the county in which the private contract prison would be situated, then such private contract prison shall not be constructed, owned or operated pursuant to the private contract prison act unless such adjoining county has conducted an election meeting the requirements of subsections (b) and (c).

(e) Except for land donation, no direct incentives, such as property tax abatement, industrial revenue bonds, tax increment financing or utility cost reductions, shall be offered by the county to the private contractor wishing to construct, own or operate a private contract prison in such county.

(f) At the discretion of the parties, the contract may allow for the leasing of the private contract prison by the private owner to the county or to the state.

New Sec. 19. No contract for site construction between the county and the private contractor authorized by the private contract prison act shall enter into force until reviewed and approved by the attorney general, as to form and legal sufficiency, and the secretary, as to determination of the best interests of the state of Kansas. In determining whether to approve or disapprove any such contract, the secretary shall consider whether the addition of the proposed prison space, including the proposed custody designations for the proposed private contract prison, would be beneficial to the management of the state corrections system.

New Sec. 20. A contract entered into under the private contract prison act does not accord third-party beneficiary status to any inmate or to any member of the general public.

New Sec. 21. In the event any provision of any contract authorized by the private contract prison act conflicts with any provision of any license issued pursuant to the private contract prison act, the provision of the license shall supersede the provision of the contract. In the event any provision of any contract authorized by the private contract prison act conflicts with any provision of the private contract prison act, the provision of the private contract prison act shall supersede the provision of the contract.

New Sec. 22. Nothing in the private contract prison act shall be construed as requiring the department of corrections to place Kansas inmates in any private facility constructed, owned or operated pursuant to the private contract prison act. Placement of Kansas inmates in such private facility shall be at the discretion of the secretary based on department needs and the best interest of the state and shall only be pursuant to contract between the secretary and the private operator.

New Sec. 23. Not later than December 1 of each year, beginning with the 2004 fiscal year, the secretary shall submit a report to the speaker of the house of representatives and the president of the senate concerning the status of contracts in effect and licenses issued, and with respect to completed prisons, the effectiveness of each private contract prison operated pursuant to the private contract prison act.

New Sec. 24. There is hereby created in the state treasury the corrections licensing fee fund. All moneys collected by the secretary from licensing application fees shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the corrections licensing fee fund. All the moneys collected and deposited pursuant to this subsection shall be used solely for payment of inspection costs associated with licensing. The secretary shall establish rules and regulations to set license fees, not to exceed \$150,000 per applicant.

Sec. 25. K.S.A. 2003 Supp. 75-52,129 is hereby amended to read as follows: 75-52,129. (a) The secretary of corrections is hereby authorized to negotiate and enter into contracts with Kansas cities and counties for the placement of inmates, who are classified as medium custody or any higher custody or security classification, in facilities owned and operated by the cities and counties. If the secretary of corrections proposes to place any inmates classified as medium custody or any higher custody classification for confinement in facilities other than correctional or other institutions or facilities owned and operated by the department of corrections or any other state agency, the secretary of corrections shall give first consideration to entering into contracts with Kansas cities and counties under this section before attempting to place any such inmate for confinement at any *private contract prison, as defined in section 5, and amendments thereto, or any* location outside the state of Kansas if the facilities to be provided under such contracts are substantially equal to *private contract prisons or* facilities at locations outside the state of Kansas and if arrangements can be made in a timely manner. Except as provided in subsection (b), the provisions of this section and any contract or preliminary letter of commitment entered into pursuant to this section shall not apply to any minimum custody or community custody status inmates, or any other custody or security classification lower than medium custody, or to any inmate who may be placed in a work release or prerelease program, center or facility by the secretary of corrections, who is eligible for parole or who is placed pursuant to the interstate corrections compact. Contracts entered into pursuant to this section shall not be subject to competitive bid requirements under K.S.A. 75-3739 and amendments thereto.

(b) The secretary shall not enter into any contract as provided in subsection (a) with any city or county of this state for the placement of inmates that does not provide that such city or county shall provide and maintain appropriate and recognized standards of safety, health and security.”;

And by renumbering the remaining sections accordingly;

On page 5, in line 1, after “75-5291” by inserting “and 75-52,129”;

On page 1, in the title, in line 9, by striking “community”; also in line 9, after the semicolon by inserting “relating to community corrections; enacting the private contract prison act.”; in line 10, after “75-5291” by inserting “and 75-52,129”; and the bill be passed as amended.

