

# Journal of the Senate

FIFTY-SECOND DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, March 23, 2006—9:30 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

The word SENATOR inspires me to use it as an acrostic to ask You, O God, to bless all Senators with these appropriate qualities:

Give them S trength to Serve, Sympathy for the outcast, and Security in their beliefs.  
Give them E nergy to face challenges, Encouragement to persevere, Endurance to finish

Give them N ew concern for the Needy.

Give them A n Anchor for the soul, and an Awesome reverence for God.

Give them T hanksgiving, a spirit of Trust, and love for the Truth.

Give them O bedience to authority, Opportunity to grow, and a hunger to Overcome.

Give them R eputation for Reliability.

I pray this in the Name of Jesus Christ,

AMEN

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **HB 3004**.

Federal and State Affairs: **Sub HB 2245**; **HB 2966**.

Judiciary: **HB 2912**.

## CHANGE OF REFERENCE

The President withdrew **HB 2529** from the Committee on Judiciary, and referred the bill to the Committee on Education.

## CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Donovan the Senate nonconcurred in the House amendments to **Sub SB 253** and requested a conference committee be appointed.

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

On motion of Senator Donovan the Senate nonconcurred in the House amendments to **SB 411** and requested a conference committee be appointed.

The President appointed Senators Donovan, Wilson and Kelly as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 432** and requested a conference committee be appointed.

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

On motion of Senator Umbarger the Senate nonconcurred in the House amendments to **SB 553** and requested a conference committee be appointed.

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

#### **CONFIRMATION OF APPOINTMENTS**

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

Senator D. Schmidt moved the following appointments be confirmed as recommended by the Standing Senate Committees:

*By the Governor:*

On the appointment to the:

*Commander, 35th Infantry Division:*

Brigadier General Marvin W. Pierson, serves at the pleasure of the Governor.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The appointment was confirmed.

On the appointment to the:

*Assistant Division Commander, 35th Infantry Division:*

Colonel John E. Davoran, serves at the pleasure of the Governor.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The appointment was confirmed.

On the appointment to the:

*Chief of Staff, Kansas Air National Guard:*

Colonel Edward R. Flora, serves at the pleasure of the Governor.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The appointment was confirmed.

#### **FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**SB 568.** An act concerning the court of appeals; amending K.S.A. 2005 Supp. 20-3002 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 570**, An act making and concerning appropriations for the fiscal years ending June 30, 2006, and June 30, 2007, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, McGinn, Morris, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Brownlee, Huelskamp, Journey, O'Connor, Ostmeyer, Palmer, Pyle, Steineger.  
The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. PRESIDENT: While there are certainly praise worthy pieces in this bill, I must vote **no** on **SB 570** because our Senate Ways and Means Committee is again recommending spending more than the State expects to receive in revenues. I believe we must spend responsibly, and live within our means, as most of our Kansas citizens wisely choose to do. Kansas in these bills is overspending even before dealing with the very contentious and expensive issues of the judicial spending mandates for increased school funding.—KAY O'CONNOR

**SB 571**, An act making and concerning appropriations for the fiscal years ending June 30, 2006, June 30, 2007, June 30, 2008, and June 30, 2009, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, McGinn, Morris, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Journey, O'Connor, Ostmeyer, Palmer, Pyle, Steineger.  
The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. PRESIDENT: While there are certainly praise worthy pieces in this bill, I must vote **no** on **SB 571** because our Senate Ways and Means Committee is again recommending spending more than the State expects to receive in revenues. I believe we must spend responsibly, and live within our means, as most of our Kansas citizens wisely choose to do. Kansas in these bills is overspending even before dealing with the very contentious and expensive issues of the judicial spending mandates for increased school funding.—KAY O'CONNOR

**SB 573**, An act making and concerning appropriations for the fiscal years ending June 30, 2006, and June 30, 2007, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 55-193 and K.S.A. 2005 Supp. 2-223, 75-2319, 76-775, 79-2959, 79-2964, 79-3425c, 79-3425i and 82a-953a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 26, Nays 14, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barone, Betts, Bruce, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Nays: Barnett, Brownlee, Donovan, Huelskamp, Journey, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Steineger, Taddiken, Wagle, Wilson.

The bill passed, as amended

## EXPLANATION OF VOTE

MR. PRESIDENT: As state senators, we try to help our fellow citizens and move our state forward. The budget we are voting on today has the two goals in conflict.

Yes, there are many worthwhile initiatives in this budget. But added together, this budget is less than the sum of its parts. It does not move our state forward. It makes some of the current obstacles we face worse.

State spending has increased dramatically in the last five years. This budget keeps that spending binge going.

We are in the midst of a contentious effort to find additional funding for education, yet this budget spends elsewhere. This budget bill is an invitation to higher taxes or to state-owned gambling. Neither of which this state needs.

Today, Kansas has higher taxes, more debt, and faster growing state spending than our neighbors. We also have slower growth, fewer jobs and lower productivity. These factors are directly related. The way to a prosperous Kansas is to hold the line on state spending, reduce taxes to help families and grow jobs, and to spend what we can afford to improve our schools.

This budget achieves none of these goals.—JIM BARNETT

Senators Journey, Ostmeyer, Palmer, Petersen and Pyle request the record to show they concur with the "Explanation of Vote" offered by Senator Barnett on **SB 573**.

MR. PRESIDENT: While there are certainly praise worthy pieces in these bills, I must vote **no** on **SB 573** because our Senate Ways and Means Committee is again recommending spending more than the State expects to receive in revenues. I believe we must spend responsibly, and live within our means, as most of our Kansas citizens wisely choose to do. Kansas in these bills is overspending even before dealing with the very contentious and expensive issues of the judicial spending mandates for increased school funding.—KAY O'CONNOR

Senators Journey, Ostmeyer, Palmer and Pyle request the record to show they concur with the "Explanation of Vote" offered by Senator O'Connor on **SB 573**.

**SB 583**, An act concerning wildlife and parks; relating to funding therefor; concerning the state gaming revenues fund; creating the local government outdoor recreation grant program fund; amending K.S.A. 79-4801 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Brownlee, Huelskamp, Pyle.

The bill passed, as amended.

**HB 2159**, An act concerning consumer protection; relating to damage waivers; amending K.S.A. 50-656 and 50-657 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**HB 2578**, An act establishing teacher service scholarship programs; providing for the administration thereof, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Pyle.

The bill passed, as amended.

**HB 2659**, An act concerning insurance; relating to examinations of title; amending K.S.A. 40-235 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

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 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**HB 2671**, An act concerning workers compensation; relating to closure of claims; deductibles; amending K.S.A. 44-559a and K.S.A. 2005 Supp. 44-523 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**HB 2696**, An act concerning workers compensation; relating to administrative law judges; amending K.S.A. 2005 Supp. 44-551 and 75-5708 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**HB 2709**, An act relating to the department of transportation; concerning the rail service improvement program; relating to the funding thereof; amending K.S.A. 68-2315 and K.S.A. 2005 Supp. 75-5048 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**HB 2752**, An act concerning health care; relating to trauma facilities; amending K.S.A. 2005 Supp. 75-5665 and 75-5666 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**HB 2856**, An act concerning economic development; relating to the IMPACT program repayment fund; legislative economic development committees; amending K.S.A. 46-1601 and K.S.A. 2005 Supp. 74-50,107 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

#### REPORTS OF STANDING COMMITTEES

Committee on **Natural Resources** recommends **Substitute for HCR 5030** be adopted.

