

Journal of the House

SEVENTEENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, February 1, 2006, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 123 members present.
Rep. Loyd was excused on legislative business.
Rep. Faust-Goudeau was excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Ted Inman, pastor, Highland Park United Methodist Church, Topeka:

O Lord our Lord, how wonderful and awesome are you. You have created and are creating the universe and beyond. Yet, you draw near to us. You share the wonders of earth and science, sound and sight, rhythm and stillness for our enjoyment and the accomplishment of a caring and humane society. The newness of each day fills us with hope and promise. Remind us that remembering yesterday's errors we need not fail today.

Gathered together in this historic and sacred space, we are connected with our history as Kansans, pioneers, and indigenous sons and daughters. We have not treated each other with gentleness always, yet out of harshness — strength, insight, and wisdom has come forth. For those graces and for the times of peace, we give you thanks.

I stand in awe of the women and men gathered here challenged to govern and discern what is equitable, truthful and just for this state and her people. Imbue these legislators with integrity and wisdom for the peoples' sake. Wrestling with issues complex beyond the common mind, let these precious minds refuse to sell out to expedient, simple or selfish solutions. So order the rising of the important that it may be clearly visible in the dimmest light.

While these law makers are away from their hearths and kin, protect them, carry them and sustain them. May our partnership in legislation be a singular striving for the common good. These mercies we pray in the name of our Lord and Savior, Jesus Christ. Amen.

The Pledge of Allegiance was led by Rep. Brunk.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Vickrey, **HR 6009**, by Rep. Vickrey, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 6009—

A RESOLUTION congratulating and commending the Louisburg High School marching band.

WHEREAS, The Louisburg High School Wildcats marching band has been chosen as one of a select few high school bands to march in the 2006 National Independence Day Parade on July 4 in Washington, D. C. The band will be at our nation's capitol from July 3 through 6. The band received this honor from a national selection committee which con-

sidered video and audio auditions, recommendations of state music officials, past achievements and current competition ratings; and

WHEREAS, The band is composed of 119 students in grades nine through twelve. The band represents the community at local, regional and national events. In addition to appearing at school sports events, local parades and concerts, the band has appeared at venues across the state. The marching Wildcats have performed on tour in St. Louis and Chicago, at the 2002 Cotton Bowl in Dallas and at Kansas City Royals baseball and Kansas City Comets soccer games. At their 2002 Cotton Bowl appearance the Wildcats won first-in-class in concert competition, was awarded first division ratings at the 2003 and 2005 Central States Marching Festival in Manhattan and earned first division ratings in 2004 and 2005 at the Kansas State High School Activities Music Festival; and

WHEREAS, The National Independence Day Parade stretches from 7th to 17th Streets on Constitution Avenue and will be a reflection of many American patriotic themes, historical and present. A street audience of 450,000 spectators is expected plus extensive television coverage. The National Park Service and National Independence Day Parade organization cosponsor this event. While in the nation's capitol the band members will enjoy sightseeing and cultural events, and after the parade will join the audience for a performance by the National Symphony orchestra and accompanying fireworks display; and

WHEREAS, The Louisburg Wildcats marching band is directed by John Cisetti, who has led the band for 27 years, and is assisted by Dean Davison: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate and commend the Louisburg High School marching Wildcats on their selection to participate in the 2006 National Independence Day Parade, send best wishes for a safe and memorable trip, and hope that all members thoroughly enjoy this once-in-a-lifetime opportunity to visit the U.S. capitol under these special circumstances; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide five enrolled copies of this resolution to John Cisetti, Louisburg High School, 202 Aquatic Drive, Louisburg, KS 66053-0399.

Rep. Vickrey introduced Joe Cisetti, director of the Louisburg High School band. He was accompanied to the House by others from Louisburg High School and members of the band.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Gordon, **HR 6007**, A resolution congratulating and commending the Mission Township fire department, was adopted.

Rep. Gordon introduced Chief Anthony Buckland and other members of the Mission Township water rescue team. Rep. Burgess presented certificates to them and Chief Buckland addressed a few remarks to the members of the House.

CONSENT CALENDAR

Objection was made to **HB 2581**, **HB 2691** appearing on the Consent Calendar; the bills were placed on the calendar under the heading of General Orders.