**HB 2742**, as amended by House Committee, be amended on page 4, in line 30, by striking “(a)(7) and (b)(7)” and inserting “(a)(8) and (b)(8)”;

On page 7, in line 36, after “government” by inserting “executive branch”;

On page 8, in line 1, by striking all after “(1)””; by striking all in lines 2 through 14; in line 15, by striking “(2)””; in line 19, by striking “(3)” and inserting “(2)”;

On page 10, in line 20, after “government” by inserting “executive branch”;

On page 11, in line 8, by striking all after “(e)””; by striking all in lines 9 through 22; in line 23, by striking “(f)””; in line 24, after “jurisdiction” by inserting “, after in camera inspection.”; in line 28, after the period by inserting “The court shall specify the terms of disclosure and impose appropriate limitations.”; by striking all in lines 29 through 34;

On page 12, by striking all in lines 21 through 23;

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

**HB 2880**, as amended by House Committee, be amended on page 2, in line 1, by striking “The budget”; by striking all in lines 2 through 4; in line 5, by striking “judicial branch.”;

On page 3, in line 24, by striking “the chief justice” and inserting “a majority of the justices”; in line 25, by striking all after the first “court”; in line 26, by striking “and”; also in line 26, by striking “supreme court” and inserting “majority”;

On page 4, by striking all in lines 1 through 25; in line 26, by striking “(c)” and inserting “(b)”;

On page 5, by striking all in lines 14 through 17; and the bill be passed as amended.

Committee on **Ways and Means** recommends **HB 2673**, **HB 2706** be passed.

Also, **HB 2675**, as amended by House Committee of the Whole, be amended on page 7, after line 36, by inserting the following:

“Sec. 9. The board of nursing is hereby authorized and directed to pay the following amount from the board of nursing fee fund as reimbursement for attorney’s fees and other related expenses incurred in application for a nursing license, to the following claimant:

Elizabeth Tiszavary  
704 South 29th  
Lincoln, NE 68510 ..... \$609.80

Sec. 10. (a) The office of attorney general is hereby authorized and directed to pay the following amount from the operating expenditures account of the state general fund for payment of a bill for production of records services, the invoice for which was submitted or processed in an untimely manner, to the following claimant:

Bank of America  
800 Market St.  
St. Louis, MO 63101 ..... \$68.20

(b) The office of attorney general is hereby authorized and directed to pay the following amount from the operating expenditures account of the state general fund, the amount of \$288.99, from the court cost fund the amount of \$145.81 for payment for copier services rendered, the invoice for which was submitted or processed in an untimely manner, to the following claimant:

Century United Companies, Inc.  
401 SW 30th  
Topeka, KS 66611 ..... \$434.80

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

**REPORT ON ENGROSSED BILLS**

**SB 537, 558** reported correctly engrossed March 23, 2004.

**REPORT ON ENROLLED BILLS**

**SB 183, SB 316, SB 379, SB 508, SB 509** reported correctly enrolled, properly signed and presented to the governor on March 23, 2004.

**COMMITTEE OF THE WHOLE**

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

On motion of Senator Corbin the following report was adopted:

Recommended **SB 556; HB 2725, HB 2781** be passed.

The Committee recommended **HB 2685** be passed

A motion by Senator Haley to amend **HB 2685** failed and the following amendment was rejected: As amended by House Committee, on page 1, in line 24, by striking "\$5.50" and inserting "\$4"; in line 27, by striking "10%" and inserting "8%"; in line 30, by striking "7%" and inserting "5%"; also in line 30, by striking "\$10" and inserting "\$8"; in line 33, by striking "6%" and inserting "4%"; in line 34, by striking "\$17.50" and inserting "\$12.50"

**SB 381; HB 2347, HB 2525; Sub HB 2558** be amended by adoption of the committee amendments, and the bills be passed as amended.

**Sub HB 2516** be amended by adoption of the committee amendments.

Senator Wagle moved to amend the bill as amended by Senate Committee, on page 6, following line 43, by inserting:

"New Sec. 10. (a) As used in this section:

(1) "Industrial wind turbine" means any device for the conversion of wind energy to electrical energy for the primary purpose of sale of such electric energy, but shall not include any such device which produces electrical energy which is primarily consumed by the owner of such device.

(2) "Flint Hills" means Butler, Chase, Greenwood, Lyon, Morris and Wabaunsee counties.

(b) On and after the effective date of this act until July 1, 2005:

(1) No county may take any action to permit or allow the change of land use restrictions with respect to any parcel within the Flint Hills such that the construction of an industrial wind turbine would be a lawful land use nor issue any building permit or other approval for the construction of any industrial wind turbine development or facility designed to support any industrial wind turbine development.

(2) Within the Flint Hills no person or entity shall construct any industrial wind turbine or any structure designed or intended primarily to support any industrial wind turbine.

(c) Any activity in violation of subsection (b)(1) or (2) shall be deemed to be a public and private nuisance which may be enjoined by any land owner within the county in which the violation takes place or by the county attorney of such county in an action brought for such relief. The right to seek such relief from a violation occurring prior to July 1, 2004, may be brought at any time within one year of the violation and abatement shall be the appropriate remedy. Any landowner who prevails in an action authorized by this section shall be entitled to recover attorney fees and costs for such action.