Committee on **Federal and State Affairs** recommends **Substitute for HB 2727** be amended on page 1, in line 34, by striking “, or both,”;

On page 2, in lines 27 and 28, by striking “state general” and inserting “accounting services recovery”; and the substitute bill be passed as amended.

Committee on **Ways and Means** recommends **SB 588** be amended on page 1, in line 15, by striking “seven” and inserting “the following”; also in line 15, by striking “appointed as follows”; in line 18, by striking “member of the governing board of a”; in line 19, after “college” by inserting “president”; in line 21, by striking “and”; in line 24, by striking the period and inserting “; and”; after line 24, by inserting the following:

“(5) The president of the board of regents shall be an ex-officio, nonvoting member of the commission.

(b) In making such selections, the governor and legislative leaders shall give consideration to persons representing businesses, industry, and instructional staff of such schools and colleges.”;

And by redesignating subsections accordingly; by striking all in lines 37 and 38 and inserting in lieu thereof the following:

“(f) Staff assistance shall be provided by the office of the revisor of statutes, the legislative research department and the division of legislative administrative services as may be directed by the legislative coordinating council.”; and the bill be passed as amended.

#### COMMITTEE OF THE WHOLE

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

Recommended **SB 580; HB 2602** be passed.

**HB 2285, HB 2432; Sub HB 2513; HB 2710, HB 2748, HB 2761, HB 2836, HB 2899** be amended by adoption of the committee amendments, and the bills be passed as amended.

**HB 2809** be amended by motion of Senator Brungardt, as amended by House Committee, on page 7, following line 22, by inserting:

“Sec. 12. K.S.A. 12-301 is hereby amended to read as follows: 12-301. ~~Whenever two or more cities organized under the laws of the state of Kansas, which are adjacent to each other, desire to form but one city, such consolidation may be made under the provisions of this act. Provided, That if any one of said cities shall have adopted the commission form of government, the word “council,” as hereinafter used, shall be construed literally, or shall be held to mean mayor and commissioners, or board of commissioners as the sense shall justify.~~

*As used in K.S.A. 12-302, et seq., and amendments thereto:*

(a) “City” means any city.

(b) “Council” means the governing body of a city.

Sec. 13. K.S.A. 12-302 is hereby amended to read as follows: 12-302. (a) Whenever the governing bodies of two or more ~~adjacent~~ cities desire to consolidate such cities, they may submit the question of consolidating such cities at elections called and held in the manner provided in subsection (b) or may adopt a joint resolution announcing their intent to consolidate the cities and publish such resolution at least once a week for two consecutive weeks in a newspaper of general circulation within the cities. Upon the expiration of 10 days after the date of the last publication of the resolution, the governing bodies of the cities shall have the power to consolidate the cities by joint ordinance unless prior thereto a protest petition signed by at least 10% of the qualified electors of any one of the cities is filed with the city clerk of such city. Cities which propose to consolidate and which do not receive such a protest petition shall ~~forthwith~~ request the city council of the largest city to fix a time for a joint session of the city councils of the cities to pass an ordinance consolidating them. If such a protest petition is filed, the governing body of such city shall call a special election to submit the question of consolidation in the manner provided in subsection (b). Joint resolutions announcing a proposed consolidation shall not be adopted more often than once a year.

(b) Whenever a petition signed by not less than 10% of the qualified electors of a city is presented to the governing body, requesting an election on the question of consolidation with ~~an adjacent~~ another city or cities, or whenever the governing body of any city on its own motion elects to submit the question of consolidating with ~~an adjacent~~ another city or cities, the mayor, within 20 days after the petition is filed or after such action is taken by the governing body, shall call such an election. Such election shall be held within 50 days after such petition is filed, or such action is taken by the governing body. A notice of the election shall be published not less than 30 days prior to the holding thereof. If a majority of the votes cast at such election favor consolidation, the governing body, at its next regular meeting, shall pass a resolution stating that the city desires to be consolidated with ~~the adjacent~~ such other city or cities and become a part thereof. The governing body shall ~~forthwith~~ request the city council of the other city or cities to fix a time for a joint session of the city councils of the cities to pass an ordinance consolidating the same. *At such meeting,* the governing body of the city ~~theretofore having which has~~ held an election at which a majority of the votes cast were in favor of such consolidation shall ~~at such joint meeting~~ vote for the joint ordinance consolidating the cities. Elections under the provisions of this act shall not be held more often than once a year.

Sec. 14. K.S.A. 12-3901 is hereby amended to read as follows: 12-3901. *This act is an alternative to all other laws which authorize the consolidation of political and taxing subdivisions of this state or the operations, procedures and functions of offices and agencies of such subdivisions.* It is the purpose of this act to authorize and permit political and taxing subdivisions of this state to more efficiently and effectively serve the needs of their constituents by consolidating or cooperating in the consolidation of *such subdivisions or the operations, procedures and functions of offices and agencies of such subdivisions* which may be more efficiently and effectively exercised or provided by a single *subdivision, office or agency.*

Sec. 15. K.S.A. 12-3903 is hereby amended to read as follows: 12-3903. (a) Whenever the governing body of any political or taxing subdivision of this state ~~shall by resolution determine that duplication exists in the operations, procedures or functions of any of the offices or agencies of such subdivision or that the operations, procedures or functions of any of the offices or agencies thereof can be more efficiently and effectively exercised or provided as a consolidated activity performed by a single office or agency, or whenever the governing body of any two or more political or taxing subdivisions of this state shall by the passage of identical resolutions determine that duplication exists in the operations, procedures or functions of offices or agencies of such subdivisions or that the operations, procedures or functions of any of the offices or agencies thereof can be more efficiently and effectively exercised or provided as a consolidated activity performed by a single intergovernmental office or agency or by a single office or agency of one of the participating political or taxing subdivisions~~ *desires to consolidate such subdivisions or the operations, procedures and functions of the offices and agencies thereof*, such governing body or governing bodies are hereby authorized to consolidate *such subdivisions* or any or all of the operations, procedures or functions performed or carried on by such offices or agencies by the passage of a resolution or identical resolutions setting out the time, form and manner of consolidation and designating the surviving office or agency.

(b) ~~The consolidation of political or taxing subdivisions and the elimination of an elective office by consolidation under the provisions of this act shall be subject to the approval of not be effective unless the question of such consolidation or elimination of office has been submitted to and approved by a majority of the electors of the political or taxing subdivision subdivisions served by such office, voting in proposed to be consolidated or served by the office proposed to be eliminated. Such question shall be submitted at the next regular general election of the county in which the office of governor is elected, and no elective office shall be eliminated prior to such election held in November of an even-numbered year. If the office is to be eliminated and the duties transferred to a nonelective office, the question of elimination of the elective office shall be submitted to the voters as a separate ballot question. Any such proposed consolidation which eliminates any such an elective office shall provide that the elimination of such office shall become effective upon the date of normal expiration of the term of such office. Any such proposed consolidation which eliminates any such of political or taxing subdivisions or any proposal which eliminates an elective office shall not be voted on by the governing body of the political or taxing subdivision until a special public hearing is held within the political or taxing subdivision. Notice of such special hearing shall be published in a newspaper of general circulation in the political or taxing subdivision at least once each week for two consecutive weeks prior to the hearing. The first publication shall not be less than 21 days prior to such hearing. Any elected officer whose office would be eliminated in such consolidation and any other interested party shall be given an opportunity to appear and offer testimony at any of such hearings.~~

(c) Whenever the statutorily mandated duties of any elected county official are proposed for elimination, by transfer or otherwise, the question of the elimination of any such duties shall be considered as an elimination of the elective office itself within the meaning of this section, and shall be subject to an election prior to such elimination as required by subsection (b). The provisions of this subsection shall not preclude the transfer of duties of an elected office with the consent of the affected elected official.