No objection was made to **HB 2560** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2692** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2692, An act concerning insurance; pertaining to risk-based capital requirements; amending K.S.A. 2005 Supp. 40-2c01 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M.

Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.

Present but not voting: Landwehr.

Absent or not voting: Faust-Goudeau, Loyd.

The bill passed.

HB 2604, An act relating to members of the midwestern higher education commission; amending K.S.A. 72-60b02 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 82; Nays 40; Present but not voting: 1; Absent or not voting: 2.

Yeas: Aurand, Ballard, Bethell, Burgess, Burroughs, Carlin, Colloton, Cox, Craft, Crow, Davis, Decker, Dillmore, Feuerborn, Flaharty, Freeborn, Garcia, George, Gordon, Grange, Grant, Hawk, Henderson, Henry, Hill, Holland, C. Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, D. Johnson, E. Johnson, Kelsey, Kilpatrick, Kirk, Knox, Krehbiel, Light, Loganbill, Long, Lukert, Mah, Mays, McCreary, McKinney, M. Miller, Judy Morrison, Myers, O'Malley, O'Neal, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Proehl, Roth, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Shultz, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Ward, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: Beamer, Brown, Brunk, Carlson, Carter, Dahl, DeCastro, Edmonds, Faber, Flora, Gatewood, Goico, Hayzlett, M. Holmes, Huebert, Huy, Kelley, Kiegerl, Kinzer, Kuether, Landwehr, Lane, Mast, Masterson, McLeland, Menghini, Merrick, F. Miller, Jim Morrison, Neufeld, Oharah, Olson, Powell, Powers, Schwab, Schwartz, Siegfried, Vickrey, Watkins, Weber.

Present but not voting: Sloan.

Absent or not voting: Faust-Goudeau, Loyd.

The bill passed, as amended.

HB 2628, An act relating to motor vehicles; concerning the license plates; amending K.S.A. 2005 Supp. 8-132 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Faust-Goudeau, Loyd.

The bill passed.

HB 2629, An act regulating traffic; concerning the size limitations of certain vehicles; amending K.S.A. 8-1904 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Faust-Goudeau, Loyd.

The bill passed.

HB 2630. An act regulating traffic; concerning the weight limitations of certain vehicles; amending K.S.A. 8-1909a and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 2; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Feuerborn, Flaharty, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: Flora, Ward.

Present but not voting: None.

Absent or not voting: Faust-Goudeau, Loyd.

The bill passed.

HB 2631. An act relating to motor vehicles; concerning firefighter license plates; amending K.S.A. 2005 Supp. 8-1,155 and repealing the existing section, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Faust-Goudeau, Loyd.

The bill passed.

HB 2662, An act relating to banks and trust companies; concerning the regulation thereof; amending K.S.A. 9-805, 9-1118, 9-1703, 9-1704, 9-1706 and 9-1707 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 5; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Beamer, Bethell, Brunk, Burgess, Burroughs, Carlin, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: Brown, Carlson, Landwehr, Powers, Watkins.

Present but not voting: None.

Absent or not voting: Faust-Goudeau, Loyd.

The bill passed.

HB 2663, An act amending the Kansas uniform securities act; amending K.S.A. 2005 Supp. 17-12a102, 17-12a202, 17-12a305, 17-12a405, 17-12a406 and 17-12a412 and repealing the existing sections, was considered on final action.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Edmonds, Faber, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, George, Goico, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.

Present but not voting: Landwehr.

Absent or not voting: Faust-Goudeau, Loyd.

The bill passed.

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were thereupon introduced and read by title:

HB 2787, An act concerning judicial districts; relating to location of district judges; amending K.S.A. 4-214 and repealing the existing section, by Representatives Grange, E. Johnson, Masterson and F. Miller.

HB 2788, An act concerning real estate brokers and salespersons; relating to expiration, suspension or revocation of licenses and civil fines; amending K.S.A. 58-3050 and repealing the existing section, by Committee on Commerce and Labor.

HB 2789, An act concerning subrogation rights under health insurance policies, by Representatives Kinzer and Yoder.

HB 2790, An act concerning criminal procedure; relating to inquisitions; amending K.S.A. 2005 Supp. 22-3101 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2791, An act concerning criminal procedure; relating to search warrants; amending K.S.A. 22-2503 and 22-2506 and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2792, An act relating to abortions; concerning minors; amending K.S.A. 65-6704 and 65-6705 and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2793, An act concerning sales taxation; relating to countywide retailers' sales tax; Reno county; amending K.S.A. 2005 Supp. 12-187 and 12-189 and repealing the existing sections, by Committee on Taxation.