Sec. 11. K.S.A. 2003 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local

affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 27174th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, 2005.

(17) (A) Counties may not exempt from or effect changes in K.S.A. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, 2005.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(29) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199 or K.S.A. 2003 Supp. 17-5909, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2003 Supp. 80-121, and amendments thereto.

(32) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(33) *Counties may not exempt from or effect changes in section 10, and amendments thereto.*

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.”;

By renumbering the remaining sections accordingly;

Also on page 7, in line 1, following “Supp.” by inserting “19-101a.”; in line 4, by striking “statute book” and inserting “Kansas register”;

In the title, in line 13, following the semicolon, by inserting “imposing a moratorium on Flint Hills region wind turbine development.”; in line 14, following “Supp.” by inserting “19-101a.”

A ruling of the chair was requested as to the germaneness of the amendment to **Sub HB 2516**.

The Chair ruled the amendment to be germane.

The motion to adopt the amendment on **Sub HB 2516** failed and the amendment was rejected and **Sub HB 2516** be passed as amended.

Senator Bunten moved to amend **SB 512** on page 1, following line 32, by inserting:

“(e) “School district” means a school district having an enrollment of more than 2,500 pupils on September 2, 2003.”;

On page 6, in line 40, by striking “The” and inserting “Subject to the provisions of subsection (b), the”;

On page 8, following line 1, by inserting:

“(b) (1) Based upon recommendations by the state department of education, the director shall prepare and prescribe forms for the annual budget and a summary of the proposed budget of school districts. The state department of education shall make such recommendations after considering the best practices and standards established by the government finance officers association and the association of school business officials.

(2) (A) The school district budget form shall include a separate table outlining the aggregate amount of expenditures for salaries and wages for the following categories:

- (i) Certified and noncertified administrators;
- (ii) persons employed full-time as teachers;
- (iii) other certified employees who are not employed full-time as teachers;
- (iv) classified employees;
- (v) other positions designated by the state department of education; and
- (vi) substitutes and other temporary employees.

(B) The school district budget form shall show the number of full-time employee positions specified in paragraph (A) of this subsection and the average salaries or wages for such positions.

(C) The school district budget form shall show any other information recommended by the state department of education.

(3) The summary of the proposed budget form shall include:

- (A) An overview of the proposed budget of the school district and the budgetary process;
- (B) a summary of the changes in the proposed budget from the previous budget year;
- (C) a summary of the estimated expenditures to be made and revenues to be received in the ensuing budget year and the sources of such revenue;
- (D) the internet website address for school building report cards compiled by the state department of education; and
- (E) any other information specified by the state department of education.

(4) Nothing in this subsection (b) shall be construed as limiting the authority of school districts to develop and provide material or information in addition to that required by the state department of education.

(5) The state department of education shall provide technical advice and assistance to school districts to insure compliance with the provisions of this section.”;

Also on page 8, in line 2, by striking “(b)” and inserting “(c)”; in line 5, by striking “in section”; in line 6, by striking “3, and amendments thereto,”; also in line 6, following “districts” by inserting “subject to the provisions of the school-based budget law, and amendments thereto”

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

On roll call, the vote was: Yeas 21, Nays 17, Present and Passing 1, Absent or Not Voting 1.

Yeas: Barone, Brownlee, Buntin, Clark, Donovan, Emler, Gilstrap, Haley, Helgerson, Hensley, Huelskamp, Jackson, Journey, Kerr, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Tyson.

Nays: Allen, Barnett, Betts, Brungardt, Buhler, Corbin, Downey, Goodwin, Jordan, Lee, Oleen, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle.

Present and Passing: Taddiken.

Absent or Not Voting: Adkins.

The motion carried and the amendment was adopted.

Senator Schodorf amended **SB 512** on page 1, in line 14, by striking “, 2 and 3” and inserting “through 4”;

On page 5, following line 9, by inserting:

“New Sec. 4. School districts shall not be required to comply with the provisions of the school-based budget law unless the legislature appropriates moneys for the payment of the costs of such compliance by such districts. Such moneys shall be in addition to any state aid or moneys the state is otherwise required to provide to school districts.”;

And by renumbering sections accordingly, and **SB 512** be passed as amended.