Sec. 16. K.S.A. 12-3904 is hereby amended to read as follows: 12-3904. Whenever a petition, signed by not less than 10% of the qualified electors of any political or taxing subdivision of this state or any two or more political or taxing subdivisions of this state, shall be filed with the governing body of such subdivision or subdivisions requesting that a proposition for the consolidation of *such subdivisions* or specified operations, procedures and functions of designated offices or agencies of such subdivision or subdivisions be submitted to the electors thereof, such governing body or governing bodies shall submit such proposition at an election called and held for such purpose in the manner provided by the general bond law. The wording of such a petitioned-for proposition affecting the *consolidation of two or more subdivisions or the operations, procedures and functions* of two or more subdivisions shall be expressed in general terms. If the proposition is approved by ~~a majority~~ *not less than 60 percent* of the electors voting thereon, the governing body or governing

bodies shall develop and implement a plan for the consolidation consistent with the intent of the proposition. If such proposition eliminates an elective office by consolidation, the governing body of such subdivision or subdivisions shall provide for the hearing *required* by K.S.A. 12-3903, and amendments thereto. The governing body shall submit, *in accordance with K.S.A. 12-3903, and amendments thereto*, such proposition at the next regular general election ~~of the county in which the office of governor is elected in accordance with K.S.A. 12-3903, and amendments thereto~~ *held in November of an even-numbered year.*

Sec. 17. K.S.A. 12-3909 is hereby amended to read as follows: 12-3909. ~~Nothing in this act shall be construed as authorizing the consolidation of any political or taxing subdivision with any other political or taxing subdivision.~~ Nothing in this act shall be construed to authorize the closing or the change of use of any school or attendance facility.

New Sec. 18. Unless otherwise provided by law, a consolidated city-county shall be eligible for the distribution of any funds from the state and federal government as if no consolidation had occurred. Except as provided in this section, the population and assessed valuation of the territory of a consolidated city-county shall be considered its population and assessed valuation for purposes of the distribution of moneys from the state or federal government.

New Sec. 19. (a) A consolidated city-county shall be a county. The governing body of a consolidated city-county shall be considered county commissioners for the purposes of section 2 of article 4 of the constitution of the state of Kansas and shall have all the powers, functions and duties of a county and may exercise home rule powers in the manner and subject to the limitations provided by K.S.A. 19-101a, and amendments thereto, and other laws of this state. The governing body of a consolidated city-county shall be responsible for any duties or functions imposed by the constitution of the state of Kansas and other laws of this state upon any county office abolished by the consolidation plan. Such duties may be delegated by the governing body or as provided in the consolidation plan.

(b) A consolidated city-county shall be a city of the first class. The governing body of a consolidated city-county shall have all the powers, functions and duties of a city of the first class and may exercise home rule powers in the manner and subject to the limitations provided by article 12 of section 5 of the constitution of the state of Kansas and other laws of this state.

Sec. 20. K.S.A. 18-202 is hereby amended to read as follows: 18-202. ~~That whenever the citizens of two or more counties desire a change in the boundaries thereof, they may petition their respective boards of county commissioners therefor, and each of said petitions shall designate the change desired, and shall be signed by none but legal voters of the county before whose board the same is presented, and shall be signed by at least one-half of such legal voters of each county respectively, to be ascertained from the last assessment rolls of the several township assessors in the county and accompanied by affidavits signed and sworn to by at least two credible witnesses, that the signatures to the petition are genuine, and that the persons signing the same are legal voters in said county. *Provided*, That before any petition shall be heard, satisfactory proof shall be made by affidavit, to said board, that at least three notices containing copies of such petition or petitions have been posted at least six weeks before the same shall be heard, in three public places in each township in the counties to be affected by such change of boundaries, one of which shall be kept posted upon the door of the office of the clerk of the district court of said counties, which notices shall contain a copy of the petition, and shall show the time of hearing; *And provided further*, That if an equal number shall sign the remonstrances in each county where the petition is to be heard to the number signing the petitions, no election shall be held.~~

(a) *The boards of county commissioners of any two or more counties may adopt a resolution changing the boundaries of such counties. Such resolution shall describe the change desired. Such resolution shall not be effective until the question has been submitted to and approved by a majority of the voters of each of the counties voting at an election thereon as provided by K.S.A. 18-201 et seq., and amendments thereto.*

(b) *Upon presentation of a petition requesting a change in the boundaries of two or more counties signed by at least 10% of the qualified electors of the county, the board of county commissioners shall adopt a resolution changing the boundaries as requested by the petition. Such resolution shall not be effective until the question has been submitted to and approved*

by a majority of the voters of each of the counties voting at an election thereon as provided by K.S.A. 18-201 et seq., and amendments thereto.

(c) At least three public hearings shall be called and held on any resolution adopted pursuant to this section. At least one hearing shall be held in each county affected by the proposed change. Notice of such hearing shall be published in a newspaper or newspapers of general circulation in each county affected at least three times prior to the date of each hearing.

Sec. 21. K.S.A. 2005 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)~~ (3) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

~~(5)~~ (4) 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)~~ (5) 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)~~ (6) 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)~~ (7) 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)~~ (8) 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)~~ (9) 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)~~ (10) 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)~~ (11) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

~~(13)~~ (12) 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)~~ (13) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

~~(15)~~ (14) 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)~~ (15) (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, 2006.

~~(17)~~ (16) (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, 2006.

~~(18)~~ (17) 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)~~ (18) 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)~~ (19) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

~~(21)~~ (20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

~~(22)~~ (21) 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 amendments thereto, 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)~~ (22) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

~~(24)~~ (23) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

~~(25)~~ (24) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

~~(26)~~ (25) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

~~(27)~~ (26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

~~(28)~~ (27) 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)~~ (28) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

~~(30)~~ (29) 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, and amendments thereto.

~~(31)~~ (30) Counties may not exempt from or effect changes in K.S.A. 2005 Supp. 80-121, and amendments thereto.

~~(32)~~ (31) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

~~(33)~~ (32) Counties may not exempt from or effect changes in the wireless enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308, and amendments thereto.

~~(34)~~ (33) Counties may not exempt from or effect changes in K.S.A. 2005 Supp. 26-601, and amendments thereto.

~~(35)~~ (34) (A) From and after November 15, 2005, counties may not exempt from or effect changes in the Kansas liquor control act except as provided by paragraph (B).

(B) From and after November 15, 2005, counties may adopt resolutions which are not in conflict with the Kansas liquor control act.