HB 2794, An act concerning sales taxation; relating to city retailers' sales tax; class D cities; amending K.S.A. 2005 Supp. 12-188 and repealing the existing section, by Committee on Taxation.

HB 2795, An act concerning animals; relating to the pet animal act; hunting dogs; amending K.S.A. 47-1701 and repealing the existing section, by Committee on Appropriations.

HB 2796, An act relating to a Kansas horticulture industries survey; making and concerning appropriations for the Kansas department of agriculture for the fiscal years ending June 30, 2006, and June 30, 2007, by Committee on Appropriations.

HB 2797, An act concerning the attorney general; establishing a statewide workers compensation fraud and abuse telephone hotline; creating the position of workers compensation fraud and abuse investigator, by Committee on Appropriations.

HB 2798, An act concerning civil procedure; relating to immunity from liability for owners of anhydrous ammonia; amending K.S.A. 60-4601 and repealing the existing section, by Committee on Judiciary.

HB 2799, An act concerning adult care homes; relating to home plus beds; amending K.S.A. 2005 Supp. 39-923 and repealing the existing section, by Committee on Appropriations.

HB 2800, An act concerning abortion clinics; providing for regulation, licensing and standards for the operation thereof; providing penalties for violations and authorizing injunctive actions, by Committee on Health and Human Services.

HB 2801, An act relating to breastfeeding mothers; concerning right to breastfeed; jury duty while breastfeeding; amending K.S.A. 43-158 and repealing the existing section, by Committee on Health and Human Services.

HB 2802, An act relating to public health; concerning access to restrooms; penalty, by Committee on Health and Human Services.

HB 2803, An act concerning public health; relating to emergency contraception; providing for education and dissemination of information relating thereto, by Committee on Health and Human Services.

HB 2804, An act relating to motor fuels; requiring the payment in advance, by Committee on Transportation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Agriculture: **HB2782, HB 2783.**

Appropriations: **HB 2778, HB 2786.**

Commerce and Labor: **HB 2772, HB 2773, HB 2784.**

Federal and State Affairs: **HB 2774, HB 2776.**

Health and Human Services: **HB 2785.**

Higher Education: **HB 2775.**

Insurance: **HB 2771.**

Judiciary: **HB 2769, HB 2770, HB 2777, HB 2779.**

Transportation: **HB 2780, HB 2781.**

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

Speaker Mays announced the referral of **SB 334** to Committee on Judiciary.

CHANGE OF REFERENCE

Speaker Mays announced the withdrawal of **HB 2194** from Committee on Appropriations and referral to Committee on Economic Development.

Also, the withdrawal of **HB 2754** from Committee on Judiciary and referral to Committee on Federal and State Affairs.

Also, having been referred separately to Committee on Taxation and Committee on Interstate Cooperation, the withdrawal of **HB 2751** from Interstate Cooperation and referral separately to Committee on Taxation and Committee on Transportation.

Also, the withdrawal of **HB 2746** from Committee on Transportation and referral to Select Committee on Veterans Affairs.

Also, the withdrawal of **HB 2565** from Committee on Appropriations and referral to Select Committee on Veterans Affairs.

Also, the withdrawal of **HB 2458** from Committee on Health and Human Services and referral to Committee on Appropriations.

Also, the withdrawal of **HB 2569** from Committee on Education and referral to Select Committee on School Finance.

MESSAGE FROM THE SENATE

The President announced the appointment of Senator Gilstrap as a member of the conference committee on **SB 164** to replace Senator Betts.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, in accordance with House Rule 2306, the following bills and concurrent resolutions were withdrawn from the Calendar under that order of business, General Orders, and were re-referred to committees as indicated:

Agriculture: **HCR 5016**

Appropriations: **Sub. HB 2245; Sub. SB 84; Sub. SB 85; H. Sub. for SB 288.**

Health and Human Services: **HCR 5011.**

Taxation: **HB 2131.**

On motion of Rep. Aurand, the House resolved into Committee of the Whole, with Rep. Faber in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that **HB 2575** be passed.

HR 6005 be adopted.