**HB 2695** be amended by motion of Senator Donovan on page 8, after line 6, by inserting the following:

“Sec. 4. K.S.A. 65-3410 is hereby amended to read as follows: 65-3410. (a) Each city or county or combination of such cities and counties may provide for the storage, collection, transportation, processing and disposal of solid wastes *and recyclables* generated within its boundaries; and shall have the power to purchase all necessary equipment, acquire all necessary land, build any necessary buildings, incinerators, transfer stations, or other structures, lease or otherwise acquire the right to use land or equipment and to do all other things

necessary for a proper effective solid waste management system *and recycling program* including the levying of fees and charges upon persons receiving service. On or before the first day of July of each calendar year, the board of county commissioners of any county, may, by resolution establish a schedule of fees to be imposed on real property within any county solid waste *and recyclables* service area, revenue from such fees to be used for the acquisition, operation and maintenance of county waste disposal sites and/or for financing waste collection, storage, processing, reclamation, ~~and~~ disposal services *and recycling programs*, where such services are provided. In establishing the schedule of fees, the board of county commissioners shall classify the real property within the county solid waste *and recyclables* service area based upon the various uses to which the real property is put, the volume of waste occurring from the different land uses and any other factors that the board determines would reasonably relate the waste disposal *and recyclable* fee to the real property upon which it would be imposed.

The board shall set a reasonable fee for each category established and divide the real property within the county service areas according to categories and ownership. The board shall impose the appropriate fee upon each division of land and provide for the billing and collection of such fees. The fees may be established, billed, and collected on a monthly, quarterly or yearly basis. Fees collected on a yearly basis may be billed on the ad valorem tax statement. Prior to the collection of any fees levied on real property by the board under this section, the board shall notify affected property owners by causing a copy of the schedule of fees to be mailed to each property owner to whom tax statements are mailed in accordance with K.S.A. 79-2001, or any amendments thereto.

Any fees authorized pursuant to this section which remain unpaid for a period of sixty (60) or more days after the date upon which they were billed may be collected thereafter by the county as provided herein.

(1) At least once a year the board of county commissioners shall cause to be prepared a report of delinquent fees. The board shall fix a time, date, and place for hearing the report and any objections or protests thereto.

(2) The board shall cause notice of the hearing to be mailed to the property owners listed on the report not less than ten (10) days prior to the date of the hearing.

(3) At the hearing the board shall hear any objections or protests of property owners liable to be assessed for delinquent fees. The board may make such revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed.

(4) The delinquent fees set forth in the report as confirmed shall constitute assessments against the respective parcels of land and are a lien on the property for the amount of such delinquent fees. A certified copy of the confirmed report shall be filed with the county clerk for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien created attaches upon recordation, in the office of the county clerk of the county in which the property is situated, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary county ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection, and enforcement of county ad valorem property taxes shall be applicable to such assessment.

Any city collecting solid waste fees or charges may collect delinquent fees or charges for garbage and trash storage, collection and disposal in the manner provided for counties.

(b) In carrying out its responsibilities, any such city or county may adopt ordinances, resolutions, regulations and standards for the storage, collection, transportation, processing and disposal of solid wastes which shall be in conformity with the rules, regulations, standards and procedures adopted by the secretary for the storage, collection, transportation, processing and disposal of solid wastes.

(c) Cities or counties may contract with any person, city, county, other political subdivision or state agency in this or other states to carry out their responsibilities for the collection, transportation, processing and disposal of solid wastes.”;

And by renumbering the remaining sections accordingly;

Also on page 8, in line 7 by striking “and” and inserting a comma; also in line 7 after “21-3722” by inserting “and 65-3410”;

On page 1, in the title, in line 9 after "ACT" by inserting "concerning waste;"; in line 10 before "amending" by inserting "also relating to recyclables and recycling programs;"; also in line 10 by striking "and" and inserting a comma; also in line 10, after "21-3722" by inserting "and 65-3410", and **HB 2695** be passed as amended.

**HB 2760** be amended by motion of Senator Vratil as amended by House Committee, on page 2, in line 28, by striking "is" and inserting "and K.S.A. 2003 Supp. 65-441a are";

On page 1, in the title, in line 10, by striking "critical access"; in line 11, after "section" by inserting "; also repealing K.S.A. 2003 Supp. 65-441a", and **HB 2760** be passed as amended.

The Committee recommended **SB 547**, as amended by adoption of the committee amendments, and further amended by Senator Tyson in Committee of the Whole on March 22, 2004, be further amended by Senator Donovan as amended by Senate Committee of the Whole, on page 1, in line 37, by striking all after "that"; in line 38, by striking all before the period and inserting "the condemnor has met with all required state and federal permitting agencies and has a good faith belief that all permits necessary to use or develop such property will be obtained";

On page 3, in line 24, by striking all after "that"; by striking all in line 25; in line 26, by striking all before the period where it appears the first time and inserting "the condemnor has met with all required state and federal permitting agencies and has a good faith belief that all permits necessary to use or develop such property will be obtained", and **SB 547** be passed as further amended.