~~(36)~~ (35) (A) From and after November 15, 2005, counties may not exempt from or effect changes in the Kansas cereal malt beverage act except as provided by paragraph (B).

(B) From and after November 15, 2005, counties may adopt resolutions which are not in conflict with the Kansas cereal malt beverage act.

(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 23, by striking “2005 Supp. 19-205 is” and inserting “12-301, 12-302, 12-3901, 12-3903, 12-3904, 12-3909 and 18-202 and K.S.A. 2005 Supp. 19-101a and 19-205 are”;

In the title, in line 10, by striking “unification of certain cities and counties” and inserting “governmental consolidation and reorganization”; in line 11, by striking “2005 Supp.” and inserting “12-301, 12-302, 12-3901, 12-3903, 12-3904, 12-3909 and 18-202 and K.S.A. 2005 Supp. 19-101a and”; also in line 11, by striking “section” and inserting “sections”, and **HB 2809** be passed as amended.

**SB 546** be amended by adoption of the committee amendments, and the bill be passed as amended.

Having voted on the prevailing side, Senator V. Schmidt moved the Senate reconsider its action on **SB 546**. The motion carried and the bill was reconsidered.

Senator D. Schmidt further amended **SB 546**, as amended by Senate Committee, on page 2, after line 28, by inserting the following:

“Sec. 5. (a) The department of revenue and the board of emergency medical services, in consultation with any other interested parties, shall develop a recommendation for changes in law, rules and regulations, policy or any combination thereof to make available data routinely provided to first responders through the process of running a check on a person’s driver’s license that would indicate whether the person has certain medical conditions that may adversely affect the person’s ability to operate a motor vehicle.

(b) This information shall be made available only at the option of the holder of the driver’s license.

(c) The recommendation required in subsection (a) shall include a method to affirmatively offer to each holder of a Kansas driver’s license the opportunity to make such information available.

(d) The recommendation required in subsection (a) shall be reported, in writing, to the speaker of the house and the president of the senate on or before January 1, 2007.”;

And by renumbering the remaining section accordingly, and **SB 546** be passed as further amended.

**HB 2916** be amended by adoption of the committee amendments, and bill be passed over and retain a place on the calendar.

**HB 2798** be amended by adoption of the committee amendments.

Senator Emler offered an amendment to the bill, as amended by Senate Committee, on page 1, in line 41, following the period by inserting “The provisions of this subsection shall expire on July 1, 2009.”, and **HB 2798** be passed over and retain a place on the calendar.

**S Sub for HB 2105; HB 2585, HB 2722, HB 2798, HB 2893** be passed over and retain a place on the calendar.

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

On motion of Senator D. Schmidt, the Senate recessed until 2:00 p.m.

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## AFTERNOON SESSION

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

**CHANGE OF CONFERENCE**

The President announced the appointment of Senator Gilstrap as a member of the Conference Committee on **HB 2732** to replace Senator Hensley.

**MESSAGE FROM THE GOVERNOR**

**Sub SB 463, SB 515** approved on March 23, 2006.

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2329, HB 2520, HB 2754, HB 2882, HB 2978, HB 2982.**

Passage of **SB 361, SB 405, SB 407, SB 420, SB 500, SB 510.**

Passage of **SB 93**, as amended by **House Substitute for SB 93; SB 271**, as amended; **SB 278**, as amended by **House Substitute for SB 278; SB 305**, as amended, **SB 386**, as amended, **SB 388**, as amended, **SB 408**, as amended, **SB 480**, as amended, **SB 497**, as amended, **SB 498**, as amended, **SB 544**, as amended.

The House nonconcur in Senate amendments to **HB 2541**, requests a conference and has appointed Representatives Edmonds, Siegried and Burroughs as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2576**, requests a conference and has appointed Representatives O'Neal, Kinzer and Pauls as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2658**, requests a conference and has appointed Representatives Dahl, Schwab and Ruff as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2772**, requests a conference and has appointed Representatives Dahl, Schwab and Ruff as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2878**, requests a conference and has appointed Representatives Hayzlett, Faber and Long as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 459** and has appointed Representatives Myers, Judy Morrison and Flaharty as conferees on the part of the House.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2329, HB 2520, HB 2754, HB 2882, HB 2978, HB 2982** were thereupon introduced and read by title.

**CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR**

On motion of Senator Emler the Senate nonconcurred in the House amendments to **H Sub for SB 93** and requested a conference committee be appointed.

The President appointed Senators Emler, Apple and Lee as a conference committee on the part of the Senate.

On motion of Senator Umbarger the Senate nonconcurred in the House amendments to **SB 271** and requested a conference committee be appointed.

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

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 305** and requested a conference committee be appointed.

The President appointed Senators Schodorf, Vratil and Lee as a conference committee on the part of the Senate.

On motion of Senator Taddiken the Senate nonconcurred in the House amendments to **SB 388** and requested a conference committee be appointed.

The President appointed Senators Taddiken, Pine and Francisco as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 408** and requested a conference committee be appointed.

The President appointed Senators Vratil, Bruce and Haley as a conference committee on the part of the Senate.

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

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

On motion of Senator Huelskamp the Senate nonconcurred in the House amendments to **SB 497** and requested a conference committee be appointed.

The President appointed Senators Huelskamp, Petersen and Betts as a conference committee on the part of the Senate.

On motion of Senator Huelskamp the Senate nonconcurred in the House amendments to **SB 498** and requested a conference committee be appointed.

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

#### **ORIGINAL MOTION**

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **HB 2541**.

The President appointed Senators Brungardt, Reitz and Gilstrap as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2576**.

The President appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

On motion of Senator Jordan, the Senate acceded to the request of the House for a conference on **HB 2658**.

The President appointed Senators Brownlee, Jordan and Kelly as conferees on the part of the Senate.

On motion of Senator Jordan the Senate acceded to the request of the House for a conference on **HB 2772**.

The President appointed Senators Brownlee, Jordan and Kelly as conferees on the part of the Senate.

#### **COMMITTEE OF THE WHOLE**

The Senate returned to Committee of the Whole for further consideration of bills on the calendar under the heading of General Orders with Senator Jordan in the chair.

On motion of Senator Jordan the morning report and the following afternoon report were adopted:

The committee report on **HB 2649** recommending a **S Sub for HB 2649** be adopted, and the substitute bill be passed.

**HB 2691, HB 2692** be amended by adoption of the committee amendments, and the bills be passed as amended.

**HB 2798** be amended by adoption of the committee amendments.

Senator Emler moved to further amend **HB 2798**, as amended by Senate Committee, on page 1, in line 41, following the period by inserting "The provisions of this subsection shall expire on July 1, 2009."

The motion failed and the amendment was rejected.

The Committee recommended **HB 2798** be passed as amended by committee.

Senator Umbarger moved to amend **HB 2585**, on page 2, after line 26, by inserting the following:

"New Sec. 2. (a) As used in this section:

(1) "School district" means unified school district No. 404, unified school district No. 493, unified school district No. 499 and unified school district No. 508.

(2) "Property" means any property, and improvements thereon, comprising a racetrack gaming facility or lottery gaming facility under the Kansas expanded lottery act located in Cherokee county.

(3) "State aid" means general state aid, supplemental general state aid, capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated

to school districts under the school district finance and quality performance act or other law, and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts.