Committee report to **HB 2580** be adopted; and the bill be passed as amended.

On motion of Rep. Holland to amend **HB 2553**, Rep. Carter requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane, and the bill be passed.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce and Labor** recommends **SB 269** be amended on page 1, in line 15, by striking "2004 Supp."; in line 33, by striking all after "that"; in line 34, by striking all before "has";

On page 3, by striking all in lines 11 through 43;

By striking all of pages 4 through 7;

On page 8, by striking all in lines 1 through 34 and inserting in lieu thereof the following: "Sec. 2. K.S.A. 58-3062 is hereby amended to read as follows: 58-3062. (a) No licensee, whether acting as an agent, transaction broker or a principal, shall:

(1) Intentionally use advertising that is misleading or inaccurate in any material particular or that in any way misrepresents any property, terms, values, policies or services of the business conducted, or uses the trade name, collective membership mark, service mark or

logo of any organization owning such name, mark or logo without being authorized to do so.

(2) Fail to account for and remit any money which comes into the licensee's possession and which belongs to others.

(3) Misappropriate moneys required to be deposited in a trust account pursuant to K.S.A. 58-3061, and amendments thereto, convert such moneys to the licensee's personal use or commingle the money or other property of the licensee's principals with the licensee's own money or property, except that nothing herein shall prohibit a broker from having funds in an amount not to exceed \$100 in the broker's trust account to pay expenses for the use and maintenance of such account.

(4) Accept, give or charge any rebate or undisclosed commission.

(5) Pay a referral fee to a person who is properly licensed as a broker or salesperson in Kansas or another jurisdiction or who holds a corporate real estate license in another jurisdiction if the licensee knows that the payment of the referral fee will result in the payment of a rebate by the Kansas or out-of-state licensee.

(6) Represent or attempt to represent a broker without the broker's express knowledge and consent.

(7) Guarantee or authorize any person to guarantee future profits that may result from the resale of real property.

(8) Place a sign on any property offering it for sale or lease without the written consent of the owner or the owner's authorized agent.

(9) Offer real estate for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on terms other than those authorized by the owner or the owner's authorized agent.

(10) Induce any party to break any contract of sale or lease.

(11) Pay a commission or compensation to any person, not licensed under this act, for performing any activity for which a license is required under this act.

(12) Fail to see that financial obligations and commitments between the parties to an agreement to sell, exchange or lease real estate are in writing, expressing the exact agreement of the parties or to provide, within a reasonable time, copies thereof to all parties involved.

(13) Procure a signature to a purchase contract which has no definite purchase price, method of payment, description of property or method of determining the closing date.

(14) Engage in fraud or make any substantial misrepresentation.

(15) Represent to any lender, guaranteeing agency or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon.

(16) Fail to make known to any purchaser or lessee any interest the licensee has in the real estate the licensee is selling or leasing or to make known to any seller or lessor any interest the licensee will have in the real estate the licensee is purchasing or leasing.

(17) Fail to inform both the buyer, at the time an offer is made, and the seller, at the time an offer is presented, that certain closing costs must be paid and the approximate amount of such costs.

(18) Fail without just cause to surrender any document or instrument to the rightful owner.

(19) Accept anything other than cash as earnest money unless that fact is communicated to the owner prior to the owner's acceptance of the offer to purchase, and such fact is shown in the purchase agreement.

(20) Fail to deposit any check or cash received as an earnest money deposit or as a deposit on the purchase of a lot within five business days after the purchase agreement or lot reservation agreement is signed by all parties, unless otherwise specifically provided by written agreement of all parties to the purchase agreement or lot reservation agreement, in which case the licensee shall deposit the check or cash received on the date provided by such written agreement.

(21) Fail in response to a request by the commission or the director to produce any document, book or record in the licensee's possession or under the licensee's control that concerns, directly or indirectly, any real estate transaction or the licensee's real estate business.

(22) Refuse to appear or testify under oath at any hearing held by the commission.

(23) Demonstrate incompetency to act as a broker, associate broker or salesperson.

(24) Except as provided by K.S.A. 40-2404, and amendments thereto, knowingly receive or accept, directly or indirectly, any rebate, reduction or abatement of any charge, or any special favor or advantage or any monetary consideration or inducement, involving the issuance of a title insurance policy or contract concerning which the licensee is directly or indirectly connected, from a title insurance company or title insurance agent, or any officer, employee, attorney, agent or solicitor thereof.