**HB 2597** be amended by adoption of the committee amendments, be further amended by motion of Senator Helgerson as amended by Senate Committee, on page 41, following line 7, by inserting the following:

"New Sec. 15. (a) From and after July 1, 2004, there is hereby created in the state treasury the business health partnership fund which shall be administered by the secretary of social and rehabilitation services. All moneys received by the Kansas business health policy committee or by the department of social and rehabilitation services on behalf of the Kansas business health policy committee shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the business health partnership fund. All moneys credited to the business health partnership fund shall be used for the activities and programs of the Kansas business health policy committee as authorized by this act. All expenditures from the business health partnership fund shall be in accordance with the provisions of appropriation acts pursuant to vouchers approved by the Kansas business health policy committee, or by a person designated by the committee, and the secretary of social and rehabilitation services or the secretary's designee.

(b) The Kansas business health policy committee may apply for and receive public or private donations, gifts or grants from individuals and public or private entities, including local governments, state agencies and federal agencies.

Sec. 16. From and after July 1, 2004, K.S.A. 2003 Supp. 40-4702 is hereby amended to read as follows: 40-4702. (a) The governor of the state of Kansas shall appoint a cabinet level committee which shall be known as the Kansas business health policy committee.

(b) The Kansas business health policy committee, hereinafter referred to as the health committee, shall consist of:

- (1) The secretary of the department of commerce or the secretary's designee;
- (2) the secretary of the department of social and rehabilitation services or the secretary's designee;
- (3) the commissioner of insurance or the commissioner's designee;
- (4) one member appointed by the president of the senate;
- (5) one member appointed by the speaker of the house of representatives;
- (6) one member appointed by the minority leader of the senate;
- (7) one member appointed by the minority leader of the house of representatives; and
- (8) three members at large from the private sector appointed by the governor.

The secretary of each state agency represented on this committee shall provide such staff and other resources as the health committee may require.

(c) (1) The initial meeting of the health committee shall be convened within 60 days after the effective date of this act by the governor at a time and place designated by the governor.

(2) Meetings of the health committee subsequent to its initial meeting shall be held and conducted in accordance with policies and procedures established by the health committee.

(3) Commencing at the time of the initial meeting of the health committee, the powers, authorities, duties and responsibilities conferred and imposed upon the health committee by this act shall be operative and effective.

(d) The health committee shall develop and approve a request for proposals for a qualified entity to serve as the Kansas business health partnership, hereinafter referred to as health partnership, which shall provide a mechanism to combine federal and state subsidies with contributions from small employers and eligible employees to purchase health insurance in accordance with guidelines developed by the health committee.

(e) The health committee shall evaluate responses to the request for proposals and select the qualified entity to serve as the health partnership.

(f) The health committee shall:

(1) Develop, approve and revise subsidy eligibility criteria provided that:

(A) Low wage and modest wage employees of small employers shall be eligible for subsidies if:

~~(1)~~ (i) The small employer has not previously offered health insurance coverage *within the two years next preceding the date upon which health insurance is offered*; or

~~(2)~~ (ii) the small employer has previously offered health insurance coverage and a majority of such small employer's employees are low wage or modest wage employees as defined in K.S.A. 40-4701, and amendments thereto;

(B) any small employer's eligible employee with a child who is eligible for coverage under the state children's health insurance program established by K.S.A. 38-2001 *et seq.*, and amendments thereto, or in the state medical assistance program shall be eligible automatically for a subsidy and shall be included in the determination of eligibility for the small employer and its low-and-modest wage employees; and

(C) at least 70% of the small employer's eligible employees without group health insurance coverage from another source are insured through the partnership; and

(2) determine and arrange for eligibility determination for subsidies of low wage or modest wage employees; and

(3) develop subsidy schedules based upon eligible employee wage levels and family income; *and*

*(4) be responsible for arranging for the provision of affordable health care coverage for eligible employees of small employers and evaluating and creating the opportunity to improve health care provided by plans in the small group health insurance program.*

(g) The health committee shall oversee and monitor the ongoing operation of any subsidy program and the financial accountability of all subsidy funds. If, in the judgment of the health committee, the entity selected to serve as the health partnership fails to perform as intended, the health committee may terminate its selection and designation of that entity as the health partnership and may issue a new request for proposal and select a different qualified entity to serve as the health partnership.

(h) The health committee is hereby authorized to accept funds from the federal government, or its agencies, or any other source whatsoever for research studies, investigation, planning and other purposes related to implementation of the objectives of this act. Any funds so received shall be deposited in the state treasury and shall be credited to a special revenue fund which is hereby created and shall be known as the health committee insurance fund and used in accordance with or direction of the contributing federal agencies. Expenditures from such fund may be made for any purpose in keeping with the responsibilities, functions and authority of the department. Warrants on such fund shall be drawn in the same manner as required of other state agencies upon vouchers signed by the secretary of the department of social and rehabilitation services upon receiving prior approval of the health committee.