(b) For the purposes of computing the assessed valuation of school districts for the payment, distribution or allocation of state aid and the levying of school taxes, 1/4 of the assessed valuation of such property shall be assigned to each of the school districts.

(c) The provisions of this section shall not apply if the property is not or ceases to be used as a racetrack gaming facility or a lottery gaming facility under the Kansas expanded lottery act.”;

And by renumbering the remaining section accordingly;

Also on page 2, in line 27, by striking “is” and inserting “and K.S.A. 2005 Supp. 72-1071 are”;

On page 1, in the title, in line 10, after the semicolon, by inserting “relating to assessed valuation of school districts;”; in line 11, after “section” by inserting “; also repealing K.S.A. 2005 Supp. 72-1071”

Senator Huelskamp requested the amendment be divided into two parts.

Part 1: on page 2, after line 26, by inserting the following:

“New Sec. 3. (a) As used in this section:

(1) “School district” means unified school district No. 404, unified school district No. 493, unified school district No. 499 and unified school district No. 508.

(2) “Property” means any property, and improvements thereon, comprising a racetrack gaming facility or lottery gaming facility under the Kansas expanded lottery act located in Cherokee county.

(3) “State aid” means general state aid, supplemental general state aid, capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts under the school district finance and quality performance act or other law, and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts.

(b) For the purposes of computing the assessed valuation of school districts for the payment, distribution or allocation of state aid and the levying of school taxes, 1/4 of the assessed valuation of such property shall be assigned to each of the school districts.

(c) The provisions of this section shall not apply if the property is not or ceases to be used as a racetrack gaming facility or a lottery gaming facility under the Kansas expanded lottery act.”;

And by renumbering the remaining section accordingly;

The motion passed and Part 1, was adopted.

Part 2: Also on page 2, in line 27, by striking “is” and inserting “and K.S.A. 2005 Supp. 72-1071 are”;

On page 1, in the title, in line 10, after the semicolon, by inserting “relating to assessed valuation of school districts;”; in line 11, after “section” by inserting “; also repealing K.S.A. 2005 Supp. 72-1071”

The motion passed and Part 2, was adopted, and **HB 2585** be passed over and retain a place on the calendar.

**HB 2893** be amended by motion of Senator McGinn, as amended by House Committee, on page 1, in line 17, by striking “county department of corrections” and inserting “city or county facility designed for the detention of pre-trial detainees”; in line 25, by striking “county department of corrections” and inserting “city or county facility designed for the detention of pre-trial detainees”; in line 40, by striking “county department of corrections” and inserting “city or county facility designed for the detention of pre-trial detainees”;

On page 2, in line 3, by striking “county department of corrections” and inserting “city or county facility designed for the detention of pre-trial detainees”; in line 12, by striking “county department of corrections” and inserting “city or county facility designed for the detention of pre-trial detainees”; in line 14, after “(1)” by inserting “ “County or city facility designed for the detention of pre-trial detainees” shall not include any facility designed solely for the placement of persons convicted of any crime.

(2)”;

And by renumbering the remaining paragraph accordingly

Senator V. Schmidt amended **HB 2893**, as amended by House Committee, on page 2, in line 24, by striking “a pharmacist licensed by the state board of pharmacy.”

Senator Reitz amended **HB 2893**, as amended by House Committee, on page 1, in line 16, after the comma by inserting “a county, a city.”; in line 39, after “prevent” by inserting “a county, a city.”;

On page 2, in line 2, after “custodial” by inserting “county, city.”; in line 14, after “(1)” by inserting “ “County or city law enforcement agency” means a city police department, a county sheriff’s department, a county law enforcement department as defined in K.S.A. 19-4401, and amendments thereto, or a law enforcement agency established pursuant to the consolidated city-county powers in K.S.A. 12-345, and amendments thereto.

(2)”;

And by renumbering the remaining paragraph accordingly;

On page 3, in line 20, before “law” by inserting “county or city”, and **HB 2893** be passed as amended.

**Sub HB 2706** be amended by adoption of the committee amendments, be further amended by motion of Senator Emler, on page 3, line 9, after “(3)” strike “and” and insert “,” after “(4)” insert “and (a)(6)”, and **Sub HB 2706** be passed as further amended.

**HB 2916** be amended by adoption of the committee amendments, be further amended by motion of Senator Journey, as amended by Senate Committee, on page 8, after line 4, by inserting the following:

“Sec. 4. K.S.A. 8-2,144 is hereby amended to read as follows: 8-2,144. (a) No person shall drive any commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, within this state while:

(1) The alcohol concentration in the person’s blood or breath, as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .04 or more;

(2) the alcohol concentration in the person’s blood or breath, as measured within two hours of the time of driving a commercial motor vehicle, is .04 or more; or

(3) committing a violation of subsection (a) of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city or resolution of a county which prohibits any of the acts prohibited thereunder.

(b) ~~Violation of this section is a misdemeanor. In addition to any penalties ordered under K.S.A. 8-1567, and amendments thereto, the person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months imprisonment, and fined not less than \$200 nor more than \$500. Upon a first conviction of a violation of this section, a person shall be guilty of a class B, nonperson misdemeanor and sentenced to not less than 48 consecutive hours nor more than six months’ imprisonment, or in the court’s discretion, 100 hours of public service, and fined not less than \$500 nor more than \$1,000. The person convicted must serve at least 48 consecutive hours’ imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. In addition, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or treatment program as provided in K.S.A. 8-1008, and amendments thereto, or both the education and treatment programs.~~

(c) *On a second conviction of a violation of this section, a person shall be guilty of a class A, nonperson misdemeanor and sentenced to not less than 90 days nor more than one year’s imprisonment and fined not less than \$1,000 nor more than \$1,500. The person convicted must serve at least five consecutive days’ imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days’ imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours’ imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours’ imprisonment. As a condition of any grant of probation, suspension of sentence or parole or of any other release,*

*the person shall be required to enter into and complete a treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008, and amendments thereto.*

*(d) On the third conviction of a violation of this section, a person shall be guilty of a nonperson felony and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,500 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The court also requires as a condition of parole that such person enter into and complete a treatment program for alcohol and drug abuse as provided by K.S.A. 8-1008, and amendments thereto. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.*

⊕ (e) The court shall report every conviction of a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state.

⊕ (f) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall disqualify the person from driving a commercial motor vehicle under K.S.A. 8-2,142, and amendments thereto.

⊕ (g) For the purpose of this section, "alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.";

And by renumbering the remaining sections accordingly;

Also on page 8, in line 5, after "K.S.A." by inserting "8-2,144,";

In the title, in line 13, after the semicolon by inserting "commercial motor vehicles;"; also in line 13, after "K.S.A." by inserting "8-2,144,"

Senator Brownlee further amended **HB 2916**, as amended by Senate Committee, on page 8, after line 4, by inserting the following:

"Sec. 4. K.S.A. 2005 Supp. 21-3610c is hereby amended to read as follows: 21-3610c. (a) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is intentionally permitting a person's residence or any land, building, structure or room owned, occupied or procured by such person to be used by an invitee of such person or an invitee of such person's child or ward, in a manner that results in the possession or consumption therein of alcoholic liquor or cereal malt beverages by persons under the age of 18.