(25) Engage in the purchase of one-, two-, three- or four-family dwellings, including condominiums and cooperatives, or the acquisition of any right, title or interest therein, including any equity or redemption interests, if:

(A) (i) At the time of such purchase, the dwellings are subject to a right of redemption pursuant to foreclosure of a mortgage on such dwellings; (ii) the licensee fails to give written notice of the purchase, within 20 days thereafter, to the mortgage holder or judgment creditor who held such mortgage; and (iii) the licensee, unless otherwise required by law or court order, fails to apply any rent proceeds from the dwellings to the judgment lien arising from the foreclosure of such mortgage, as payments become due under the loan, regardless of whether the licensee is obligated to do so;

(B) (i) the dwellings are subject to a loan which is secured by a mortgage and which is in default at the time of such purchase or in default within one year after such purchase; (ii) the licensee fails to give written notice of the purchase, within 20 days thereafter, to the mortgage holder; and (iii) the licensee, unless otherwise required by law or court order, fails to apply any rent proceeds from the dwellings to the mortgage as the payments come due, regardless of whether the licensee is obligated on the loan; or

(C) the licensee fails to notify, at the time of rental, any person renting any such dwelling of the extent and nature of the licensee's interest in such dwelling and the probable time until possession will be taken by the mortgage holder or judgment creditor.

(26) Commit forgery or, unless authorized to do so by a duly executed power of attorney, sign or initial any contractual agreement on behalf of another person in a real estate transaction.

(27) Enter into contracts with persons not licensed by the commission to perform services requiring a license under K.S.A. 58-3034 *et seq.*, and amendments thereto, except as provided by K.S.A. 58-3077, and amendments thereto.

(b) No salesperson or associate broker shall:

(1) Except as provided in paragraph (A) or (B), accept a commission or other valuable consideration from anyone other than the broker by whom the licensee is employed or with whom the licensee is associated as an independent contractor.

(A) A salesperson or associate broker may accept a commission or other valuable consideration from a licensee who employs the salesperson or associate broker as a personal assistant provided that: (i) the licensee and the salesperson or associate broker who is employed as a personal assistant are licensed under the supervision of the same broker, and (ii) the supervising broker agrees in writing that the personal assistant may be paid by the licensee.

(B) If a salesperson or associate broker has (i) organized as a professional corporation pursuant to K.S.A. 17-2706 *et seq.*, and amendments thereto, (ii) incorporated under the Kansas general corporation code contained in K.S.A. 17-6001 *et seq.*, and amendments thereto, (iii) organized under the Kansas limited liability company act contained in K.S.A. 2005 Supp. 17-7662 *et seq.*, and amendments thereto, or (iv) has organized as a limited liability partnership as defined in K.S.A. 56a-101, and amendments thereto, the commission or other valuable consideration may be paid by the licensee's broker to such professional corporation, corporation, limited liability company or limited liability partnership. This provision shall not alter any other provisions of this act.

(2) Fail to place, as soon after receipt as practicable, any deposit money or other funds entrusted to the salesperson or associate broker in the custody of the broker whom the salesperson or associate broker represents.

(3) (A) Except as provided by paragraph (B), be employed by or associated with a licensee at any one time other than the supervising broker who employs such salesperson or associate

broker or with who the salesperson or associate broker is associated as an independent contractor.

(B) An associate broker may be employed by or associated with more than one supervising broker at any one time if each supervising broker who employs or associates with the associate broker consents to such multiple employment or association. Such consent shall be on a form provided by the commission and shall not be effective until a signed copy of the completed form has been filed with the commission.

(4) Except as provided by subsection (b), pay a commission or compensation to any person for performing any activity for which a license is required under this act.

(5) (A) Fail to disclose to such salesperson's or associate broker's supervising broker or branch broker that such salesperson or associate broker is performing any activity for which a license is required under K.S.A. 58-3036, and amendments thereto; *or* (B) *perform any activity for which a license is required under K.S.A. 58-3036, and amendments thereto*, outside the supervision of the supervising broker or branch broker. The provisions of this subsection shall not apply to any activity or person exempted from the real estate brokers' and salespersons' license act pursuant to K.S.A. 58-3037, and amendments thereto.