(i) The health committee is authorized to develop policies for the administration of the subsidy program and for the use of additional federal or private funds to subsidize health insurance coverage for low-and-modest wage employees of predominantly low-wage small

employers. *The health committee shall be responsible for setting benefit levels and establishing performance measures for health plans providing health care coverage for this program that include quality, preventative health and other supplementary measures. The health committee shall limit access to the program subsidy to the projected annualized expenditure.*

(j) The health committee is hereby authorized to organize, or cause to be organized, one or more advisory committees. No member of any advisory committee established under this subsection shall have previously received or currently receive any payment or other compensation from the health partnership. The membership of each advisory committee established under this subsection shall contain at least one representative who is a small employer and one representative who is an eligible employee as defined in K.S.A. 40-4701, and amendments thereto, and one representative of the insurance industry.

(k) *The health committee shall report on an annual basis on the following subjects:*

- (1) *Quality assurance measures;*
- (2) *disease prevention activities;*
- (3) *disease management activities; and*
- (4) *other activities or programs the committee decides to include.*

Sec. 17. From and after July 1, 2004, K.S.A. 2003 Supp. 40-4704 is hereby amended to read as follows: 40-4704. The health partnership shall develop and offer two or more health benefit plans to small employers. In any health benefit plan developed under this act, any carrier may contract for coverage within the scope of this act notwithstanding any mandated coverages otherwise required by state law. Except for preventative and health screening services, the provisions of K.S.A. 40-2,100 to 40-2,105, inclusive, 40-2114 and subsection (i) of 40-2209 and 40-2229 and 40-2230, and 40-2,163, 40-2,164, 40-2,165 and 40-2,166, and amendments thereto, shall not be mandatory with respect to any health benefit plan developed under this act. In performing these duties, the health partnership shall:

(a) Develop and offer two or more lower-cost benefit plans such that:

(1) Each health benefit plan is consistent with any criteria established by the health partnership;

(2) each health benefit plan shall be offered by all participating carriers except that no participating carrier shall be required to offer any health benefit plan, or portion thereof, which such participating carrier is not licensed or authorized to offer in this state;

(3) no participating carrier shall offer any health benefit plan developed under this act to any small employer unless such small employer is covered through the health partnership.

(b) Develop and make available one or more supplemental health benefit plans or one or more other benefit options so that the total package of health benefits available to all children eligible for the state children's health insurance program established pursuant to K.S.A. 68-2001 *et seq.*, and amendments thereto, meets, at a minimum, standards established by the federal health insurance program.

(c) Offer coverage to any qualifying small employer.

(d) Offer eligible employees of participating small employers a choice of participating carriers where feasible.

(e) (1) Include centralized and consolidated enrollment, billing and customer service functions;

(2) use one standard enrollment form for all participating carriers; and

(3) submit one consolidated bill to the small employer.

(f) Issue or cause to be issued a request for proposals and contract with a qualified vendor for any administrative or other service not performed by the health committee or provided to the health committee under subsection (b) of K.S.A. 40-4702, and amendments thereto.

(g) Issue a request for proposals and selectively contract with carriers.

(h) Establish conditions of participation for small employers that conform with K.S.A. 40-2209b *et seq.*, and amendments thereto, and the health insurance portability and accountability act of 1996 (Public Law 104-191).

(i) Enroll small employers and their eligible employees and dependents in health benefit plans developed under this act.

(j) Bill and collect premiums from participating small employers including any share of the premium paid by such small employer's enrolled employees.

- (k) Remit funds collected under subsection (h) to the appropriate contracted carriers.
- (l) Provide that each low-or-modest wage employee shall be permitted to enroll in such employee's choice of participating carrier where available.
- (m) Develop premium rating policies for small employers.
  - (1) In consultation with the health committee, the health partnership shall ensure, to the maximum extent possible, that the combined effect of the premium rating and subsidy policies is that subsidized eligible employees and the dependents of such subsidized eligible employees can afford coverage.
  - (2) Any rating policy developed under this subsection may vary with respect to subsidy status of eligible employees and the dependents of such eligible employees.
- (n) Be authorized to contract for additional group vision, dental and life insurance plans, and other limited insurance products.
- (o) Take whatever action is necessary to assure that any eligible employee or dependent of such eligible employee who receives health benefit coverage through the health partnership and who is eligible for the state medical assistance program shall remain eligible to participate in the state health insurance premium payment program.
- (p) Coordinate with the department of social and rehabilitation services to assure that any funds available for the coverage of infants and pregnant women under the state medical assistance program are also available for the benefit of eligible infants and pregnant women who receive health benefit coverage through the health partnership as an eligible employee or dependent of such eligible employee.
- (q) *Work with the department of social and rehabilitation services office of medical policy and medicaid to develop a single employee application that may be used by the health plan and the medicaid and state children's health insurance program to determine eligibility.*
- (r) *Screen employee applications for subsidy eligibility and dependent children for medicaid and state children's health insurance program premium support eligibility.*