(b) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is a class ~~B~~ A person misdemeanor, for which the minimum fine is ~~\$200~~ \$1,000. *If the court sentences the offender to perform community or public service work as a condition of probation, as described in subsection (c)(10) of K.S.A. 21-4610, and amendments thereto, the court shall consider ordering the offender to serve the community or public service at an alcohol treatment facility.*

(c) As used in this section, terms have the meanings provided by K.S.A. 41-102, and amendments thereto, except for the purposes of this section, "minor" means a person under the age of 18.

(d) This section shall be a part of and supplemental to the Kansas criminal code.";

And by renumbering the remaining sections accordingly;

Also on page 8, in line 5, after "8-1001" by inserting "and 21-3610c";

In the title, in line 12, after "concerning" by inserting "alcohol; relating to unlawful hosting minors consuming alcoholic liquor or cereal malt beverages;"; in line 13, by striking "relating to"; in line 14, after "8-1001" by inserting "and 21-3610c", and **HB 2916** be passed as further amended.

**SB 592; S Sub HB 2105; HB 2722** be passed over and retain a place on the calendar.

**FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS**

On motion of Senator D. Schmidt an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **SB 546, SB 580; HB 2285, HB 2432; Sub HB 2513; HB 2602; S Sub HB 2649; HB 2691, HB 2692; Sub HB 2706; HB 2710, HB 2748, HB 2761, HB 2798, HB 2809, HB 2836, HB 2893, HB 2899, HB 2916** were advanced to Final Action and roll call.

**SB 546**, An act concerning the board of emergency medical services; establishing a state-wide data collection system.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Pyle.

The bill passed, as amended.

**SB 580**, An act repealing K.S.A. 2005 Supp. 12-350 through 12-359, relating to consolidation of the city of Topeka and Shawnee county.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**HB 2285**, An act concerning health care; relating to the board of examiners for hearing instruments; membership, powers and duties; relating to licensure, disciplinary actions, fees and penalties; amending K.S.A. 74-5801, 74-5802, 74-5804, 74-5805, 74-5806, 74-5807, 74-5808, 74-5809, 74-5810a, 74-5811, 74-5812, 74-5813, 74-5814, 74-5815, 74-5816, 74-5818, 74-5819, 74-5820, 74-5821 and 74-5823 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**HB 2432**, An act concerning real property; relating to recreational trails; liability of adjacent property owners; amending K.S.A. 58-3214 and 58-3215 and repealing the existing sections.

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

Yeas: Allen, Apple, Barone, Betts, Brownlee, Bruce, Donovan, Emler, Gilstrap, Goodwin, Hensley, Huelskamp, Jordan, Journey, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Barnett, Brungardt, Francisco, Haley, Kelly, Reitz, Steineger.

The bill passed, as amended.

**Sub HB 2513**, An act concerning motor vehicles; providing for the regulation of traffic; amending K.S.A. 8-1730 and 8-2115 and K.S.A. 2005 Supp. 8-2110 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee,

McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The substitute bill passed, as amended.

**HB 2602**, An act relating to energy conservation projects of technical and community colleges; amending K.S.A. 2005 Supp. 75-37,125 and repealing the existing section.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**S Sub HB 2649**, An act enacting the pain patient's quality of care act; amending K.S.A. 60-4403, 65-2837 and 65-2838 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The substitute bill passed.

**HB 2691**, An act concerning insurance; pertaining to HIPAA compliance; pertaining to allowing certain lienholders and mortgagees to be shown on the application for insurance; eliminating requirements for multiple sureties; pertaining to continuation of certain group policies; pertaining to commissioner's waiver of certain requirements concerning foreign insurance companies doing business in this state; amending K.S.A. 19-621, 32-950, 40-209, 40-955, 40-3209, 41-805, 58-2802, 68-1402, 75-110 and 78-102 and K.S.A. 2005 Supp. 40-2258 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**HB 2692**, An act concerning insurance; pertaining to risk-based capital requirements; pertaining to Kansas insurance guaranty association act; pertaining to group life insurance; amending K.S.A. 2005 Supp. 40-2c01, 40-433 and 40-2903 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**Sub HB 2706**, An act concerning driver's licenses; relating to child support enforcement; amending K.S.A. 8-255 and K.S.A. 2005 Supp. 74-2012 and repealing the existing sections.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris,

O'Connor, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Haley, Huelskamp, Pyle.

The substitute bill passed, as amended.

**HB 2710**, An act concerning water; creating the water right transition assistance pilot project program.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Bruce, O'Connor, Pyle.

The bill passed, as amended.

**HB 2748**, An act concerning traffic; relating to the duties of drivers or occupants to report accidents; use of head lamps; amending K.S.A. 8-1602 and 8-1703 and K.S.A. 2005 Supp. 8-1606 and repealing the existing sections.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Haley.

The bill passed, as amended.

**HB 2761**, An act concerning compensation for victims of crime; amending K.S.A. 2005 Supp. 74-7305 and repealing the existing section.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**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.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**HB 2809**, An act concerning the governmental consolidation and reorganization; amending K.S.A. 12-301, 12-302, 12-3901, 12-3903, 12-3904, 12-3909 and 18-202 and K.S.A. 2005 Supp. 19-101a and 19-205 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**HB 2836.** An act concerning agriculture; relating to the Kansas egg law; requirements; definitions; unlawful acts; enforcement and penalties; fees; amending K.S.A. 2-2502, 2-2503, 2-2505, 2-2507 and 2-2508 and K.S.A. 2005 Supp. 2-2501 and repealing the existing sections.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Ostmeyer, Pyle.

The bill passed, as amended.

**HB 2893.** An act concerning offenders in custody; relating to health care costs.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Pyle.

The bill passed, as amended.

**HB 2899.** An act concerning animals; relating to feral swine; penalties; amending K.S.A. 2005 Supp. 47-1809 and repealing the existing section.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**HB 2916.** An act concerning alcohol; relating to unlawful hosting minors consuming alcoholic liquor or cereal malt beverages; driving under the influence of alcohol or drugs; ignition interlock devices; commercial motor vehicles; amending K.S.A. 8-2,144, 8-1014 and 8-1015 and K.S.A. 2005 Supp. 8-1001 and 21-3610c and repealing the existing sections.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Haley.

The bill passed, as amended.

#### COMMITTEE OF THE WHOLE

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

On emergency motion of Senator D. Schmidt, **HB 2582** was advanced on the calendar under the heading of General Orders to the first order of business.

On emergency motion of Senator D. Schmidt, **HB 2676** was advanced on the calendar under the heading of General Orders to the first order of business.

On emergency motion of Senator D. Schmidt, **SB 545** was advanced on the calendar under the heading of General Orders to the first order of business.

On motion of Senator Jordan the following report was adopted:

Recommended **HB 2676**, **HB 2735** be passed.

**SB 545; HB 2582, HB 2583, HB 2874, HB 2949** be amended by adoption of the committee amendments, and the bills be passed as amended.