(c) No broker shall:

(1) Pay a commission or compensation to any person for performing the services of an associate broker or salesperson unless such person is licensed under this act and employed by or associated with the broker.

(2) Fail to deliver to the seller in every real estate transaction, at the time the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by the broker for the seller, or fail to deliver to the buyer a complete statement showing all money received in the transaction from such buyer and how and for what the same was disbursed, or fail to retain true copies of such statements in the broker's files, except that the furnishing of such statements to the seller and buyer by an escrow agent shall relieve the broker's responsibility to the seller and the buyer.

(3) Fail to properly supervise the activities of an associated or employed salesperson or associate broker.

(4) Lend the broker's license to a salesperson, or permit a salesperson to operate as a broker.

(5) Fail to provide to the principal a written report every 30 days, along with a final report, itemizing disbursements made by the broker from advance listing fees.

(d) (1) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker, no listing broker shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the purchase agreement, in which case the broker shall deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

(2) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker and the property was not listed with a broker, no broker for the buyer shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the purchase agreement, in which case the broker shall deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

(3) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker and neither the seller nor buyer is represented by a broker, no transaction broker shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the purchase agreement, in which case the broker shall deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

The commission may adopt rules and regulations to require that such purchase agreement which provides that the earnest money be held by an escrow agent other than a real estate broker include: (1) notification of whether or not the escrow agent named in the purchase agreement maintains a surety bond, and (2) notification that statutes governing the disbursement of earnest money held in trust accounts of real estate brokers do not apply to earnest money deposited with the escrow agent named in the purchase agreement.

(e) A branch broker shall not be employed by or associated with more than one supervising broker at any one time unless each supervising broker who employs or associates with the branch broker consents to such multiple employment or association. Such consent shall be on a form provided by the commission and shall not be effective until a signed copy of the completed form has been filed with the commission.

(f) Nothing in this section shall be construed to grant any person a private right of action for damages or to eliminate any right of action pursuant to other statutes or common law.”;

Also on page 8, in line 35, by striking “2004 Supp.”;

On page 10, in line 1, by striking “2004 Supp.”;

On page 12, in line 24, by striking “2004 Supp.”;

In the title, in line 11, by striking “2004 Supp.”; and the bill be passed as amended.

Committee on **Utilities** recommends **SB 349** be passed.

Committee on **Utilities** recommends **HB 2599** be amended on page 1, in line 13, by striking “this act” and inserting “sections 1 through 4, and amendments thereto”;

On page 5, in line 36, by striking “this act” and inserting “sections 1 through 3, and amendments thereto.”; following line 37, by inserting:

“Sec. 5. (a) A person sponsoring, arranging or conducting a conference, seminar or other meeting shall not sell or otherwise disseminate to any person for use for commercial purposes any electronic mail address received in the course of registration for such conference, seminar or other meeting without the express authorization of the registrant.

(b) Violation of this section is a deceptive act or practice under the provisions of the Kansas consumer protection act and shall be subject to any and all enforcement provisions of the Kansas consumer protection act.

(c) Any person alleging a violation of the provisions of this section may bring a private action to seek relief pursuant to K.S.A. 50-634, 50-636 and this section, and amendments thereto, and such person may be defined as a consumer pursuant to K.S.A. 50-624, and amendments thereto, for the purposes of such private action.

(d) As used in this section, “commercial purposes” means for purposes of selling or offering for sale any property or service.

(e) This section shall be part of and supplemental to the Kansas consumer protection act.”;

And by renumbering the remaining section;

In the title, in line 9, after “concerning” by inserting “the Kansas consumer protection act; relating to dissemination of electronic mail addresses and”; and the bill be passed as amended.

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was thereupon introduced and read by title:

HB 2805, An act relating to historic military vehicles; concerning the registration and regulation thereof; amending K.S.A. 8-194, 8-195 and 8-196 and K.S.A. 2005 Supp. 8-1486 and 8-2118 and repealing the existing sections, by Committee on Transportation.

REPORT ON ENGROSSED BILLS

HB 2604 reported correctly engrossed January 31, 2006.

REPORT ON ENROLLED RESOLUTIONS

HR 6007 reported correctly enrolled and properly signed on February 1, 2006.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Thursday, February 2, 2006.

JANET E. JONES, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