Sec. 18. From and after July 1, 2004, K.S.A. 2003 Supp. 40-4706 is hereby amended to read as follows: 40-4706. The department of social and rehabilitation services shall investigate and pursue all possible policy options to bring into this partnership title XIX and the title XXI eligible families of any eligible employees employed by a small employer. Further, the department of social and rehabilitation services shall develop and seek federal approval of any appropriate variance or state plan amendment for the state children's health insurance program established by K.S.A. 38-2001 *et seq.*, and amendments thereto, and the state medical assistance program required to accomplish the purposes of this act. *The department of social and rehabilitation services office of medical policy and medicaid shall work with the health partnership to develop a single employee application that may be used by the health plan and the medicaid and state children's health insurance program to determine eligibility.*

By renumbering the remaining sections accordingly;

Also on page 41, in line 12, by striking "and 40-2404" and inserting ", 40-2404, 40-4702, 40-4704 and 40-4706";

In the title, in line 17, preceding "amending" by inserting "relating to health benefit plans by the Kansas business health partnership;"; in line 20, by striking "and 40-2404" and inserting ", 40-2404, 40-4702, 40-4704 and 40-4706", and **HB 2597** be passed as further amended.

**HB 2795** be amended by adoption of the committee amendments, be further amended by motion of Senator Umbarger as amended by Senate Committee, on page 15, in line 43, by striking all after the stricken material;

On page 16, by striking all in line 1; in line 2, by striking "711" and inserting "a postsecondary educational institution as defined by K.S.A. 74-3201b"

Senator Oleen further amended the bill as amended by Senate Committee, on page 37, after line 9, by inserting:

"Sec. 47. K.S.A. 72-4432 is hereby amended to read as follows: 72-4432. The distribution of postsecondary aid shall be made from appropriations therefor each school year, commencing ~~November 1, 1974~~ August 1, 2004, as follows:

- (a) The amount of postsecondary aid for each school as computed by the state board shall be distributed in payments as follows: On ~~November 1~~ August 1 an amount equal to 50%

of the estimated entitlement for the school year, ~~on March 1 an amount equal to 30% of such entitlement and on May 1 and on January 1~~ the balance of such entitlement with adjustments for overpayment or underpayment of the prior payments in accordance with the most recent, available information. The state board shall certify to the director of accounts and reports the amount due as postsecondary aid to each school five days before each payment date. If the amount appropriated shall be insufficient to pay in full the amount each school is entitled to receive as postsecondary aid as computed by the state board, then the entire amount remaining shall be prorated among all schools in proportion to the amount each school is entitled to receive. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school entitled to payment of postsecondary aid, upon vouchers approved by the state board. Upon receipt of such warrant, each such treasurer shall deposit the same in the operating fund of the school.

In the event any school is paid more than it is entitled to receive under any distribution made under this act, the state board shall notify the school of the amount of such overpayment, and such school shall remit the same to the state board. The state board shall remit any moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. If any such school fails so to remit, the state board shall deduct the excess amounts so paid from future payments becoming due to such school. In the event any school is paid less than the amount to which it is entitled under any distribution made under this act, the state board shall pay the additional amount due at any time within the school year in which the underpayment was made or within 60 days after the end of such school year.”;

And by renumbering sections accordingly;

Also on page 37, in line 10, after “72-1111,” by inserting “72-4432,”;

In the title, in line 17, after “72-1111” by inserting “, 72-4432”

Senator Allen further amended the bill as amended by Senate Committee, on page 37, following line 9, by inserting:

“New Sec. 47. (a) On and after July 1, 2006:

(1) No postsecondary educational institution shall print or encode a person’s social security number on or into the person’s identification card.

(2) Any distinguishing identifier assigned to the person’s identification card shall be a combination of numbers or letters or both, which is unique to such person.

(3) A person’s distinguishing identifier shall not, in any way, be based on or depend on the person’s social security number.

(b) As used in this section:

(1) “Person” means an employee of or a student enrolled at a postsecondary educational institution.

(2) “Postsecondary educational institution” means and includes area vocational schools, area vocational-technical schools, community colleges, the municipal university, state educational institutions, technical colleges and private institutions of postsecondary education.”;

And by renumbering sections accordingly

Senator Umbarger further amended the bill as amended by Senate Committee, on page 37, following line 9 by inserting the following:

“Section 47. K.S.A. 2003 Supp. 72-4470a is hereby amended to read as follows: 72-4470a.