**HB 2553** be amended by motion of Senator Brungardt, on page 1, in line 14, by striking “(a)”; in line 17, by striking all after “location”; by striking all in lines 18 through 20; in line 21, by striking all before the period and inserting “except after the issuance of a request for proposal through the competitive bid process. Prior to initiating such process, the department should conduct an independent evaluation or receive a legislative post audit study of the current pilot project as to the benefits to state government, benefits to persons renewing their licenses and any other impacts on the public or private sector”

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

On roll call, the vote was: Yeas 19, Nays 15, Present and Passing 3, Absent or Not Voting 3.

Yeas: Apple, Betts, Bruce, Brungardt, Francisco, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Morris, Pine, Reitz, Steineger, Taddiken, Umbarger, Vratil.

Nays: Barnett, Barone, Emler, Gilstrap, Huelskamp, Ostneyer, Palmer, Petersen, Pyle, Schmidt D, Schmidt V, Schodorf, Teichman, Wagle, Wilson.

Present and Passing: McGinn, O'Connor, Wysong.

Absent or Not Voting: Allen, Brownlee, Donovan.

The motion carried and the amendment was adopted, and **HB 2553** be passed as amended.

**HB 2585** be amended by motion of Senator Huelskamp, on page 2, after line 26, by inserting the following:

“New Sec. 2. (a) As used in this section:

(1) “School district” means unified school district No. 507 and unified school district No. 374.

(2) “Property” means the following described property, and improvements thereon, comprised of 1,120 acres, more or less, located in Haskell county: All of Section 34, Township 29 South, Range 33 West and the West of Section 3, Township 30 South, Range 33 West and the Northeast Quarter of Section 3, Township 30 South, Range 33 West.

(3) “State aid” means general state aid, supplemental general state aid, capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts under the school district finance and quality performance act or other law, and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts.

(b) For the purposes of computing the assessed valuation of school districts for the payment, distribution or allocation of state aid and the levying of school taxes, of the assessed valuation of such property shall be assigned to each of the school districts.

(c) The provisions of this section shall not apply if the property is not or ceases to be used for the production of ethanol.”;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 10, after the semicolon, by inserting “relating to assessed valuation of school districts;”, and **HB 2585** be passed as amended.

**S Sub for HB 2105** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Umbarger, on page 2, after line 7, by inserting the following:

“(e) The attorney general may adopt rules and regulations as deemed appropriate for the administration of this section.”

Senator D. Schmidt amended **S Sub for HB 2105**, on page 1, in line 24, after “general” by inserting “and subject to the limitations of subsection (c)”; in line 30, following “neglect” by inserting “and medical records subject to the limitations of subsection (c)”;;

On page 2, after line 1, by inserting the following:

“(c) For the purpose of making investigations relating to any abuse, neglect or exploitation of persons with disabilities, in regard to any medical records of such person with a disability, the attorney general shall request a subpoena be issued by a court of competent jurisdiction when the review of such medical records is reasonably necessary to complete the investigation into the specific allegation of abuse, neglect or exploitation of persons with disabilities.”;

And by relettering the remaining subsections accordingly, and **S Sub for HB 2105** be passed as amended.

**S Sub for HB 2366** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Teichman, on page 3, by striking all in lines 38 through 43;

On page 4, by striking lines 1 through 42;

By renumbering sections accordingly;

On page 16, in line 37, by striking "40-954,";

In the title, in line 14, by striking "40-954," and **S Sub for HB 2366** be passed as amended.

**HB 2928** be passed over and retain a place on the calendar.

#### CHANGE OF REFERENCE

The President withdrew **HB 2928** from the calendar under the heading of General Orders, and referred the bill to the Committee on Commerce.

The President withdrew **HB 2928** from the Committee on Commerce, and referred the bill to the Committee on Ways and Means.

The President withdrew **HB 3004** from the Committee on Education, and referred the bill to the Committee on Commerce.

#### MESSAGE FROM THE HOUSE

Announcing the House accedes to the request of the Senate for a conference on **Substitute SB 253** and has appointed Representatives Hayzlett, Faber and Long as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 411** and has appointed Representatives Hayzlett, Faber and Long as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 432** and has appointed Representatives O'Neal, Kinzer and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 553** and has appointed Representatives Neufeld, Landwehr and Feuerborn as conferees on the part of the House.

The House announces the appointment of Representatives Huebert and Sawyer to replace Representatives Goico and Holland as conferees on **SB 142**.

#### MESSAGE FROM THE HOUSE

Announcing the House herewith transmits certificate of action by the House of Representatives on **Senate Bill 418**, AN ACT enacting the personal and family protection act; providing for licensure to carry certain concealed weapons; prohibiting certain acts and prescribing penalties for violations; amending K.S.A. 2005 Supp. 12-4516, 21-4201 and 21-4619 and repealing the existing sections.

The veto message from the Governor having been received, a motion was made that notwithstanding the Governor's objections to **Senate Bill 418**, the bill be passed. By a vote of 91 Yeas and 33 Nays, the motion having received the required two-thirds majority of the members elected to the House of Representatives voting in the affirmative, the bill passed.

#### CERTIFICATE

In accordance with K.S.A. 45-304, it is certified that, **Senate Bill 418**, AN ACT enacting the personal and family protection act; providing for licensure to carry certain concealed weapons; prohibiting certain acts and prescribing penalties for violations; amending K.S.A. 2005 Supp. 12-4516, 21-4201 and 21-4619 and repealing the existing sections, was not approved by the Governor on March 21, 2006; was returned by her with her objections and approved on March 22, 2006, by two-thirds of the members elected to the Senate notwithstanding the objections of the governor; was reconsidered by the House of Representatives and was approved on March 23, 2006, by two-thirds of the members elected to the House, notwithstanding the objections, the bill did pass and shall become law.

This certificate is made this 23rd day of March 2006 by the Chief Clerk and Speaker of the House of Representatives and the President and Secretary of the Senate.

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 Janet E. Jones

Chief Clerk of the House of Representatives of the State of Kansas

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 Doug Mays

Speaker of the House of Representatives of the State of Kansas

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 Pat Saville

Secretary of the Senate of the State of Kansas

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 Stephen R Morris

President of the Senate of the State of Kansas

### REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **HB 2529** be amended on page 1, by striking all in lines 13 through 43;

On page 2, by striking all in lines 1 through 11 and inserting in lieu thereof the following: "New Section 1. Sections 1 through 6, and amendments thereto, shall be known and may be cited as the criminal street gang prevention act.

New Sec. 2. As used in sections 1 through 6, and amendments thereto:

(a) "Criminal street gang" means any organization, association or group, whether formal or informal:

(1) Consisting of three or more persons;

(2) having as one of its primary activities the commission of one or more person felonies, person misdemeanors, felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors;

(3) which has a common name or common identifying sign or symbol; and

(4) whose members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies, person misdemeanors, felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors or any substantially similar offense from another jurisdiction.

(b) "Criminal street gang member" is a person who:

(1) Admits to criminal street gang membership; or

(2) meets three or more of the following criteria:

(A) Is identified as a criminal street gang member by a parent or guardian.

(B) Is identified as a criminal street gang member by a state, county or city law enforcement officer or correctional officer or documented reliable informant.

(C) Is identified as a criminal street gang member by an informant of previously untested reliability and such identification is corroborated by independent information.

(D) Resides in or frequents a particular criminal street gang's area and adopts such gang's style of dress, color, use of hand signs or tattoos, and associates with known criminal street gang members.

(E) Has been arrested more than once in the company of identified criminal street gang members for offenses which are consistent with usual criminal street gang activity.

(F) Is identified as a criminal street gang member by physical evidence including, but not limited to, photographs or other documentation.

(G) Has been stopped in the company of known criminal street gang members two or more times.

(H) Has participated in or undergone activities self-identified or identified by a reliable informant as a criminal street gang initiation ritual.

(c) "Criminal street gang activity" means the commission or attempted commission of, or solicitation or conspiracy to commit, one or more person felonies, person misdemeanors, felony violations of the uniform controlled substances act, K.S.A. 65-4101, *et seq.*, and amendments thereto, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors on separate occasions.

(d) "Criminal street gang associate" means a person who:

(1) Admits to criminal street gang association; or

(2) meets two or more defining criteria for criminal street gang membership described in subsection (b)(2).

(e) For purposes of law enforcement identification and tracking only "gang-related incident" means an incident that, upon investigation, meets any of the following conditions:

(1) The participants are identified as criminal street gang members or criminal street gang associates, acting, individually or collectively, to further any criminal purpose of the gang;

(2) a state, county or city law enforcement officer or correctional officer or reliable informant identifies an incident as criminal street gang activity; or

(3) an informant of previously untested reliability identifies an incident as criminal street gang activity and it is corroborated by independent information.

New Sec. 3. (a) Recruiting criminal street gang membership is causing, encouraging, soliciting or recruiting another person to join a criminal street gang that requires, as a condition of membership or continued membership, the commission of any crime or membership initiation by submission to a sexual or physical assault that is criminal in nature, or would be criminal absent consent by the initiated.

(b) Recruiting criminal street gang membership is a severity level 6, person felony.

New Sec. 4. (a) Criminal street gang intimidation is the communication, directly or indirectly with another, any threat of personal injury or actual personal injury to another or any threat of damage or actual damage to property of another with the intent to:

(1) Deter such person from assisting a criminal street gang member or associate to withdraw from such criminal street gang; or

(2) punish or retaliate against such person for having withdrawn from a criminal street gang.

(b) Criminal street gang intimidation is a severity level 5, person felony.

New Sec. 5. When a criminal street gang member, as defined in section 2, and amendments thereto, is arrested for a person felony, bail shall be at least \$50,000 cash or surety, unless the court determines on the record that the defendant is not likely to reoffend, an appropriate intensive pre-trial supervision program is available and the defendant agrees to comply with the mandate of such pre-trial supervision.

New Sec. 6. Sections 1 through 6, and amendments thereto, shall be a part of and supplemental to the Kansas criminal code.

Sec. 7. K.S.A. 2005 Supp. 21-4716 is hereby amended to read as follows: 21-4716. (a) Except as provided in subsection (b), the sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines for crimes committed on or after July 1, 1993, unless the judge finds substantial and compelling reasons to impose a departure. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) Subject to the provisions of subsection (b) of K.S.A. 21-4718, and amendments thereto, any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.

(c) (1) Subject to the provisions of subsection ~~(b)(3)~~ (c)(3), the following nonexclusive list of mitigating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction.

(B) The offender played a minor or passive role in the crime or participated under circumstances of duress or compulsion. This factor is not sufficient as a complete defense.

(C) The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants, drugs or alcohol does not fall within the purview of this factor.

(D) The defendant, or the defendant's children, suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(E) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(2) Subject to the provisions of subsection ~~(b)(3)~~ (c)(3), the following nonexclusive list of aggravating factors may be considered in determining whether substantial and compelling reasons for departure exist:

(A) The victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity which was known or should have been known to the offender.

(B) The defendant's conduct during the commission of the current offense manifested excessive brutality to the victim in a manner not normally present in that offense.

(C) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim or the offense was motivated by the defendant's belief or perception, entirely or in part, of the race, color, religion, ethnicity, national origin or sexual orientation of the victim whether or not the defendant's belief or perception was correct.

(D) The offense involved a fiduciary relationship which existed between the defendant and the victim.

(E) The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to commit or assist in avoiding detection or apprehension for commission of any person felony or any attempt, conspiracy or solicitation as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto to commit any person felony regardless of whether the defendant knew the age of the individual under 16 years of age.

(F) The defendant's current crime of conviction is a crime of extreme sexual violence and the defendant is a predatory sex offender. As used in this subsection:

(i) "Crime of extreme sexual violence" is a felony limited to the following:

(a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;

(b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization; or

(c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is less than 14 years of age.

(ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:

(a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or

(b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.

(iii) "Mental condition or personality disorder" means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the capacity of the person to control impulses to commit crimes of extreme sexual violence.

(G) The defendant was incarcerated during the commission of the offense.

(H) *The crime involved two or more participants in the criminal conduct, and the defendant played a major role in the crime as the organizer, leader, recruiter, manager or supervisor.*

In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

(3) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the crime severity scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

~~(c)~~ (d) In determining aggravating or mitigating circumstances, the court shall consider:

(1) Any evidence received during the proceeding;

(2) the presentence report;

(3) written briefs and oral arguments of either the state or counsel for the defendant; and

(4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

Sec. 8. K.S.A. 2005 Supp. 22-3901 is hereby amended to read as follows: 22-3901. The following unlawful activities and the use of real or personal property in maintaining and carrying on such activities are hereby declared to be common nuisances:

- (a) Commercial gambling;
- (b) dealing in gambling devices;
- (c) possession of gambling devices;
- (d) promoting obscenity;
- (e) promoting prostitution;
- (f) habitually promoting prostitution;
- (g) violations of any law regulating controlled substances;
- (h) habitual violations of any law regulating the sale or exchange of alcoholic liquor or cereal malt beverages, by any person not licensed pursuant to chapter 41 of the Kansas Statutes Annotated;
- (i) habitual violations of any law regulating the sale or exchange of cigarettes or tobacco products, by any person not licensed pursuant to article 33 of chapter 79 of the Kansas Statutes Annotated;
- (j) any felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members. As used in this subsection, "criminal street gang" means any organization, association or group of ~~three or more persons~~, whether formal or informal:
  - (1) *Consisting of three or more persons;*
  - (2) *having as one of its primary activities the commission of one or more person felonies ~~or~~, person misdemeanors, felony violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors;*
  - (3) *which has a common name or common identifying sign or symbol; and*
  - (4) *whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies ~~or~~, person misdemeanors, felony violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors, or any substantially similar offense from another jurisdiction; or*
- (k) use of pyrotechnics, pyrotechnic devices or pyrotechnic materials in violation of K.S.A. 2005 Supp. 31-170, and amendments thereto.

Any real property used as a place where any such activities are carried on or permitted to be carried on and any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property designed for and used on such premises in connection with such unlawful activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-3904, and amendments thereto.

Sec. 9. K.S.A. 2005 Supp. 21-4716 and 22-3901 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 9, by striking all after “concerning”; in line 10, by striking all before the period and inserting “crimes, punishment and criminal procedure; relating to criminal street gangs; relating to departure sentencing; amending K.S.A. 2005 Supp. 21-4716 and 22-3901 and repealing the existing sections”; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 8:30 a.m., Friday, March 24, 2006.

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

PAT SAVILLE, *Secretary of the Senate.*