(a) On or before July 1, 2005, all technical college boards shall develop and present to the state board of regents a plan to replace the governing body described in K.S.A. 72-4470, and amendments thereto, with a new governing board, which shall be separate and independent of any board of education of any school district, to operate, control and manage the technical college. The plan shall include, but not be limited to, provisions relating to:

(1) The composition of the independent governing board;

(2) the territory of the technical college. If the territory of the technical college includes more than one county, the plan shall designate a home county;

(3) the method of election or appointment and the terms of service of the members of the independent governing board;

(4) the date upon which the independent governing board shall assume management and control of the technical college;

(5) the manner, terms upon which and extent to which the facilities, will be transferred to the independent governing board and the division of other assets and indebtedness and other liabilities; and

(6) the manner and terms upon which faculty, employees and students will be transferred to the independent governing board. Subject to the provisions of K.S.A. 2003 Supp. 72-4478, and amendments thereto, such provisions shall specify terms of employment and address other personnel matters.

(b) (1) Upon approval of the plan by the state board of regents and the governing body of the technical college which submitted the plan, and on the date determined in the approved plan, the independent governing board established under subsection (a) of this section shall operate subject to the rules, regulations and supervision of the state board of regents in the same manner as other technical colleges, technical schools and area vocational technical schools.

(2) After June 30, 2007, if the governing body of the technical college and the state board of regents have not approved a plan submitted pursuant to subsection (a), the state board of regents shall have the power to approve the plan and upon such approval and on the date determined in the approved plan, the independent governing board established pursuant to subsection (a) shall operate subject to the rules, regulations and supervision of the state board of regents in the same manner as other technical colleges, technical schools and area vocational technical schools.

(c) In addition to such other powers expressly granted by law and subject to the provisions of subsection (b), the governing board shall have the power to:

(1) Determine the vocational, technology and general education courses of instruction that will comprise the associate of applied science degree programs of the college;

(2) establish the requirements for satisfactory completion of the associate of applied science degree programs of the college;

(3) confer the associate of applied science degree upon students who successfully complete an associate of applied science degree program of the college and to award a certificate or diploma to students who successfully complete a vocational education program of the college; ~~and~~

(4) appoint teaching staff and ~~to~~ fix and determine teacher qualifications, duties and compensation. No teacher appointed to teach courses comprising the associate of applied science degree programs of the college shall be required to meet certification requirements greater than those required in the state educational institutions;

(5) *have custody of, and be responsible for, the property of the college and be responsible for the operation, management and control of the college;*

(6) *select a chairperson and such other officers as it deems desirable, from its membership;*

(7) *sue and be sued;*

(8) *appoint and fix the compensation and term of office of a president or chief administrative officer of the college;*

(9) *fix and determine, within state adopted standards, all other employees' qualifications, duties, compensation and all other items and conditions of employment;*

(10) *enter into contracts;*

(11) *accept any gifts, grants or donations;*

(12) *acquire and dispose of real or personal property;*

(13) *enter into lease agreements as lessor of any property owned or controlled by the college;*

(14) *adopt any rules and regulations, not inconsistent with any law or any rules and regulations of the state board of regents, which are necessary for the administration and operation of the college or for the conduct of business of the governing board;*

(15) *contract with one or more agencies, either public or private, whether located within or outside the territory of the college or whether located within or outside the state of Kansas for the conduct by any such agency of academic or vocational education for students of the college and to provide for the payment to any such agency for the contracted educational services from any funds or moneys of the college, including funds or moneys received from student tuition and fees;*

(16) *appoint as its resident agent for the purpose of service of process, either the president of the technical college or the chairperson of the governing board, or both;*

(17) *take any other action, not inconsistent with any law or any rules and regulations of the state board of regents, which is necessary or incidental to the establishment, operation and maintenance of the college.*

(18) *issue bonds for capital improvement projects, enter into bond covenants and take such ancillary action as the governing board approves, relating thereto except that such bonds shall not be secured by a pledge of any property tax revenues of the technical college; and*

(19) *enter into agreements with counties relating to funding for capital improvement projects at technical colleges.”;*

And by renumbering the remaining sections accordingly;

Also on page 37, in line 15, after “71-1705,” by inserting “72-4470a,”

On page 1, in the title, in line 21, after “71-1705,” by inserting “72-4470a,”

The Committee recommended **HB 2795** be passed as further amended.

The following amendment offered by Senator Lyon to **HB 2795** was rejected: As amended by Senate Committee, on page 1, in line 31 by striking all after “of”; in line 32 by striking all before “shall” and inserting “16 years”; in line 39 by striking all after the period; by striking all in lines 40 through 42;

On page 2, in line 1 by striking all after “if”; by striking all in lines 2 through 11; in line 12 by striking all before “the”; in line 15, by striking “clause (3)” and inserting “this subsection”;

On page 4, in line 10, by striking “(3)”

On motion of Senator Oleen the Senate adjourned until 10:00 a.m., Wednesday, March 24, 2004.

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

PAT SAVILLE, *Secretary of the Senate.*

